



THE EUROPEAN CENTRE FOR MEDIUM RANGE WEATHER FORECASTS

AND

[NAME OF CONTRACTOR]

FRAMEWORK AGREEMENT FOR COPERNICUS SERVICES

FRAMEWORK AGREEMENT [NUMBER] FOR THE PROVISION OF

[BRIEF DESCRIPTION OF SERVICES]

ERP CODE LEVEL 1_XXXX

Fourth Edition (June 2021).



Funded by the European Union

Implemented by



This Agreement is made on [DG of ECMWF will insert date when he/she signs]

By and between:

- (1) The European Centre for Medium-Range Weather Forecasts, an inter-governmental organisation, governed by its Convention and associated Protocol on Privileges and Immunities, based at Shinfield Park, Reading, RG2 9AX, United Kingdom (“ECMWF”) acting through its duty station at [TBC]; and;
- (2) [Name and address of Contractor] the (“Contractor”)

(In the terms of this Agreement, ECMWF and the Contractor may each be referred to as a “Party” or, collectively as “Parties”.)

By the application of an authorised signature, by hand or by electronic signature, the Parties each show their intention and willingness to be bound by the terms of this Agreement, with effect from the date shown above.

SIGNED for and on behalf of **ECMWF**:

.....

Signature

.....

Print name

.....

[Title]

SIGNED for and on behalf of [.....]

.....

Signature

.....

Print name

.....

[Title]

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1. Introduction

1.1 Framework Agreement – Parts and Precedence

1.1.1 This framework agreement comprises:

1.1.1.1 The clauses (1-6) of this document (the "Clauses");

1.1.1.2 Annex 1 – ECMWF's Specification for Framework Agreement (including any clarifications which extend the rights or obligations of either party);

1.1.1.3 Annex 2 – Contractor's Tender for Framework Agreement (including any clarifications which extend the rights or obligations of either party);

1.1.1.4 One or more Service Contracts, based on the – Model Service Contract at Annex 3 and each containing its own:

(i) Annex A (ECMWF's Request for Services),

(ii) Annex B (Service Description) and

(iii) Annex C (Payment Plan);

1.1.1.5 Annex 4 (Software, if applicable);

1.1.1.6 Annex 5 (Report contents);

1.1.1.7 Annex 6 (Personal Data Protection);

1.1.1.8 Annex 7 (Logos);

1.1.1.9 the other ITT Documentation (including any clarifications which extend the rights or obligations of either party);

(the "Agreement").

1.1.1.10 Conflict between the provisions of documents in the Agreement shall be resolved in the following order of precedence;

1.1.1.11 the clauses of the relevant Service Contract;

1.1.1.12 the Clauses;

1.1.1.13 Annex 4 (Software, if applicable);

1.1.1.14 Annex 5 (Report contents);

1.1.1.15 Annex 6 (Personal Data Protection);

1.1.1.16 Annex 7 (Logos);

1.1.1.17 Annex C (Payment Plan);

1.1.1.18 Annex A (ECMWF's Request for Service);



- 1.1.1.19 Annex 1 (ECMWF's Specification for Framework Agreement);
- 1.1.1.20 Annex B (Service Description);
- 1.1.1.21 Annex 2 (Contractor's Tender for Framework Agreement); and
- 1.1.1.22 other ITT Documentation and its subsequent amendments and clarifications.

1.2 Definitions and Interpretation

In this Agreement, the following words and phrases shall have the following meanings except where the context requires otherwise:

- "Agreement"** shall have the meaning set out in Clause 1.1.1;
- "Annual Implementation Report"** shall mean the reports set out in Clause 2.3.1;
- "Asset Technology (Asset/Assets)"** means tangible and intangible assets, excluding Intellectual Property Rights:
- (a) which are created, developed or acquired by the Contractor, or its Sub-contractors, for the purpose of or in the course of performing the Services; and
 - (b) which are funded by the Funds; and
 - (c) which have a purchase value of more than Euro 7,000¹; and
 - (d) which are not consumables.

Examples include servers, hard disks and other IT equipment.

"Atmosphere Data Store" or "ADS" means the online repository of atmosphere data managed by ECMWF and known as the 'Copernicus Atmosphere Data Store';

"Background IPR" means the Contractor's Background IPR or ECMWF's Background IPR (as applicable);

"Brokerage Datasets" means, where Contractor provides data brokerage as a Service under a Service Contract, the datasets that are identified in Annexes 1, 2 and Annexes A and B to the relevant Service Contract;

"Business Day" means a day other than a Saturday, Sunday or public holiday in England;

"C3S" means the Copernicus Climate Change Service referred to in the Space Regulation;

¹ Items are covered if their value is not simply transitory and if their individual value is more than Euro 7,000 or if they are closely associated with or part of a group or sequence of items, the collective value of which is more than Euro 7,000. If in doubt, the Contractor should consult with ECMWF.

“CAMs”	means the Copernicus Atmosphere Monitoring Service referred to in the Space Regulation;
“Change”	means a change of all or part of the Services and/or the Specification requested in accordance with Clause 2.5 (Service Change and Other Amendments);
“Claim”	means any action, claim, demand, proceeding, filing, objection or complaint of any nature or kind;
“Climate Data Store” (or “CDS”)	means the online repository of climate data managed by ECMWF and known as the 'Copernicus Climate Data Store';
“Co-Financing”	means resourcing part of the Contract other than with Funds (e.g. with financial or In-Kind Contributions from the Contractor, Sub-contractors or third parties);
“Commission”	means the European Commission;
“Confidential Information”	means: <ul style="list-style-type: none"> (a) the terms of this Agreement; (b) all information disclosed to the relevant Party by or on behalf of the other Party in connection with this Agreement and/or a Service Contract and which relates to the provisions of this Agreement and/or a Service Contract or the negotiations relating to this Agreement and/or a Service Contract; (c) know-how, secret processes and inventions disclosed to the relevant Party by or on behalf of the other Party in connection with this Agreement and/or a Service Contract; (d) all other information disclosed to the relevant Party by or on behalf of the other Party (whether before or after the date of this Agreement) which is marked as or has been otherwise indicated to be confidential or which derives value to a Party from being confidential or which would be regarded as confidential by a reasonable business person;
“Conflict of Interests”	means a situation where the impartial and objective exercise of the functions of a financial actor or other person is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other direct or indirect personal interest;
“Contract Officer”	means ECMWF’s manager of this Agreement, relevant Service Contracts and the Services, appointed pursuant to Clause 2.4.3 (Contract Officers, Service Managers and other Key Personnel);

"Contractor Background IPR"	<p>means all Intellectual Property Rights or other proprietary rights (i) in existence at the Effective Date; or (ii) developed independently of this Agreement or any Service Contract; which are owned by the Contractor, its Sub-contractors or any third party, the use of which is necessary for or incidental to:</p> <p>(a) the provision of the Services and Deliverables; or</p> <p>(b) the receipt of the full benefit of the Services and the Deliverables by ECMWF,</p> <p>but excludes the Intellectual Property Rights subsisting in the Deliverables or the Brokerage Datasets;</p>
"Contractor Personnel"	<p>means the employees, agents, consultants and Sub-contractors of the Contractor and of any Sub-contractor, who provide or who are involved in the delivery of the Services;</p>
"Contractor's Tender"	<p>means the Contractor's tender for the Framework Agreement set out at Annex 2;</p>
"Contribution Agreement"	<p>means the Contribution Agreement between the European Commission and ECMWF in respect of the implementation of the Copernicus Atmosphere Monitoring and Climate Change Monitoring Services dated [TBC];</p>
"Copernicus Logo"	<p>means the logo identified in Annex 7 (Logos) and registered at the European Office for the Harmonisation in the Internal Market;</p>
"Copernicus Data Policy"	<p>means the Copernicus data policy defined in Chapter III of the Space Regulation;</p>
"Copernicus Data Regulation"	<p>means either: (a) Regulation (EU) No 1159/2013 of the European Parliament and of the Council of 12 July 2013 establishing registration and licensing conditions for Copernicus users, OJ L 309, 19/11/2013; or (b) if (a) has been repealed, any equivalent regulation established under the Space Regulation;</p>
"Copernicus Programme"	<p>means the programme established by the Space Regulation;</p>
"Corruption"	<p>shall have the meaning defined in the Convention (made on the basis of Article K.3 (2)(c) of the Treaty on European Union) on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union of 26 May 1997 (OJ C 195, 25.6.1997), including both passive corruption and active corruption;</p>
"Cost Reimbursement Basis"	<p>means the Price is calculated by reference to the Contractor's actual direct costs of providing the Services and Deliverables;</p>

“Criminal Organisation”	shall have the meaning defined by Decision 2008/841 OJ L 300, 11.11.2008, p. 43, see http://eur-lex.europa.eu/legal-content/EN/NOT/?uri=CELEX:32008F0841
“Critical Service Failure”	means a failure or defect of the Service performance with the effect of compromising the main purpose of a Service Contract or the continuation of Services under a Service Contract;
“Default”	means any act, statement, failure to meet the Specification, non-performance of contractual obligations, omission or negligence by a Party in connection with, or in relation to, the subject matter of this Agreement and/or a Service Contract as a result of which the Party is legally liable to the other whether in contract or in tort;
“Deliverables”	mean all those things to be created, manufactured or engineered for ECMWF as part of the Services, including any intended outcome of this Agreement, whatever its form or nature (including tangible and intangible assets, in particular data and information products or software products). Deliverables are identified in Annexes 1, 2 and Annexes A and B to the relevant Service Contract and may include individuals or multiples of the following, without limitation, numerical datasets, reports, graphics, web content, software, algorithms, models, prototypes, any information from the Copernicus services (including following processing or modelling), research and development results, and documentation of implemented processes and algorithms;
“Dispute Resolution Procedure”	means the procedure set out in Clause 2.6 (Process for Resolving Disputes) for the resolution of disputes arising under or in connection with this Agreement and/or a Service Contract;
“Double Financing”	means acquiring some form of funding, consideration or reimbursement, in addition to the Funds in return for supplying or providing access to some or all of the same or essentially the same Deliverables or Assets as ECMWF is paying for with the Funds under this Agreement or any related Service Contract;
“Effective Date”	means the [date];
“EU Logo”	means the logo identified in Annex 7 (Logos) and registered at the European Office for the Harmonisation in the Internal Market;
“Exceptions”	means occasions when the Contractor's internal controls are overridden ex ante;
“Exclusion Situation”	means any exclusion situation as defined in Article 136 of the Financial Regulation;

“Final Implementation Report”	shall have the meaning set out in Clause 2.3.4 (Final Implementation Report);
“Financial Regulation”	means Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, OJ L193 of 30 July 2018, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012;
“Force Majeure”	<p>any situation or event which:</p> <p>(i) prevents either Party from fulfilling its obligations under the Agreement;</p> <p>(ii) was an unforeseeable, exceptional situation beyond the Parties' control;</p> <p>(iii) was not due to error or negligence on their part (or on the part of other participants involved in the performance of the Services); and</p> <p>(iv) proves to be inevitable in spite of exercising all due diligence.</p> <p>Defects in equipment or material or delays in making them available cannot be invoked as force majeure, unless they stem directly from a relevant case of force majeure. Labour disputes, strikes or financial problems of the Parties cannot be invoked as force majeure by the Party seeking to rely on force majeure. Force Majeure may include, inter alia:</p> <p>(i) natural disaster;</p> <p>(ii) epidemic or pandemic;</p> <p>(iii) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;</p> <p>(iv) nuclear, chemical or biological contamination or sonic boom;</p> <p>(v) any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;</p> <p>(vi) collapse of buildings, fire, explosion or accident;</p>

(vii) strikes, lockouts or other industrial disputes excluding any relating to or induced by the workforce of the affected Party; and

(viii) interruption or failure of utility service;

“Fraud”

means any act or omission described in: (i) Article 3 of EU Directive 2017/1371; or (ii) Article 1 of the Convention (made on the basis of Article K.3 of the Treaty on European Union) on the protection of the European Communities' financial interests of 26 July 1995 (OJ C 316, 27.11.1995, as well as any other wrongful or criminal deception intended to result in financial or personal gain;

“Funds”

means any sums of money paid by ECMWF to the Contractor, under the terms of this Agreement or a related Service Contract, including any sums, which the Contractor pays to a Sub-contractor for its contribution to the Services;

“Good Industry Practice”

means the degree of skill, diligence, prudence, efficiency, timeliness and foresight which would reasonably be expected from a skilled and experienced contractor of similar services seeking to comply with its contractual obligations and seeking to avoid any liability arising under any duty of care that might reasonably be contemplated by such a contractor;

“Implementation Plan”

means the plan required from the Contractor referred to at Clause 2.3.5.1. The process for production of each Implementation Plan is explained in more detail in Paragraph 4 of Annex 5 (Report Content);

"Improvement"

means any improvements, enhancements or additions to materials in which Background IPR subsists, which are indivisible from or impractical to use except in connection with such materials;

“In-kind Contribution”

means a non-financial contribution to the resourcing of the Contract, made free-of-charge by the Contractor, a Sub-contractor or a third party;

“Insolvency Event”

means where a person is bankrupt or being wound up, is having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;

"Intellectual Property"

means any and all work product which is subject to intellectual property rights and/or protections under the laws of any country in which the intellectual property rights are sought or granted, including but not limited to works of authorship, copyrighted and copyrightable works, mask works, patented, patentable and non-patentable inventions, registered and non-registered trademarks, company and

product names, marks, brands, designs, technical and nontechnical documentation, data, datasets, confidential information, formulas, software (e.g. computer programs in object code and/or source code format, requirements analysis, technical and/or application specifications, documentation etc.), devices, trade secrets and any other intellectual property of whatever nature;

“Intellectual Property Rights”

means any exclusive or non-exclusive right which exist in any Intellectual Property, in particular (but not limited to) any patents, petty patents, utility models, trademarks, service marks, design rights, applications for any of the foregoing, copyright, moral rights, database rights, semi-conductor topography rights, trade or business names, domain names, website addresses together with any benefits which such Intellectual Property Rights give to the holder, in particular (but not limited to) the right to use, copy, modify, correct, adapt, enhance, improve, update, make new releases or new versions of, make derivative works of, offer, sell, lease, rent, license, distribute in any other way against or without payment, display, broadcast, transmit, or make accessible in networks (e.g. Internet, Intranet) the Intellectual Property in question in whole or in part and any copies thereof;

"Irregularity"

means an intentional act or omission by the relevant party, which has or would have the effect of substantially prejudicing the general budget of the Union, either by reducing or losing revenue or by an unjustified item of expenditure;

“ITT Documentation”

means the various documents forming part of ECMWF's Invitation to Tender, being Volumes I to V and associated communications and templates, published through ECMWF's e-procurement portal;

“Key Performance Indicators”

also **“KPIs”** means those key performance indicators set out in Annex 1 (ECMWF's Specification for Framework Agreement) and Annex 2 (Contractor's Tender for Framework Agreement), and any amendments to those key performance indicators agreed by the parties during the Term;

“Law”

means a statute, statutory instrument, regulation, order, and other legislative provision in any jurisdiction including any delegated or subordinate legislation, and any judgment of a relevant court of law or decision of a tribunal or competent authority;

“Loss”

means any Claims costs, damages, demands, expenses, fines, liabilities, losses, penalties and sanctions (including amounts paid in settlement, out-of-pocket expenses and interest);

"Maximum Budget"

means the maximum amount that ECMWF may pay under each Service Contract. The Maximum Budget is shown in the

	body of the Service Contract, in accordance with Annex 3 (Model Service Contract);
“Milestone”	means an event identified as a milestone in this Agreement or a related Service Contract;
“Money Laundering”	shall have the meaning defined by INTERPOL at: https://www.interpol.int/en/Crimes/Financial-crime/Money-laundering
“Non-Compliance Event”	means an occasion when the Contractor's internal controls are overridden ex post;
“Notice of Acceptance”	means the official notice of ECMWF's approval of the contract performance for a payment milestone;
“Overall Price”	means the total maximum price payable to the Contractor for the Services under this Framework Agreement and all related Service Contracts. The Overall Price is shown in Annex 2 (Contractor's Tender for Framework Agreement) and at the top of the payment plan in Annex C of each related Service Contract;
“Ownership”	means legal and beneficial title, the right to assert ownership in all territories worldwide and control over all rights relating to the thing owned;
“Payment Milestone Notification”	means a written submission from the Contractor to ECMWF as soon as it considers that the activities and Deliverables covered by a payment milestone to have been reached as specified in the Payment Plan;
"Payment Plan"	means the document defining payment and delivery timetable for Services and Deliverables under each Service Contract, in the form set out in Annex C (Payment Plan) of Annex 3 (Model Service Contract) or in any other form notified by ECMWF;
"Pre-Agreed Price Basis"	means that the Price payable by ECMWF for the Service is agreed by the Parties in the Service Contract before the Service commences;
“Price”	means the total price payable to the Contractor for the Services under a particular Service Contract;
"Quarterly Implementation Report"	shall have the meaning set out in Clause 2.3.2;
"Reference Rate"	means the rate applied by the European Central Bank for its main refinancing operations in Euros, as published in the C series of the Official Journal of the EU;
“Related Person”	means any natural person that has the power to represent the Contractor or to take decisions on its behalf;

“Request for Service”	means ECMWF’s written call for Services, for a specific period of time within the Term, under the terms of this Agreement, a copy of which shall be annexed to the resulting Service Contract (Annex A);
“Response to Request for Service”	means the Contractor’s response to a Request for Service by ECMWF which shall consist of a Service Description and a Payment Plan;
"Restricted Person"	means any entity, individual or group of individuals designated by the EU as subject to the EU Restrictive Measures in the lists provided at www.sanctionsmap.eu ;
“Risk Register”	means the risk register and risk management plan developed by the Contractor under Clause 2.1.2.1(ix) and updated from time to time;
“Service Contract”	means an agreement for the provision of the Services by the Contractor to ECMWF over a specific period of time within the Term, agreed in accordance with Clause 1.5 (Service Contracts – Purpose and Process);
"Service Description"	means the specification for the Services and Deliverables to be delivered by the Contractor under each Service Contract, as attached as Annex B to the Service Contract;
“Service Manager”	means the Contractor’s manager of this Agreement, relevant Service Contracts and the Services, appointed pursuant to Clause 2.4.3 (Contract Officers, Service Managers and other key personnel);
“Services”	means the services described in Annex 1 (ECMWF’s Specification for Framework Agreement) and Annex A (ECMWF’s Request for Service) and acknowledged in Annex 2 (Contractor’s Tender for Framework Agreement) and Annex B (Service Description) such services to be provided by the Contractor pursuant to this Agreement and any related Service Contract;
“Site”	means ECMWF's premises in Reading, Berkshire or any future premises;
"Space Programme"	means the programme established by the Space Regulation;
“Space Regulation”	means Regulation (EU) 2021/696 of the European Parliament and of the Council of 28 April 2021 establishing the Union Space Programme and the European Union Agency for the Space Programme and repealing Regulations (EU) No 912/2010, (EU) No 1285/2013 and (EU) No 377/2014 and Decision No 541/2014/EU;
“Specification”	means Annex 1 (ECMWF’s Specification for Framework Agreement);

“Substantial Errors”	means errors which the Parties agree to be substantial or which are determined to be substantial by an arbitrator, appointed in accordance with Clause 6.8 (Governing Law and Arbitration);
“Sub-contractor”	means any person with its own legal identity, which is engaged by the Contractor or by another Sub-contractor in connection with the Services. Terms for the engagement of Sub-contractors are set out at Clause 2.9 (Sub-contracting);
“Systemic or Recurrent Errors”	means errors which the Parties agree to be systemic or recurrent or which are determined to be systemic or recurrent by an arbitrator, appointed in accordance with the provisions of Clause 6.8 (Governing Law and Arbitration);
“Technology”	means any know-how, method, process, system, machinery, software, data, information or other form of technology put to use by the Contractor in the course of performing the Services;
“Term”	means the period beginning on the Effective Date and ending on the termination, or expiry of this Agreement;
“Union”	means the European Union;
“VAT and Value Added Tax”	means value added tax as provided for in Directive 2006/112/EC and subordinate national Law or any similar sales or turnover tax;
“Work Packages”	means the packages of work into which the Services are split, as referred to in Annex 1 and Annex 2, and as confirmed or varied in Annexes A and B to the relevant Service Contract; and
“Year”	means a calendar year within the period from the Effective Date to the termination or expiry of this Agreement.

1.2.1 In this Agreement and any Service Contract, unless the context otherwise requires or the contrary intention appears:

1.2.1.1 any reference to an enactment (which term shall include any directly applicable Union legislation) includes:

- (i) that enactment as amended, extended, consolidated, re-enacted or applied by or under any other enactment before or after this Agreement and/or a Service Contract; and
- (ii) any subordinate legislation made (before or after this Agreement and/or a Service Contract) under that or any other applicable enactment, including one within this Clause 1.2.1;

1.2.1.2 the singular includes the plural and vice versa, and reference to any gender includes the other genders;

- 1.2.1.3 references to a person include any natural person, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having a separate legal personality);
 - 1.2.1.4 references to this Agreement or any other agreement or document are to this Agreement or such other agreement or document as it may be validly varied, amended, supplemented, restated, renewed, novated or replaced from time to time (in each case, however fundamentally);
 - 1.2.1.5 references to a Party to this Agreement or a Service Contract include a reference to its successors and permitted assigns under this Agreement or a Service Contract;
 - 1.2.1.6 references to “written” or “in writing” include faxes and emails into which a verifiable electronic signature is incorporated but exclude all other emails;
 - 1.2.1.7 any reference to an English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing includes, in respect of any jurisdiction other than England, a reference to what most nearly approximates in that jurisdiction to the English legal term;
 - 1.2.1.8 the words “including” and “in particular” and any similar words or expressions are by way of illustration and emphasis only and do not operate to limit the generality or extent of any other words or expressions;
 - 1.2.1.9 all Annexes and the Introduction to this Agreement form part of it and take effect as if set out in this Agreement, and any reference to this Agreement includes the Annexes and the Introduction;
 - 1.2.1.10 all annexes to a Service Contract form part of it and take effect as if set out in the relevant Service Contract and any reference to the Service Contract includes the annexes to it;
 - 1.2.1.11 references to Clauses, Annexes and Paragraphs refer to clauses of, annexes to and paragraphs in annexes to, this Agreement or a Service Contract (as applicable); and
 - 1.2.1.12 references to ECMWF include references to ECMWF acting through its duty stations in Reading, Bologna and Bonn², and any duty station nominated after the Effective Date.
- 1.2.2 The headings in this Agreement or a Service Contract are for convenience only and do not affect its interpretation.
- 1.2.3 The footnotes in this Agreement are for information only and do not affect its interpretation.

1.3 Framework Agreement - Purpose and Effect

- 1.3.1 This Agreement gives ECMWF the option to require the Contractor to supply ECMWF with the Services on the terms of this Agreement pursuant to one or more Service Contracts which will be signed on behalf of the Contractor and ECMWF and which will take the form set out at Annex 3 (Model of Service Contract). ECMWF’s option shall be enforceable as many times as ECMWF wishes prior to expiry of the Term.
- 1.3.2 Use by ECMWF and Others

² Due to be opened on 1 August 2021.

1.3.2.1 The benefits of this Agreement and each Service Contract shall be for unlimited use by the Commission; ECMWF; the government and national agencies of ECMWF Member States as are Parties from time to time to the Convention signed on 11 October 1973 or any successor Convention thereto; and governmental and non-governmental international scientific and technical organizations with which ECMWF is required or expected under such Convention or Conventions to co-operate and other authorised users of ECMWF services.

1.3.2.2 References throughout this Agreement and each Service Contract to use of the Services by ECMWF shall be deemed to include use by those organizations referred to in Clause 1.3.2.1.

1.4 Framework Agreement - Commencement and Duration

1.4.1 The Term shall start on the Effective Date and shall end on [insert end date for this Framework Agreement] unless agreed otherwise by both Parties.

1.5 Service Contracts – Purpose and Process

1.5.1 The terms of this Agreement shall be deemed to be incorporated into each Service Contract, as amended by each Service Contract.

1.5.2 ECMWF shall be entitled from time to time to request in writing the provision of any or all of the Services or Work Packages from the Contractor by submitting a Request for Service to the Contractor. The Request for Service will specify a period of time, within the Term, for which the Services or Work Package must be provided, and the Maximum Budget for each Service or Work Package. The Request for Service may be subject to confirmation of funding by the Commission for the relevant period of time.

1.5.3 Within twenty (20) Business Days of receipt of a written Request for Service from ECMWF, the Contractor shall complete and submit a Response to the Request for Service which shall be consistent with Annex 2 (Contractor's Tender for Framework Agreement). The Response to Request for Service shall consist of:

- (i) a draft Service Description for the Services or Work Packages, incorporating any details or specifications requested by ECMWF in the Request for Services; and
- (ii) a draft Payment Plan in the form set out in Annex C (Payment Plan) of Annex 3 (Model Service Contract) or in any other form notified by ECMWF in the Request for Service.

1.5.4 Subject to the Parties agreeing the Service Description and the Payment Plan and subject to confirmation of funding by the Commission for the relevant period of time, ECMWF will issue a draft Service Contract containing the information set out in Annex 3 (Model of Service Contract) for execution by both Parties.

1.5.5 A Service Contract shall not enter into force, be legally binding or have any other effect unless as at the date of the Service Contract, this Agreement has not terminated or expired.

1.5.6 Any amendment to this Agreement agreed by ECMWF and the Contractor in accordance with Clause 2.5 (Service Change and Other Amendments) shall apply to any Service Contract which is current at the date of such amendment and to all Service Contracts entered into after the date of such amendment.

2. Operation of Services

2.1 Contractor's Performance and Related Obligations

2.1.1 Contractor's Undertakings

2.1.1.1 The Contractor represents, warrants and undertakes:

- (i) that it will perform its obligations under this Agreement and each Service Contract in a timely and professional manner using Good Industry Practice as well as its own established internal procedures, and shall apply the same level of duty and care which it applies in managing its own funds;
- (ii) that all Contractor Personnel have the qualifications and experience claimed or attributed to them in Annex 2 (Contractor's Tender for Framework Agreement) and are, in any event, suitably skilled, experienced and qualified to carry out the duties and tasks assigned to them in connection with the performance of the Services;
- (iii) that neither the Contractor nor any Contractor Personnel or any person acting on its behalf has offered, given or agreed to give or will offer, give or agree to give any person any inducement or reward (or anything which might be considered an inducement or reward) in connection with ECMWF entering into this Agreement or any Service Contract;
- (iv) to comply with (and to procure that the Contractor Personnel comply with) ECMWF's reasonable requests in performing the Services;
- (v) the performance of the Services shall not infringe any Intellectual Property Rights of any third party;
- (vi) that it owns, or has all necessary rights, authorisations and licences in respect of, all Intellectual Property Rights used in the provision of the Services to enable the Contractor to perform the Services in accordance with this Agreement and each Service Contract and to comply with the Contractor's obligations under this Agreement;
- (vii) that the contents of Annex 2 (including its answers to all ITT questions) are correct and that ECMWF will be informed within five (5) Business Days of any of the contents becoming incorrect, during the Term;
- (viii) that it has made and shall make its own enquiries to satisfy itself as to the accuracy and adequacy of any information supplied to it by or on behalf of ECMWF;
- (ix) that it has raised all relevant due diligence questions with ECMWF before the Effective Date;
- (x) that it has entered into this Agreement in reliance on its own due diligence alone;
- (xi) that the Contractor will consult with ECMWF about all proposals for Co-Financing, including In-Kind Contributions and that, if this Agreement or a related Service- Contract benefits from Co-Financing, the Contractor will

nevertheless ensure that its performance or completion shall not be dependent upon the continuation of the Co-Financing;

- (xii) that the Contractor and its Sub-contractors are not engaging, and will not engage, in any type of Double Financing by entering into this Agreement; and
- (xiii) where assets need to be imported in the Union or exported outside the Union or transferred within the Union as part of the Services, and export control or transfer control restrictions apply, that it shall secure the necessary licences and authorisations.

2.1.2 Contractor's obligations

2.1.2.1 The Contractor shall:

- (i) provide the Services as set out in Annex 1 and Annex 2 to this Agreement and as confirmed or varied in Annex A and B to the relevant Service Contract, including, without limitation, meeting the agreed Deliverables, Milestones and KPIs;
- (ii) report to and liaise with ECMWF's Contract Officer and other key personnel (Clause 2.4.3) and act only to the extent of the instructions given to the Contractor from time to time by them;
- (iii) promptly report to ECMWF:
 - (a) any breach of this Agreement and/or a Service Contract by the Contractor or the Contractor Personnel;
 - (b) any circumstances likely to adversely affect or delay the delivery of the Services or to prevent the Contractor from complying with its obligations under this Agreement and/or a Service Contract;
 - (c) the death, departure or absence (for one calendar month or more) of any Contractor Personnel who have been identified in Annex 2 (Contractor's Tender for Framework Agreement);
 - (d) any change to the identity of the Contractor's Authorised Representatives (see Clause 2.4.1) or Service Manager (see Clause 2.4.3);
 - (e) any substantial changes to its systems, rules or procedures that relate to the management of the Funds;
 - (f) any substantial change in its legal, financial, technical or organisational situation, or any changes in membership or ownership situation;
 - (g) any Fraud or irregularity which comes to its attention and any situation which may give rise thereto and the measures taken, which could impact the delivery of the Services;
 - (h) any event that may harm the Union's financial interests; and

- (i) if the Contractor is no longer established in a Copernicus participating state in accordance with the conditions laid down in the Space Regulation;
- (iv) provide any advice, assistance, information or documentation reasonably required by ECMWF to support the international technical cooperation of Copernicus;
- (v) not support actions that contribute to money laundering, terrorism financing, tax avoidance, tax fraud or tax evasion;
- (vi) apply, under this Agreement, procedures which are no less stringent than the ones applicable to operations it executes on its own account;
- (vii) ensure appropriate communication to ECMWF regarding the Services and all relevant activities, achievements and results, in particular through regular reporting as described in Clause 2.3 of this Agreement;
- (viii) not make the Funds available, directly or indirectly, to or for the benefit of any Restricted Person; and
- (ix) produce a Risk Register in accordance with Annex 1 (ECMWF's Specification for Framework Agreement) and Annex 2 (Contractor's Tender for Framework Agreement). The Contractor shall deliver the Risk Register to ECMWF within fifteen (15) Business Days of the Effective Date. The Contractor shall update the Risk Register as required to comply with its reporting obligations under Clause 2.3.

2.1.3 Compliance with Laws

- 2.1.3.1 The Contractor shall perform its obligations under this Agreement and each Service Contract in a manner that complies with all Laws in force during the Term, and in a manner that is consistent with ECMWF's obligation to comply with the Financial Regulation and the Space Regulation, and to act in accordance with the financial interests of the Union. The Contractor shall not cause ECMWF to breach any Laws in force during the Term.
- 2.1.3.2 The Contractor shall immediately notify ECMWF if it becomes aware of any allegation of non-compliance with any Law by any person in relation to this Agreement and/or a Service Contract.
- 2.1.3.3 As soon as the Contractor becomes aware of any change that should be made to the Services to ensure that the Services and the performance of them conform to any Law, Good Industry Practice or any new legal or regulatory requirement which affects the Services the Contractor shall notify ECMWF of the change and, unless otherwise instructed by ECMWF, the Contractor shall carry out the change at no charge to ECMWF.

2.1.4 Exclusion Situations and Restricted Persons

- 2.1.4.1 The Contractor shall notify ECMWF in writing and within five (5) Business Days if the Contractor, any of its Sub-contractors or any third party that receives payment for the Contractor in connection with the Services is in an Exclusion Situation at any time during

the Term. The Contractor shall regularly update ECMWF about the status of any Exclusion Situation reported under this Clause.

2.1.4.2 If and when the Contractor notifies ECMWF of an Exclusion Situation under Clause 2.1.4.1 or a Fraud or Irregularity under Clause 2.1.2.1(iii)(g), ECMWF shall transmit the information to the Commission for entry on the Early Discovery and Exclusion System and publication on the website of the Commission.

2.1.4.3 The Contractor shall regularly assess whether the Contractor, any Sub-Contractor, or any other entity that receives payment from the Contractor in connection with the Services, is a Restricted Person. If the Contractor identifies any such parties as a Restricted Person, the Contractor shall notify ECMWF in writing as soon as reasonably practicable.

2.1.4.4 In the event that the Contractor notifies ECMWF of a Restricted Person under Clause 2.1.4.3 or ECMWF otherwise determines that the Contractor, any Sub-Contractor, or any other entity that receives payment from the Contractor in connection with the Services is a Restricted Person:

- (i) the Contractor shall co-operate and participate in any related consultation process with ECMWF and the Commission (and shall procure the co-operation and participation of any necessary third parties);
- (ii) the Contractor shall comply with any remedial measures proposed by ECMWF in connection with that Restricted Person;
- (iii) ECMWF shall be entitled to recover from the Contractor, as a debt, any Funds provided to a Restricted Person; and
- (iv) ECMWF shall be entitled to suspend or terminate this Agreement or any relevant Service Contract(s).

2.1.5 Contractor Personnel

2.1.5.1 The Contractor shall retain overall control of the Contractor Personnel at all times so that the Contractor Personnel shall not be deemed to be employees, agents or contractors of ECMWF.

2.1.5.2 If it appears to ECMWF that the Services are being disrupted by the actions or behaviour of a member of the Contractor Personnel or that their qualifications, expertise or work do not correspond to the relevant HR profile in Annex 2 (Contractor's Tender for Framework Agreement) or to Good Industry Practice, ECMWF shall have the right to make a reasoned request for their immediate replacement in relation to the Services.

2.1.5.3 Any Contractor Personnel replaced following ECMWF's request pursuant to Clause 2.1.5.2 must have the appropriate qualifications, expertise and ability to correspond to the relevant HR profile in Annex 2 (Contractor's Tender for Framework Agreement) or to Good Industry Practice. The Contractor shall be responsible for any delay in the execution of the tasks assigned to it resulting from the replacement of Contractor Personnel.

2.1.6 IT and other Security

2.1.6.1 The Contractor shall, and shall procure that all Contractor Personnel shall, comply with any of ECMWF's site security procedures if and when at the Site.

- 2.1.6.2 The Contractor shall adopt appropriate technical and organisational security measures based on, or equivalent to, international standards or best practices, giving due regard to the risks inherent in the data processing and distribution, in order to ensure confidentiality, integrity, availability, and resilience of the systems and services.
 - 2.1.6.3 The Contractor shall provide to ECMWF the updated information related to the systems under its responsibility which is required to identify the security threats and risks to any information relevant to this Agreement.
 - 2.1.6.4 The Contractor shall verify on a regular basis the effectiveness of its technical and organisational security measures through the means of audit, assessment, testing and/or evaluation. At ECMWF's request, the Contractor shall report its main findings to ECMWF.
 - 2.1.6.5 The Contractor shall, and shall procure that all Contractor Personnel shall, comply with ECMWF's IT security requirements or directions, as appropriate, including for the transmission of Deliverables. These will be communicated between ECMWF and the Contractor as necessary.
 - 2.1.6.6 ECMWF shall provide all security passes and controlled access for Contractor Personnel who are to have access to the Site.
- 2.1.7 Quality of Deliverables
- 2.1.7.1 ECMWF shall have the right to inspect any Deliverables at any time on or after delivery by the Contractor to ensure each Deliverable complies with the requirements of this Agreement and of the relevant Service Contract.
 - 2.1.7.2 If ECMWF discovers that any Deliverable does not comply with the requirements of this Agreement or of the relevant Service Contract, ECMWF shall be entitled to notify the Contractor specifying the non-compliance and requiring remedy by the Contractor.
 - 2.1.7.3 Within a reasonable time of receiving notice pursuant to Clause 2.1.7.2 and in any event within 30 calendar days, the Contractor shall remedy any non-compliance in a Deliverable and re-submit the Deliverable to ECMWF.
 - 2.1.7.4 Until such time as the Contractor has complied with Clause 2.1.7.3, ECMWF shall be entitled:
 - (i) to withhold payment relating to the relevant Deliverable;
 - (ii) to accept the relevant Deliverable despite the non-conformance and withhold a reasonable proportion of the payment relating to that Deliverable; or
 - (iii) at any time after expiry of the period of 30 calendar days referred to in Clause 2.1.7.3, to reject the relevant Deliverable and to require repayment and not to make any further payment in relation to the relevant Deliverable.
- 2.1.8 Insurance requirements
- 2.1.8.1 The Contractor shall, at its own expense, arrange and maintain in force:
 - (i) insurance policies with a reputable insurer; or

- (ii) other cover or contingency arrangements, such as coverage via public self-insurance schemes or governmental guarantee schemes, that are acceptable to ECMWF;

to meet the requirements set out in this Clause 2.1.8 (“Insurance”).

- 2.1.8.2 The value and the terms of the Insurance shall be adequate to cover the Contractor’s liabilities, to the Sub-contractors, to ECMWF and to third parties, under this Agreement, the related Service Contracts and the applicable Law and adequate to protect the Contractor, the Sub-contractors and ECMWF against the consequences of all reasonably foreseeable risks associated with this Agreement and the related Service Contracts including third party property damage and professional indemnity cover.³ In any event, the Parties have agreed that the minimum value of the Insurance cover shall be [EUR 5,000,000] per occurrence and in the aggregate annually for the benefit of ECMWF.
- 2.1.8.3 The Contractor shall ensure that the Insurance applies for a period of time including the duration of the relevant Service Contract and the duration of any obligations, which survive the expiry or termination of this Agreement and the relevant Service Contract.
- 2.1.8.4 The Contractor shall provide evidence of or a declaration about the Insurance to the satisfaction of ECMWF, before or within one calendar month of the Effective Date of this Agreement and the effective date of each subsequent Service Contract.

2.2 Software

- 2.2.1 If ECMWF procures software development services from the Contractor, the relevant Service Contract will nominate whether the project follows 'Agile Development' or 'Traditional Development'.
- 2.2.2 If a Service Contract nominates 'Agile Development', the provisions of Part 1 of Annex 4, as amended by the Service Contract, shall apply to any software development services or any Deliverables that incorporate software or code.
- 2.2.3 If a Service Contract nominates 'Traditional Development', the provisions of Part 2 of Annex 4, as amended by the Service Contract, shall apply to any software development services or any Deliverables that incorporate software or code.

2.3 Reporting and Planning

- 2.3.1 Annual Implementation Report
 - 2.3.1.1 The Contractor shall submit to ECMWF a report ("the **Annual Implementation Report**"), which shall contain the contents described in paragraph 1 of Annex 5. The Contractor shall submit part one of the Annual Implementation Report (as described in paragraph 1.1 of Annex 5) by the 15th of January each year. The Contractor shall submit part two of the Annual Implementation Report (as described in paragraph 1.2 of Annex 5) by the 28th of February each year.

³ Professional indemnity insurance provides protection for an insured which has incurred a civil liability arising out of a negligent act or omission by the insured or the insured's employee in its professional capacity.

- 2.3.1.2 If requested by ECMWF, the Contractor shall organise an annual service performance review meeting to substantiate the technical achievements reported. This may involve participation of the Contractor's representatives.
- 2.3.1.3 If this Agreement has a Term of 24 months or more or an Overall Price of €100,000 or more, then on each occasion, during the Term, when its annual financial audit cycle comes to an end, the Contractor shall send to ECMWF a copy of its audited annual report.
- 2.3.1.4 If the Contractor fails to submit the documents or the revised documents referred to in this Clause 2.3.1 by the set deadline or if the submitted new documents are not properly revised, ECMWF reserves the right to suspend payments in accordance with Clause 5.3 (Suspension of Payments). If any additional information or documents are requested under this Clause 2.3.1, the time-limit for scrutiny shall be suspended and shall resume once the information or documents concerned have been received by ECMWF. Approval of the report shall not imply recognition of the legality and regularity of the underlying costs or of the authenticity, completeness and correctness of the declaration and information they contain.

2.3.2 Quarterly Implementation Report

During the Term of this Agreement, the Contractor shall submit to ECMWF reports (the "**Quarterly Implementation Reports**") three times per Year, for calendar quarters one, two and three. The Contractor shall submit the Quarterly Implementation Reports at the latest fifteen (15) calendar days after the expiry of the relevant calendar quarter. The Quarterly Implementation Reports shall include the contents described in paragraph 2 of Annex 5.

2.3.3 Ad-Hoc Reports

ECMWF may ask for information or ad-hoc reports whenever it considers that to be necessary for the performance of the Services or to satisfy the requirements of the Commission. The Contractor shall provide the additional information and ad-hoc reports by the deadline agreed with ECMWF.

2.3.4 Final Implementation Report

The Contractor shall submit to ECMWF, as soon as possible and at the latest sixty (60) calendar days after termination or expiry of the last Service Contract in the Term, a final report, which shall contain in particular the contents set out in paragraph 3 of Annex 5.

2.3.5 Implementation Plan

2.3.5.1 During each of the current Service Contracts, except for the last possible Service Contract in the Term, the Contractor will prepare an Implementation Plan for provision of the Services over the period of the next Service Contract (year n+1), on the assumption that it will continue providing the Services during the following year.

2.3.5.2 An Implementation Plan must be submitted to ECMWF within 14 Days of the commencement date of each new Service Contract, and by 30 September (in year n) each year during the Service Contract's term. The Implementation Plan will have to meet with ECMWF's requirements (including those set out in Paragraph 4 of Annex 5 (Report Content)) and will feed into ECMWF's own implementation plan for provision of CAMS/C3S (as appropriate) in the next year (n+1) of the Copernicus Programme.

2.3.6 Conflict of Interest

2.3.6.1 The Contractor shall refrain from any action which may give rise to a Conflict of Interest and take appropriate measures to prevent a Conflict of Interests from arising in the delivery of the Services.

2.3.6.2 Should any situation come to the attention of the Contractor, constituting or likely to lead to a Conflict of Interests during the performance of the Services, it shall be notified to ECMWF, in writing without delay. The Contractor shall take all necessary steps to rectify this situation. ECMWF reserves the right to verify that the measures taken are appropriate and may require additional measures to be taken within a specified deadline.

2.3.7 General reporting obligations

2.3.7.1 ECMWF shall, at the Effective Date and updated from time to time, supply the Contractor with templates for the submission of the reports and plans set out in this Clause 2.3. The Contractor shall use any templates supplied by ECMWF to produce the reports and plans required under this Clause 2.3.

2.3.7.2 ECMWF may request additional information related to the content of any of the reports required under this Clause 2.3. The Contractor shall supply the requested information within ten (10) calendar days of the request.

2.3.7.3 The Contractor may be asked to present any report(s) required under this Clause 2.3 to bodies and committees related to the governance of the Copernicus Programme.

2.3.7.4 All amounts included in reporting completed by the Contractor under this Clause 2.3 must be expressed in Euros.

2.4 Communications by and between the Parties

2.4.1 Authorised Representatives

2.4.1.1 The ECMWF Director General will sign this Agreement and may also sign variations of this Agreement as well as Service Contracts for ECMWF. The ECMWF Director of Copernicus Services has the authority to sign variations of this Agreement as well as Service Contracts for ECMWF. The sole positions with authority to sign this Agreement, related Service Contracts and any variations of the same for the Contractor are [Position].

2.4.2 Formal Notices

2.4.2.1 Formal notices shall be deemed received when delivered except for a letter by prepaid first class mail which shall be deemed received two (2) Business Days after despatch, or an email which shall be deemed to be received when it enters the recipient's inbox. The relevant addresses are as follows:

ECMWF

Contractor

ECMWF

[REDACTED]

Shinfield Park

Reading

RG2 9AX

United Kingdom

Attention: The Director General

Attention: [REDACTED]

Copernicus.notices@ecmwf.int

Email address

2.4.3 Contract Officers, Service Managers and other key personnel

2.4.3.1 ECMWF shall have a Contract Officer and the Contractor shall have a Service Manager to represent their interests in day-to-day discussions and meetings. The appointing Party may change such appointments from time to time by notice in writing to the other Party, provided that in the case of the Contractor's Service Manager any change shall only be made with the consent of ECMWF (such consent not to be unreasonably withheld).

2.4.3.2 The contact details of the Contract Officer, the Service Manager and other key personnel are set out below:

For ECMWF

Contract Officer: [REDACTED]

Alternative contact: [REDACTED]

For Contractor:

Service Manager: [REDACTED]

Alternative contact: [REDACTED]

2.4.4 Progress Meetings

2.4.4.1 During the Term, the Contract Officer and the Service Manager shall conduct face to face, video conference or telephone conference meetings to review progress, discuss outstanding issues and identify any delays. The regularity and frequency of such meetings shall be agreed between the Parties, as appropriate to the nature and maturity of the Services. The Contractor shall be responsible for chairing such meetings and for recording their decisions in minutes and circulating those minutes to the appropriate individuals.

2.4.5 Other Meetings

2.4.5.1 ECMWF may invite or require the Service Manager and/or other representatives to attend other meetings relating to CAMS, C3S or the Copernicus Programme from time to time.

2.4.6 Publicity

2.4.6.1 Within the purpose of this Agreement, the Contractor shall take all appropriate measures to actively promote and enhance the reputation of ECMWF and the Commission in public communications whatever their form, and shall refrain from any actions or omissions which may be detrimental to the image and reputation of ECMWF and the Commission. Whenever relevant, public communications shall acknowledge the role of ECMWF and the Commission and shall underline the Parties' relationship.

2.4.6.2 The Contractor undertakes to:

- (i) cooperate with ECMWF and third parties to raise awareness, visibility and uptake of activities carried out under ECMWF's agreement with the Commission, and where appropriate, of other Copernicus Programme or Space Programme-related activities; and
- (ii) co-ordinate with ECMWF all communication and media activities implemented under this Agreement.

2.4.6.3 Unless ECMWF requests or agrees otherwise, the Contractor shall take all appropriate measures to publicise the fact that the Copernicus is a component of the Space Programme, and the Services were funded by the Union. Unless ECMWF requests or agrees otherwise, any communication or publication related to this Agreement or a related Service Contract, made by the Contractor, including at conferences, seminars or in any information or promotional materials (such as brochures, leaflets, posters, presentations, etc.), shall:

- (i) acknowledge that the relevant Copernicus service (CAMS/C3S) was or is being "Funded by the European Union" and "Implemented by ECMWF";
- (ii) display reference to the Space Programme, as well as, on equal footing the text of "Programme of the" followed by the EU Logo, together with the text "European Union," followed by the Copernicus Logo and the text "implemented by" and the ECMWF logo;
- (iii) use only factually accurate information; and
- (iv) carry the following disclaimer (translated into local languages where appropriate): "This document was produced with funding by the European Union. Views and opinions expressed are those of the author(s) only and the European Commission and ECMWF cannot be held responsible for any use which may be made of the information contained therein."

2.4.6.4 The size and prominence of the acknowledgements and logos shall be clearly visible in a manner that will not create any confusion regarding the involvement of the Contractor, ECMWF and the Union in the relevant activity.

2.4.6.5 The obligation to display the acknowledgments and the ECMWF logos, the Copernicus Logo, and the EU Logo does not confer to the Contractor a right of exclusive use. The Contractor shall not appropriate the Copernicus logo, the EU Logo or the ECMWF logo any similar trademarks or logos, either by registration or by any other means.

2.4.6.6 For the purposes of Clause 2.4.6.1 and under the conditions specified therein, the Contractor is authorised to use the EU Logo and the Copernicus Logo without prior permission from the Commission and to use the ECMWF logo without permission from ECMWF, subject to compliance with the conditions of use specified in the Administrative agreement with the Council of Europe regarding the use of the European emblem by third parties (2012/C 271/04).⁴

⁴ The Administrative agreement with the Council of Europe regarding the use of the European emblem by third parties (2012/C 271/04) is available at the following link: [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:42012Y0908\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:42012Y0908(01)&from=EN)

- 2.4.6.7 The Contractor shall ensure that the Contractor Personnel including Sub-contractors comply with the provisions of this Clause 2.4.6.
- 2.4.6.8 Subject to the provisions of Clause 2.7 (Confidentiality), ECMWF reserves the right to publish anything about the Agreement, a related Service Contract, the Services or the Deliverables.
- 2.4.6.9 The provisions of this Clause 2.4.6 shall apply during the Term and indefinitely thereafter.
- 2.4.6.10 If ECMWF notifies the Contractor that it has breached this Clause 2.4, the Contractor shall remedy the breach, and/or recall the non-compliant material from public circulation, as soon as practicable.
- 2.4.6.11 The Contractor shall submit copies of all reports, publications, press releases and updates related to this Agreement or a related Service Contract to the addresses listed in Clause 2.4.2 at the time of publication.

2.5 Service Change and Other Amendments

2.5.1 Request

If at any time during the Term a Party wishes to alter any part of the Services, including the Specification of any part of the Services, then it shall provide the other Party with full written particulars of such Change.

2.5.2 Contractor's Quotation

The Contractor shall submit to ECMWF, together with its own request or within twenty (20) Business Days of receiving a request from ECMWF, a full written quotation for such requested Change. The quotation shall be based on the unit costs given for resources in the relevant year of the Term, in Annex 2 (Contractor's Tender for Framework Agreement). The quotation shall also specify what implications the Change will have for ECMWF, the Contractor's ability to meet its other obligations under this Agreement and/or any Service Contract and any variation to the terms of this Agreement and/or any Service Contract that will be required as a result including, changes to:

- 2.5.2.1 the Specification and the Services;
- 2.5.2.2 the Deliverables, Milestones and KPIs;
- 2.5.2.3 details of the cost of implementing the Change;
- 2.5.2.4 details of the on-going costs required by the Change when implemented, including any increase or decrease in the Price, any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party;
- 2.5.2.5 a timetable for the implementation, together with any proposals for the acceptance of the Change;
- 2.5.2.6 such other information as ECMWF may reasonably request in (or in response to) the Change; and
- 2.5.2.7 an analysis of the risks arising from the implementation of the Change and a proposal as to pro-active management, by both Parties, of the risks identified.

2.5.3 ECMWF Action on quotation

Upon receipt of such quotation, ECMWF may either:

2.5.3.1 accept such quotation, in which case this Agreement, the Service Contract(s) (including any agreed dates) and, if appropriate, the Specification shall be amended accordingly; or

2.5.3.2 withdraw the proposed Change in which case this Agreement and each Service Contract shall continue in force unchanged.

2.5.4 No such Changes shall be effected unless approved in writing by the duly authorised representatives of ECMWF and the Contractor identified at Clause 2.4.1.

2.5.5 Other Amendments

2.5.5.1 Any amendment to the Agreement and/or each Service Contract shall be agreed in writing by the duly authorised representatives of each Party, identified at Clause 2.4.1.

2.5.5.2 An amendment to this Agreement and/or each Service Contract may not have the purpose or the effect of making changes to this Agreement and/or the relevant Service Contract which would call into question the Contractor's selection by ECMWF.

2.5.5.3 An amendment to this Agreement and/or each Service Contract shall enter into force on the date on which the last Party signs them.

2.6 Process for Resolving Disputes

2.6.1 Any dispute which may arise between the Parties concerning this Agreement and/or any Service Contract shall be determined as provided in this Clause 2.6.

2.6.2 For the purpose of this Clause 2.6, a dispute shall be deemed to have arisen when one Party serves on the other a notice in writing stating the nature of the dispute.

2.6.3 Unless this Agreement and/or the relevant Service Contract has already been terminated or expired by the date of the notice of dispute, and except to the extent that Services are suspended (Clause 5.4) or payments for Services are suspended (Clause 5.3) before or after the date of the notice of dispute, the Contractor shall continue to perform the Services with all due diligence and ECMWF shall continue to make payments in accordance with this Agreement and/or the relevant Service Contract.

2.6.4 After service of the notice of dispute, the following procedure shall be followed by the Parties (all time periods specified in this Clause 2.6.4 shall be extendable by mutual agreement):

2.6.4.1 Within two (2) Business Days, the Contract Officer and the Service Manager shall meet to attempt to settle the dispute;

2.6.4.2 if no settlement results from or within two (2) Business Days of the meeting specified in Clause 2.6.4.1, ECMWF's Head of CAMS/C3S (as appropriate) shall meet with the Contractor's [identify manager] within the following five (5) Business Days to attempt to settle the dispute;

2.6.4.3 if no settlement results from or within five (5) Business Days of the meeting specified in Clause 2.6.4.2 ECMWF's Director of Copernicus Services shall meet with the Contractor's

[identify manager] within the following ten (10) Business Days to attempt to settle the dispute; and

2.6.4.4 if no settlement results from or within ten (10) Business Days of the meeting specified in Clause 2.6.4.3, the Parties shall proceed in accordance with Clause 6.8.2 (Arbitration).

2.7 Confidentiality

2.7.1 Subject to Clause 2.7.2, each Party shall treat all Confidential Information as strictly confidential and shall not disclose Confidential Information to any person. Neither Party shall use Confidential Information for any reason other than fulfilling its obligation under the Agreement, unless otherwise agreed with the disclosing Party in writing or required by the Financial Regulation or the Space Regulation.

2.7.2 A Party may disclose Confidential Information if and to the extent:

2.7.2.1 required by Law or order of the courts, or by any securities exchange or regulatory or governmental body to which such Party is subject or submits, wherever situated (whether or not the requirement for information has the force of law);

2.7.2.2 disclosed on a necessary basis to the professional advisers, auditors and bankers of such Party, who themselves are under a professional obligation of confidentiality;

2.7.2.3 the Confidential Information has come into the public domain other than by a breach of any obligation of confidentiality; or

2.7.2.4 with the prior written approval of the other Party.

2.7.3 The restrictions contained in this Clause 2.7 shall continue to apply after the termination or expiry of this Agreement and each Service Contract (however arising) for five years, unless and to the extent that the Party who disclosed the relevant Confidential Information agrees to release the other Party from its confidentiality obligations earlier.

2.7.4 Publication of this Agreement

In the event that either Party is obliged by Law to publish to the general public all or part of this Agreement or any Service Contract, that Party shall notify the other of the same and the two Parties shall consult regarding appropriate redactions from the Agreement or Service Contract before publication.

2.8 Personal Data Protection

2.8.1 The parties shall comply with Annex 6 (Personal Data Protection).

2.9 Sub-contracting

2.9.1 The Contractor shall not enter into any sub-delegation agreement, outsource its overall responsibility for the Services or assign any of its rights and obligations under this Agreement or a Service Contract to a third party.

2.9.2 The Contractor and/or a Sub-contractor may engage one or more Sub-contractors, subject to the other provisions of this Clause 2.9 and on the following conditions, which are pre-conditions to engagement:

- 2.9.2.1 the Contractor must satisfy ECMWF that the Sub-contractor is suitable to make the proposed contribution to the Services (ECMWF will have complete discretion to judge suitability, which will include, without limitation, being suitably qualified and resourced to make the proposed contribution to the Services);
- 2.9.2.2 the Contractor must satisfy ECMWF that the Sub-contractor meets the following eligibility criteria:
- (i) the Sub-Contractor is not in any Exclusion Situation;
 - (ii) the Sub-Contractor, its Related Persons and its affiliates are not Restricted Persons; and
 - (iii) any other criteria or participation limitations the Commission deems necessary and appropriate to preserve the security, integrity and resilience of the operational Union systems (as notified by ECMWF to the Contractor in writing);
- 2.9.2.3 the Contractor must obtain ECMWF's prior written consent, which shall not be unreasonably withheld.
- 2.9.3 Participation in tenders or calls for Sub-contractors shall preferably be open to entities established in Member States of the Union and to entities established in Copernicus participating states in accordance with the conditions laid down in the Space Regulation. If requested by ECMWF, the Contractor shall inform ECMWF of the interim and final results of the evaluation of any procurement tenders or calls under this Agreement. This shall, in particular, encompass contract volume, country of registration, public or private status, status as SME, for both successful and unsuccessful bidders or applicants.
- 2.9.4 ECMWF's written consent for the Contractor and/or a Sub-contractor to engage a Sub-contractor shall not relieve the Contractor from any liability or obligation under this Agreement or any Service Contract. The Contractor shall remain responsible and shall be liable for all acts and omissions of each Sub-contractor and its personnel as if they were the acts and omissions of the Contractor. For the avoidance of doubt, ECMWF shall not be obliged to manage any Sub-contractors or enforce the terms of any agreements between the Contractor and its Sub-Contractors.
- 2.9.5 The Contractor shall ensure that each Sub-contractor is engaged on terms which are consistent with, and no less onerous than, the applicable terms of this Agreement and any applicable Service Contracts. The Contractor shall ensure each Sub-contractor is required to meet the same obligations as the Contractor is required to meet under the following Clauses: 2.1.1 (Contractor's Undertakings), 2.1.4 (Exclusion Situations and Restricted Persons), 2.3.6 (Conflict of Interest), 2.4.6 (Publicity), 2.7 (Confidentiality), 2.8 (Personal Data Protection), 3 (Assets and Intellectual Property Rights), 5.1 (Audits) and (on a mutatis mutandis basis) 5.8.1 and 5.10.3 (Liabilities towards third parties).
- 2.9.6 The Contractor shall advise ECMWF of all Sub-contractors and provide ECMWF with information about all Sub-contractors so that ECMWF can fulfil its obligations under the Contribution Agreement (See Annual reporting obligation at Clause 2.3.1.1).
- 2.9.7 If it appears to ECMWF that the Services are being disrupted by the acts or omissions of a Sub-contractor or that its qualifications or resources are no longer satisfactory or that its work does not conform to Good Industry Practice, ECMWF shall have the right to make a reasoned request for its replacement as soon as possible.

3. Assets and Intellectual Property Rights

3.1 Asset Technology/Assets

- 3.1.1 ECMWF shall have the option to acquire Ownership of any Assets in accordance with Clause 3.1.2.⁵
- 3.1.2 ECMWF shall notify the Contractor in writing if it wishes to exercise its option to acquire Ownership of any Assets. ECMWF's notification shall be deemed to constitute an effective assignment of Ownership of the identified Asset on the date or event specified in such notification.
- 3.1.3 The Price is deemed to include any fees payable in relation to the acquisition of Ownership of Assets by ECMWF.
- 3.1.4 During the Term, the Contractor shall maintain an updated inventory of the Assets and provide all information needed for keeping account of the Assets by ECMWF. The Contractor shall ensure care and custody of Assets under its responsibility, including those Assets assigned to ECMWF under Clause 3.1.2, and ensure such Assets are maintained and kept in good repair. All risks and liabilities linked to the Assets shall remain with the Contractor. At the end of the Term, the Contractor may be required to deliver up some or all Assets which ECMWF or EC requires. If the total cost of the required delivery is Euro 500 or less, the Contractor shall bear it. Otherwise, ECMWF shall bear the delivery cost.
- 3.1.5 The assignment under Clause 3.1.2, shall operate to assign to ECMWF with full title guarantee and free from all encumbrances all rights in the Assets including the right to sue for and recover damages or other relief in respect of the infringement of any rights in the Assets.
- 3.1.6 Unless otherwise agreed in writing, a licence is granted to the Contractor, by virtue of this Agreement to use the Assets assigned to ECMWF under Clause 3.1.2 for provision of the Services and any of its own purposes, including commercial purposes but excepting any purpose which conflicts with the aims of the Copernicus Programme. The licence is exclusive, free of charge and for the duration of the Term only. The licence allows the licensee to grant sub-licences but only for the duration of the Term.
- 3.1.7 The Contractor shall ensure that all:
- 3.1.7.1 consumables and physical assets which do not meet the definition of 'Asset'; and
 - 3.1.7.2 any Assets which ECMWF and the Union have declined to take Ownership of under Clause 3.1.2,
- are decommissioned and disposed of, at the Contractor's cost and responsibility, when they are at the end of their useful life, as determined by ECMWF's relevant accounting policy.
- 3.1.8 For any Assets owned by ECMWF or the Union, the Contractor shall request the approval of ECMWF to decommission and dispose of the Assets. If ECMWF approves the request, the Contractor shall decommission and dispose of such Assets at its cost, following a write-off procedure notified to it by ECMWF.

3.2 Deliverables

⁵ Contractors should note that ECMWF is obliged to assign ownership of all Assets to the Commission under the terms of the Contribution Agreement.

- 3.2.1 The Contractor assigns to ECMWF, with full title guarantee, title to and all present and future rights (including Intellectual Property Rights) in the Deliverables from the date of creation, or shall at its own cost procure that the owner of such rights assigns them to ECMWF on the same basis. The Contractor shall, at its own cost, do all such things and execute all documents and instruments requested by ECMWF which are reasonably necessary to enable ECMWF to obtain, defend or otherwise protect or enforce the rights (including Intellectual Property Rights) in the Deliverables both during and after the term of this Agreement.
- 3.2.2 The Price is deemed to include any fees payable in relation to the acquisition of Deliverables, and any rights (including Intellectual Property Rights) subsisting in the Deliverables, by ECMWF. For the avoidance of doubt, if the Price is payable on a Cost Reimbursement Basis, the Contractor shall not be entitled to reimbursement of such fees.
- 3.2.3 During the Term, the Contractor shall take care and custody of the Deliverables in the form of an archive, maintain an inventory of the Deliverables and provide all information needed for keeping account of the Deliverables.
- 3.2.4 The archive, referred to in Clause 3.2.3 shall be physically located in the Union or such place where the Space Regulation and the related delegated legislation (e.g. the Copernicus Data Policy) can be enforced. The archive shall continue to be located in such a place if and for so long as the Contractor maintains the archive after the end of the Term.
- 3.2.5 Unless otherwise agreed in writing, a licence to use the Deliverables is granted to the Contractor, by virtue of this Agreement, subject to the following conditions:
- 3.2.5.1 the Contractor may use the Deliverables for any of its own purposes, including commercial purposes;
- 3.2.5.2 the licence is non-exclusive, irrevocable, worldwide, free of charge and without limitation in time.

3.3 Background IPR and data provisions

- 3.3.1 Background IPR
- 3.3.2 ECMWF and its licensors shall retain all right, title and interest in and to the ECMWF Background IPRs. The Contractor and its licensors shall retain all right, title and interest in and to the Contractor Background IPRs.
- 3.3.3 If any Deliverable is dependent, for its value to the Copernicus Programme upon a continued association with Contractor's Background IPR, which is owned by the Contractor or a Sub-contractor and which has been used by them in the performance of the Services, then by virtue of this Agreement, a licence is granted to ECMWF to use such Contractor's Background IPR for all acts necessary for (i) the use of the Deliverables by ECMWF and the Union, including those envisaged in the Copernicus Programme; and (ii) any purpose necessary to fulfil ECMWF or the Union's obligations under the Copernicus Data Policy. The licence is non-exclusive, irrevocable, worldwide, royalty-free and without limitation in time. The licence may be assigned or sub-licensed as ECMWF sees fit.
- 3.3.4 Brokerage Datasets and other Copernicus data
- 3.3.5 If the Contractor is required to make Brokerage Datasets accessible on the Climate Data Store as part of the Services, it shall grant, for its own Brokerage Datasets which it owns the Intellectual Property Rights subsisting in, and procure on behalf of ECMWF, for third party owned Brokerage

Datasets, the best available terms of accessibility and redistribution, bearing in mind the purpose of the Copernicus Programme and the free and open terms of accessibility and redistribution, established for Copernicus products in the Copernicus Data Policy and the Copernicus Data Regulation. At a minimum, the Contractor shall grant, or procure on behalf of ECMWF, the right for the Brokerage Datasets to be made available via the Climate Data Store and the Atmosphere Data Store on terms consistent with the requirements of Annex 1, the Copernicus Data Policy and the Copernicus Data Regulation.

- 3.3.6 The Contractor shall notify ECMWF in writing as soon as practicable if there is any change to the terms on which the Brokerage Datasets must be supplied in the Climate Data Store and the Atmosphere Data Store.
- 3.3.7 The Contractor shall ensure that no pre-existing rights or security constraints prevent the dissemination of any part of the Deliverables (including any Copernicus data and information contained in the Deliverables) under the Copernicus Data Policy. The Contractor shall notify ECMWF in writing if any pre-existing rights of third parties would, as a consequence, limit the dissemination of any part of the Deliverables (including any Copernicus data and information contained in the Deliverables).

3.4 Improvements

- 3.4.1 All Improvements to ECMWF's Background IPR shall vest in ECMWF on creation in accordance with Clause 3.1. The Contractor assigns to ECMWF, with full title guarantee, title to and all present and future rights and interest in any Improvements to ECMWF's Background IPR from the date of creation, or shall at its own cost procure that the owner of the Improvement assigns them to ECMWF on the same basis.
- 3.4.2 If the Contractor considers that any Deliverable produced in accordance with this Agreement is an Improvement to the Contractor's Background IPR, it may request that ECMWF assigns the IPR subsisting in such Deliverable back to the Contractor. The Contractor's request shall be in writing and shall precisely identify the relevant Deliverable.
- 3.4.3 If on receipt of a request under Clause 3.4.2, ECMWF agrees that such material is an Improvement to the Contractor's Background IPR, ECMWF may, at its sole discretion, execute (or procure the execution of) any document and/or do anything else necessary to assign to the Contractor, with full title guarantee and free from all encumbrances the IPR subsisting in the agreed Deliverable together with the right to sue for and recover damages or other relief in respect of the infringement of the IPR subsisting in the Deliverable.
- 3.4.4 Following assignment under Clause 3.4.3, the relevant Deliverable shall be deemed to form part of the Contractor's Background IPR and shall be licensed to ECMWF on the terms of Clause 3.3.3.
- 3.4.5 During the Term, the Contractor shall maintain an inventory of any Improvements to the Contractor's Background IPR which are assigned to the Contractor in accordance with Clause 3.4.2, and report its contents annually (see Clause 2.3.1.1).

3.5 Warranties

- 3.5.1 The Contractor warrants that it has the full capacity and authority to make the assignments of Ownership and to grant the licences referred to in this Agreement and each Service Contract.

3.5.2 The Contractor shall procure that each agreement which it enters into with Contractor Personnel or other third parties in accordance with this Agreement or a Service Contract permits ECMWF to achieve and to exercise all the rights set out for it in Clause 3 (Intellectual Property Rights).

4. Finance

4.1 Price

4.1.1 Each Service Contract shall set out:

4.1.1.1 for each Service or Deliverable, whether ECMWF shall pay the Contractor on a Pre-Agreed Price Basis or Cost Reimbursement Basis; and

4.1.1.2 a Payment Plan that defines the payment terms for the Service Contract.

4.1.2 For the following purposes:

4.1.2.1 the Contractor's determination of Price, including in any Response to a Request for Service, for both Service Contracts priced on a Cost Reimbursement Basis and a Pre-Agreed Price Basis;

4.1.2.2 payment, on a Cost Reimbursement Basis; and

4.1.2.3 audit,

in all cases, a cost will only be acceptable if it meets all the following criteria:

- (i) it is actually incurred by the Contractor. Amounts that shall be recovered from the Contractor in accordance with Clause 5.2 (Recovery) shall not be considered as actually incurred;
- (ii) it is incurred during the Term;
- (iii) it is a direct cost, that is directly linked to and necessary for the performance of the Services;
- (iv) it is indicated in the Payment Plan of a Service Contract;
- (v) it is consistent with any pricing proposed by the Contractor in Annex 2 (Contractor's Tender for Framework Agreement);
- (vi) it is identifiable and verifiable, in particular being recorded in the accounts of the Contractor and determined according to the usual cost accounting practices of the Contractor;
- (vii) it complies with applicable Law, in particular, on taxes, labour and social security (if any); and
- (viii) it is reasonable, justified and complies with the principles of sound financial management, in particular value for money and cost.

4.1.3 The following types of cost shall not be acceptable under Clause 4.1.2, even if the relevant cost meets the criteria set out in Clause 4.1.2:

- (i) debt and debt service charges (interest);
- (ii) provisions for future losses and debts;
- (iii) currency exchange losses;
- (iv) cost resulting from commitments relating to any suspended Services during the period of suspension;
- (v) deductible or recoverable VAT;
- (vi) in-Kind Contributions;
- (vii) costs related to return on capital and dividends paid;
- (viii) interest owed, with the exception of negative interest;
- (ix) bank costs;
- (x) excessive or reckless expenditure; and
- (xi) costs that are part of the Contractor's normal activities (i.e. not undertaken only because of this Agreement).

4.2 Cost Reimbursement

- 4.2.1 Where elements of the Price set out in a Service Contract are payable by ECMWF on a Cost Reimbursement Basis, the terms of this Clause 4.2 shall apply.
- 4.2.2 The Price for the Services and Deliverables shall not exceed the Maximum Budget set out in the relevant Service Contract. The Maximum Budget set out in each Service Contract shall be the maximum amount payable by ECMWF for the associated Services and Deliverables, and the Contractor shall not be entitled to any other payment in relation to such Services and Deliverables or otherwise under the Service Contract.
- 4.2.3 Subject to Clauses 4.1, 4.2.2 and 4.2.5, ECMWF shall reimburse the Contractor in accordance with this Agreement for its direct costs, including overheads and margins for the Contractor's resources shown in Euros in Annex 2 (Contractor's Tender for Framework Agreement) to this Agreement.
- 4.2.4 The Contractor shall ensure that costs must be carefully calculated in line with the specific needs of the Work Packages and tasks and, where necessary, converted into Euros at the exchange rate set out in Clause 4.3 (Currency).
- 4.2.5 Where ECMWF has agreed in a Service Contract that ECMWF shall reimburse the Contractor for any specific expenses, in order for an actual expense to be reimbursed by ECMWF under Clause 4.2.2, it must meet the following criteria:
- 4.2.5.1 travel and subsistence expenses should be incurred on the basis of the shortest itinerary and the minimum number of nights necessary for overnight stay at the destination;
 - 4.2.5.2 the expense of travel by air should be no more than the maximum cost of an economy class ticket at the time of the reservation;

- 4.2.5.3 the expense of travel by boat or rail should be no more than the maximum cost of a first-class ticket;
- 4.2.5.4 the expense of travel by car should be no more than the maximum cost of a first-class rail ticket for the same journey on the same day;
- 4.2.5.5 the expense of subsistence should not be incurred for a return journey of less than 200 km;
- 4.2.5.6 the expense of daily subsistence, including accommodation, meals, sundries and local transport between the airport or station, the accommodation and the destination should not exceed EUR 300; and
- 4.2.5.7 conversion between another currency and EUR shall be made as specified in Clause 4.3 (Currency).

4.3 Pre-Agreed Price

- 4.3.1 Where elements of the Price set out in a Service Contract are payable by ECMWF on a Pre-Agreed Price Basis, the terms of this Clause 4.3 shall apply.
- 4.3.2 Subject to the Contractor performing the Services and supplying the Deliverables and its other obligations under this Agreement, ECMWF will pay the Price to the Contractor in accordance with this Agreement.
- 4.3.3 Save to the extent that the Contractor's expenses are included in the Price, ECMWF shall not reimburse any of the Contractor's expenses. The Pre-Agreed Price shall be the entire amount payable by ECMWF for the associated Services, and the Contractor shall not be entitled to any other payment in relation to such Services.

4.4 Currency

- 4.4.1 Payments shall be made by ECMWF in EUR.
- 4.4.2 The Contractor shall submit invoices to ECMWF in EUR.
- 4.4.3 Where the Contractor keeps its accounts in a currency other than the Euro and it wishes to submit an invoice for Services on a Cost Reimbursement basis, it shall convert costs and expenses incurred in another currency into EUR using the exchange rate method, which was initially agreed by the Parties and used for Annex 2 (Contractor's Tender for Framework Agreement).

4.5 Notice of Acceptance and Invoices

- 4.5.1 The Contractor shall issue a Payment Milestone Notification to ECMWF in writing as soon as the Contractor considers that any payment milestone, as set out in a Payment Plan for a Service Contract, has been reached. The Payment Milestone Notification shall provide adequate justification of the milestone completion.
- 4.5.2 Receipt of the Contractor's Payment Milestone Notification counts as the effective start date for ECMWF's assessment of the Services and Deliverables in accordance with Clause 4.5.3.
- 4.5.3 Where the Payment Plan states that the Services and Deliverables shall be assessed on:

- 4.5.3.1 a continuous basis, ECMWF shall assess whether the Services and Deliverables covered by the payment milestone (as set out in the Payment Plan) have been delivered to ECMWF's satisfaction, and meet the associated Service Description and any other requirements agreed between the Parties;
 - 4.5.3.2 a quarterly basis, ECMWF shall assess the Contractor's performance of the Services and supply of the Deliverables on the basis of the KPI reporting completed by the Contractor within the Quarterly Implementation Report;
 - 4.5.3.3 achievement of a KPI, ECMWF shall assess whether the Contractor has met one or more nominated KPIs nominated in the Payment Plan;
 - 4.5.3.4 a Milestone basis, ECMWF shall assess the Contractor's performance based on completion to ECMWF's satisfaction of all related tasks, activities and Deliverables to achieve the specified Milestone. ECMWF shall assess the Milestone completion on the basis of the progress of the work, fitness for purpose of Deliverables, and quality of documentation; and
 - 4.5.3.5 the basis of a report on the Use of Resources, ECMWF shall assess the Contractor's performance on a report submitted by the Contractor on the use of resources (based on the template as provided by ECMWF). The report shall include a summary on the person-months spent and a breakdown of the underlying direct costs and expenses and overheads incurred per Service or per Work Package. This summary shall be provided for the Contractor and each of its Sub-Contractors. Cost breakdowns shall be made in line with the pricing tables in Annex 2 and respecting the eligibility criteria as specified in Clause 4.1.2.
- 4.5.4 ECMWF may require the Contractor to submit reasonable additional information or attend meetings to assist ECMWF to assess whether a payment milestone has been achieved. Based on ECMWF's assessment of whether the relevant payment milestone as described in Clause 4.5.3 has been achieved, ECMWF shall send a Notice of Acceptance or notice of the need for the Contractor to take some form of remedial action. ECMWF shall use reasonable endeavours to issue a Notice of Acceptance or a notice of the need for remedial action within the "Anticipated review time" as indicated in the Payment Plan.
- 4.5.5 If ECMWF notifies the Contractor that remedial action is required, the Contractor shall complete the required remedial action as soon as reasonably possible. In case of a need for remedial action, the "Anticipated review time" remains the same for any subsequent assessment completed by ECMWF, but counting from the date that the Contractor notifies ECMWF that all remedial actions have been closed and it is ready for review.
- 4.5.6 The Contractor may raise an invoice upon receiving a Notice of Acceptance from ECMWF. The Contractor shall not be entitled to invoice for any costs prior to delivering the associated Deliverable to ECMWF, or prior to ECMWF receiving the associated Service or Deliverable.
- 4.5.7 Invoices shall be submitted in arrears in electronic form in any format reasonably requested by ECMWF and shall include the following information:
- 4.5.7.1 the Contractor's identification;
 - 4.5.7.2 a reference to this Framework Agreement or to a specific Service Contract;
 - 4.5.7.3 the purchase order number issued by ECMWF;

- 4.5.7.4 the date of the invoice;
- 4.5.7.5 the amount of the payment required, in EUR, not including VAT; and
- 4.5.7.6 if charging VAT in accordance with Clause 4.6:
 - (i) the amount of VAT required;
 - (ii) the Contractor's VAT number; and
 - (iii) contact details for the authority from whom ECMWF should claim reimbursement of VAT.

4.5.8 The electronic form of all invoices should be sent to finance@ecmwf.int and the printed form should be sent to ECMWF's postal address and marked "Finance Section".

4.5.9 All invoices must be accompanied by a copy of any relevant Notice of Acceptance (see Annex C of the Model Service Contract at Annex 3). If any element of the Services is charged on a Cost Reimbursement basis, the invoice must also be accompanied by a Report on the Use of Resources (See Annex C of the Model Service Contract at Annex 3) and (if applicable) any associated time sheets.

4.6 VAT and Other Taxes

4.6.1 The Contractor shall take all necessary steps to facilitate ECMWF's exemption resulting from its Protocol on Privileges and Immunities⁶ from taxes, including VAT, and customs duties which might otherwise be payable in relation to the Services. It will do so by carrying out the necessary formalities so as to bring about the exemption from taxes and duties which might otherwise be levied on the expenses it will incur, before it submits the invoice to ECMWF; and by complying with all necessary formalities so that ECMWF itself may be exempt from paying such taxes and duties. For these purposes, it shall request the necessary instructions from ECMWF and provide in due time the information which ECMWF requires.

4.6.2 ECMWF will not pay any other taxes or duties relating to the Services, the Deliverables or the Assets. The Contractor shall be liable for all other taxes, assessments, fees, licences, administrative customs charges or other governmental assessments or charges that are applicable to the performance of this Agreement. It is each Party's responsibility to inform itself of its liabilities in each country where such liabilities may arise.

4.6.3 The Contractor shall ensure that each Sub-contractor is aware that Sub-contractors are not eligible for and may not rely on ECMWF's exemption resulting from its Protocol on Privileges and Immunities from taxes, including VAT, and customs duties which might otherwise be payable.

4.7 Payment Process

4.7.1 ECMWF will pay within thirty (30) days after receipt of an invoice which is correct and in a form acceptable to ECMWF, together with supporting records that conform to the requirements of Clause 4.5 (Invoices) and Annex C (Payment Plan) to the relevant Service Contract, unless ECMWF disputes the whole or any portion of the invoice, in which case the amount in dispute shall not be due and ECMWF shall notify the Contractor of the amount in dispute and the nature of the dispute. Where part of an invoice is disputed, ECMWF shall pay the undisputed amount within thirty (30)

⁶https://www.ecmwf.int/sites/default/files/amended_convention_privileges_en.pdf

days after receipt of the relevant invoice and supporting records. ECMWF and the Contractor shall use reasonable endeavours to resolve the dispute in question within ten (10) Business Days of the dispute arising. If they fail to so resolve the dispute, either ECMWF or the Contractor may refer the matter to the Dispute Resolution Procedure. Following resolution of the dispute:

- 4.7.1.1 the Contractor will issue an invoice that meets the requirements of Clause 4.5 and Annex C in the agreed amount (or in the amount determined under the Dispute Resolution Procedure to be payable); and
- 4.7.1.2 ECMWF will pay the agreed amount (or the amount determined under the Dispute Resolution Procedure to be payable) to the Contractor within thirty (30) days after receipt of a correct invoice in respect of such amount.
- 4.7.2 For the last Service Contract within the Agreement, final payment is subject to the acceptance of the Final Report as specified in Clause 0 and using the template as provided by ECMWF.
- 4.7.3 If any sum due for payment by ECMWF under or in accordance with the provisions of this Agreement (i) is not paid on the due date; and (ii) has not been disputed by ECMWF in accordance with Clause 4.7.1, ECMWF shall pay interest on such sum from the due date until the date of actual payment (whether before or after judgment) at the rate of four per cent (4%) above the base rate of Barclays Bank plc from time to time, such interest to accrue on a day to day basis. The Parties acknowledge that this amounts to a substantial remedy for late payment.

4.8 Banking Arrangements

- 4.8.1 The time for payment of invoices under the payment process described in Clause 4.7 (Payment Process) will not begin to run until and unless ECMWF has first received official written notification of the Contractor's bank account details from the Contractor.
- 4.8.2 The Contractor shall be responsible for any bank charges made in respect of receipt or management of payments from ECMWF.
- 4.8.3 The Contractor shall notify ECMWF immediately of any changes to its bank account details.

4.9 Financial Corrections

- 4.9.1 If the Contractor has breached any of its obligations under this Agreement or a Service Contract, ECMWF may apply financial corrections by excluding payments, in proportion to the seriousness of the breach. When calculating the amount and setting the modalities for the application of the reduction, ECMWF may take into account the nature and gravity of the breach of the obligation, and/or its impact on the Services and on the capacity to implement the Services.
- 4.9.2 Before applying financial corrections pursuant to Clause 4.9.1, the Parties will seek settlement according to the first stage of the Dispute Resolution Procedure.
- 4.9.3 If no settlement can be reached, ECMWF shall formally notify its intention to the Contractor:
 - 4.9.3.1 specifying the corrections it intends to apply and the reasons; and
 - 4.9.3.2 inviting it to submit observations within thirty (30) days of receiving notification.
- 4.9.4 If ECMWF does not receive any observations or decides to apply the financial corrections regardless of observations it has received, it shall formally notify confirmation of the corrections giving its reasons thereof.

- 4.9.5 If ECMWF applies the financial corrections pursuant to Clause 4.9.4, the Contractor may continue the Dispute Resolution Procedure.
- 4.9.6 If there is no payment due in the forty-five (45) days following ECMWF's notification under Clause 4.9.4, ECMWF may elect to invoice the Contractor for the amount instead of withholding payment. If ECMWF exercises this option, the Contractor shall pay such invoice within thirty (30) days of receipt.

5. Governance

5.1 Audits

- 5.1.1 The Contractor shall keep secure and maintain until six (6) years after the final payment of all sums due under this Agreement and each Service Contract:
- 5.1.1.1 full, accurate and regular records of the Services and Deliverables, and the Contractor's compliance with this Agreement and each Service Contract;
 - 5.1.1.2 all technical, management, financial and contractual documents relating to the Services and Deliverables, and the management of any Sub-contractors. At ECMWF's request, the Contractor shall upload these documents to an online repository managed by ECMWF;
 - 5.1.1.3 full, accurate and regular details of the Prices and all other payments made by ECMWF;
 - 5.1.1.4 for any Services or Deliverables charged on a Cost-Reimbursement Basis, full and accurate records of the Contractor's and its Sub-contractors' costs incurred in the performance of the Services; and
 - 5.1.1.5 invoices, information used to prepare the invoices and other documents relating to the provision of the Services and the Deliverables.
- 5.1.2 At any time during the Term and up to five (5) years after the termination or expiry of the Contribution Agreement, ECMWF and the Commission shall each have the right from time to time to perform, either itself or through its third party representatives (which, for the Commission shall include OLAF, the European Public Prosecutor's Office, the European Court of Auditors and any other person authorised by the Commission) (together, the "**Auditing Parties**"):
- 5.1.2.1 full and detailed checks, reviews, audits and inspections, including both desk reviews and on-site inspections, of:
 - (i) the Contractor's and its Subcontractors' performance of the Services;
 - (ii) the Prices invoiced to ECMWF under this Agreement and each Service Contract;
 - (iii) the costs and expenses behind the Prices calculated on a Cost Reimbursement Basis;
 - (iv) any documents and computerised data concerning the technical and financial management of the Services or the Funds; and
 - (v) the Contractor's compliance with the provisions of this Agreement and each Service Contract generally; and

- 5.1.2.2 checks on risk-based and random samples of transactions. Where Services are charged on a Pre-Agreed Price Basis, ECMWF shall only audit underlying transactions for regularity, transparency and legitimacy, not for cost.
- 5.1.3 The Contractor shall, at its cost, provide the Auditing Parties with all reasonable assistance in order to enable the Auditing Parties to initiate, carry out and complete any audit contemplated in this Clause 5.1 (Audits). The Contractor's reasonable assistance shall include:
- 5.1.3.1 granting access to all sites and premises that the Auditing Parties are entitled to audit under this Clause 5.1 (Audits);
 - 5.1.3.2 providing, within a deadline agreed with the relevant Auditing Party, all relevant information, documentation and data, in addition to any deliverables and reports previously submitted under this Agreement;
 - 5.1.3.3 ensuring requested documents are readily available (in the format requested by the Auditing Party, including electronic format) and filed in a manner permitting checks,
 - 5.1.3.4 informing the Auditing Parties of the exact location where any requested documents are kept;
 - 5.1.3.5 sending the Auditing Parties copies of any requested documents to facilitate their desk review; and
 - 5.1.3.6 procuring the reasonable co-operation and assistance of any relevant Sub-contractors.
- 5.1.4 The Auditing Parties shall have the right to take copies of records, invoices, documents and information referred to in Clause 5.1.1 at the Contractor's cost.
- 5.1.5 ECMWF reserves the right to make its findings known to the Contractor, following an audit, inspection or check under this Clause 5.1 (Audits) and if its findings are that the Contractor has failed to perform its obligations under this Agreement and/or any Service Contract, the Contractor shall respond promptly to the issues raised setting out actions it proposes to take with respect to the findings to remedy its failure.
- 5.1.6 ECMWF reserves the right to make its findings known to the Contractor, following an audit, inspection or check under this Clause 5.1 (Audits) and if its findings are that there has been an overpayment of the Price or any other charges, then ECMWF reserves the right to require the Contractor to promptly reimburse ECMWF for its costs (including professional fees and expenses) incurred in exercising its rights and to forthwith pay to ECMWF the amount of overpayment together with interest calculated at a reasonable rate.
- 5.1.7 Any inspection or audit, or failure to inspect or audit, shall not in any way release the Contractor from its obligations under this Agreement or any Service Contract.
- 5.1.8 The period set out in Clause 5.1.2 shall be longer if there are on-going audits, verification, arbitration, investigation, appeals, litigation or pursuit of claims concerning this Agreement, a Service Contract or the Contribution Agreement in such cases, the Contractor shall keep the documents which it is required to maintain under this Clause 5.1 until such audits, verification, arbitration, investigation, appeals, litigation or pursuit of claims are closed.
- 5.1.9 On the basis of the audit findings under this Clause 5.1, ECMWF or the Commission may take the measures which it considers necessary, including recovery of all or part of the payments made but only in accordance with Clause 5.2 (Recovery) or suspension or termination of this Agreement.

5.1.10 In addition to the audit rights granted under Clause 5.1.2, OLAF, the European Public Prosecutor's Office and the European Court of Auditors may carry out investigations, including on-site checks and inspections, in accordance with the provisions and procedures laid down in EU law⁷.

5.2 Recovery

5.2.1 If any amount is to be recovered under the terms of this Agreement or a Service Contract, the Contractor shall repay ECMWF the amount in question.

5.2.2 Before recovery, the Parties will seek settlement according to the first stage of the Dispute Resolution Procedure.

5.2.3 If no settlement can be reached, ECMWF shall formally notify the Contractor of its intention to recover the amount in question, specifying the amount due and the reasons for recovery and inviting the Contractor to make any observations within fourteen (14) calendar days after the date of ECMWF's notification.

5.2.4 If no observations have been submitted or if, despite the observations submitted by the Contractor, ECMWF decides to pursue the recovery procedure, ECMWF may confirm recovery by giving its reasons and by formally issuing a debit note ("Debit Note"), specifying the terms and the date for payment.

5.2.5 If ECMWF decides to pursue the recovery procedure pursuant to Clause 5.2.4, the Contractor may continue the Dispute Resolution Procedure.

5.2.6 If payment has not been made by the date specified in the Debit Note, ECMWF shall recover the amount due:

5.2.6.1 by offsetting it against any amounts owed to the Contractor; or

5.2.6.2 by taking legal action in accordance with Clause 6.8.2 (Arbitration)

5.2.7 In exceptional circumstances, where the Commission has offset the amount from payments to ECMWF, ECMWF may, when it has justified grounds to believe that the amount due would be lost, recover by offsetting before the deadline specified in the debit note without prior consent.

5.2.8 If payment has not been made by the date set out in the Debit Note, the amount due shall bear interest at the Reference Rate (assessed on the first day of the month in which the time limit for payment expires) plus three and a half percent.

5.2.9 Any partial payment shall first be appropriated against charges and interest on late payment and then against the principal.

5.3 Suspension of Payment

5.3.1 Immediate suspensions of payments

5.3.1.1 ECMWF may, in accordance with the principle of proportionality, suspend payments in all or in part if:

⁷ Including Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF); Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-site checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities; Regulation 2017/1939; and Article 287 of the Treaty on the Functioning of the EU (TFEU) and Article 257 of EU Financial Regulation 2018/1046.

- (i) the Commission suspends or ceases payments to ECMWF under the Contribution Agreement;
- (ii) any of the documents referred to in Clauses 2.3.1 (Annual Implementation Report) and 2.3.2 (Quarterly Implementation Report) have not been produced; or
- (iii) information comes to the notice of ECMWF which put in doubt the eligibility of the underlying expenditure; or indicates a significant deficiency in the functioning of the internal control system of the Contractor or that the Contractor's expenditure under this Agreement or any Service Contract is linked to a serious Irregularity.

5.3.1.2 In the cases referred to in Clause 5.3.1.1, ECMWF may suspend payments immediately on written notice to the Contractor.

5.3.1.3 For the case referred to in Clause 5.3.1.1(i), ECMWF shall resume payments from the date on which the Commission resumes payments to ECMWF under the Contribution Agreement.

5.3.1.4 For the cases referred to in Clause 5.3.1.1(ii) and (iii), the payments period shall resume from the date on which the requested information or revised documents are received or the necessary further checks, including on-the-spot checks, are carried out. Such necessary checks shall be carried out not later than two months from the date of the notification.

5.3.2 Suspension of payments after investigation

5.3.2.1 ECMWF may, in accordance with the principle of proportionality, suspend payments in all or in part:

- (i) if it has substantiated evidence that the Contractor has committed Substantial Errors, Irregularities or Fraud during its performance of the Services, or if the Contractor fails to comply with its obligations under this Agreement and/or a Service Contract;
- (ii) if it has substantiated evidence that the Contractor has committed Systemic or Recurrent Errors, Irregularities, Fraud or breach of obligations under this Agreement and/or a Service Contract or other agreements funded by Union funds which call into question the reliability of its internal control system or the legality and regularity of the underlying costs; or
- (iii) if credible information has come to the notice of ECMWF that has led to a suspicion about Substantial Errors, Irregularities, Fraud or breach of obligations committed by the Contractor in its performance of the Services and needs to check whether they have occurred.

5.3.2.2 ECMWF shall formally notify the Contractor of its intention to suspend payments, specifying the reasons thereof and, in the cases referred to in Clauses 5.3.2.1(i) and (ii), the necessary conditions for resuming payments. The Contractor shall be invited to make any observations within fourteen (14) calendar days after receipt of this notification.

- 5.3.2.3 If, after examination of the observations submitted by the Contractor under Clause 5.3.2.2, ECMWF decides to stop the procedure of payment suspension, ECMWF shall formally notify the Contractor thereof.
- 5.3.2.4 If no observations have been submitted under Clause 5.3.2.2 or if, despite the observations submitted by the Contractor, ECMWF decides to pursue the procedure of payment suspension, it may suspend payments by formally notifying the Contractor, specifying the reasons for the suspension and, in the cases referred to in Clauses 5.3.2.1(i) and (ii), the definitive conditions for resuming payments or, in the case referred to in Clause 5.3.2.1(iii), the indicative date of completion of the necessary checks.
- 5.3.2.5 The suspension of payments shall take effect on the date when the notification is sent by ECMWF.
- 5.3.2.6 In order to resume payments in the cases referred to in Clauses 5.3.2.1(i) and (ii), the Contractor shall endeavour to meet the notified conditions as soon as possible and shall inform ECMWF of any progress made in this respect. For the case referred to in Clause 5.3.2.1(iii), the suspended payments shall resume immediately where the presumed Substantial Errors, Irregularities, Fraud or breach of obligations are not confirmed following completion of the necessary checks.
- 5.3.2.7 ECMWF shall, as soon as it considers that the conditions for resuming payments have been met or the necessary checks, including on-the-spot checks, have been carried out, formally notify the Contractor thereof.
- 5.3.2.8 During the period of suspension of payments and without prejudice to the right to terminate this Agreement and/or a Service Contract in accordance with Clause 5.5 (Termination), the Contractor is not entitled to submit any new invoices.
- 5.3.2.9 The corresponding invoices (covering costs incurred during the period of suspension) may be submitted as soon as possible after resumption of payments or may be included in the first request for payment due following resumption of payments.

5.4 Suspension of Services

5.4.1 Suspension of the Services by the Contractor

- 5.4.1.1 If any circumstances cause the Contractor to form the opinion that performance of all or part of the Services would be impossible or excessively difficult, it shall inform ECMWF without delay, giving the necessary reasons and details and the foreseeable date of resumption and giving as much notice as possible of its intention to suspend performance. If time allows, the Contractor shall consult with ECMWF, with a view to avoiding suspension of performance. Unless this Agreement or the relevant Service Contract is terminated in accordance with Clause 5.5, the Contractor shall, once the circumstances allow resuming the performance of the Services, inform ECMWF immediately.
- 5.4.1.2 During the period of suspension of Services under Clause 5.4.1.1, and without prejudice to the right to terminate this Agreement and/or a Service Contract in accordance with Clause 5.5 (Termination), the Contractor is not entitled to any payment in connection with the Services which were suspended for the period of suspension.

5.4.2 Suspension of the Services by ECMWF

- 5.4.2.1 ECMWF may, in accordance with the principle of proportionality, suspend the Services in full or in part if:
- (i) it has substantiated evidence that the Contractor has committed Substantial Errors, Irregularities or Fraud during its participation in ECMWF's selection procedure or during the performance of the Services or if the Contractor fails to comply with its obligations under this Agreement and/or a Service Contract; or
 - (ii) it has substantiated evidence that the Contractor has committed Systemic or Recurrent Errors, Irregularities, Fraud or breach of obligations under this Agreement and/or a Service Contract or other agreements funded by Union funds which call into question the reliability of its internal control system or the legality and regularity of the underlying costs; or
 - (iii) credible information has come to the notice of ECMWF that lead to suspicion about Substantial Errors, Irregularities, Fraud or breach of obligations committed by the Contractor in the performance of the Services and needs to check whether they have occurred; or
 - (iv) the Commission has suspended or is threatening to suspend all or part of CAMS/C3S, including or requiring the relevant Services.
- 5.4.2.2 Before suspension, the Parties will seek settlement according to the first stage of the Dispute Resolution Procedure.
- 5.4.2.3 If no settlement can be reached, ECMWF shall formally notify the Contractor of its intention to suspend, specifying the reasons thereof and in the cases referred to in Clauses 5.4.2.1 (i) and 5.4.2.1 (ii), the necessary conditions for resuming the performance. The Contractor shall be invited to submit observations within fourteen (14) calendar days from receipt of this notification.
- 5.4.2.4 If, after examination of the observations submitted by the Contractor, ECMWF decides to stop the suspension procedure, it shall formally notify the Contractor thereof.
- 5.4.2.5 If no observations have been submitted, or if, despite the observations submitted by the Contractor, ECMWF decides to pursue the suspension procedure, it may proceed with the suspension by formally notifying the Contractor thereof, specifying the reasons for the suspension, and in the cases referred to in Clauses 5.4.2.1 (i) and 5.4.2.1(ii) the definitive conditions for resuming the implementation or, in the case referred to in Clause 5.4.2.1(iii), the indicative date of completion of the necessary checks.
- 5.4.2.6 If ECMWF proceeds with the suspension of the Services pursuant to Clause 5.4.2.5, the Contractor may continue the Dispute Resolution Procedure.
- 5.4.2.7 The suspension of the Services pursuant to Clause 5.4.2.5 shall take effect on the day of the receipt of the notification by the Contractor or on a later date, where the notification so provides.
- 5.4.2.8 In order to resume the Services, the Contractor shall endeavour to meet the notified conditions as soon as possible and shall inform ECMWF of any progress made in this respect. For the case referred to in Clause 5.4.2.1(iii), the suspended services shall resume immediately where the presumed Substantial Errors, Irregularities, Fraud or breach of obligations are not confirmed following completion of the necessary checks.

5.4.2.9 Unless this Agreement or the relevant Service Contract is terminated under Clause 5.5 (Termination), ECMWF shall as soon as it considers that the conditions for resuming the Services have been met or the necessary checks, including on-the-spot checks, have been carried out, formally notify the Contractor thereof.

5.4.3 Any cost resulting from commitments relating to the suspended Services and made by the Contractor during the period of suspension shall not be accepted by ECMWF.

5.5 Termination

5.5.1 Termination by ECMWF

5.5.1.1 ECMWF may at any time in any of the following events, immediately terminate this Agreement and/or a Service Contract by notice in writing without compensation to the Contractor provided always that such termination shall not prejudice or affect any right of action or remedy which shall have accrued or shall accrue thereafter to ECMWF:

- (i) if the Contractor or any persons having powers of representation, decision making or control over it is subject to an Insolvency Event; or
- (ii) if there is a Critical Service Failure; or
- (iii) if the Contractor fails or is unable to remedy an infringement (Clause 5.8.4.2); or
- (iv) if the Contribution Agreement expires or is terminated or suspended or otherwise interrupted for any reason; or
- (v) if ECMWF, acting reasonably, considers that the Contractor has undergone changes in its legal, financial, technical, organisational or ownership situation or in its systems, rules or procedures which are likely to substantially affect the performance of the Services or call into question the outcome of ECMWF's assessment of its rules and procedures; or
- (vi) the Contractor has failed to comply with its obligations under this Agreement and/or a Service Contract; or
- (vii) in the event of Force Majeure notified in accordance with Clause 5.7 (Force Majeure) or in the event of suspension of the Services, where it appears to ECMWF that resuming the Services is impossible or would call into question the outcome of ECMWF's assessment of its rules and procedures; or
- (viii) if the Contractor or any Related Person has been found guilty of professional misconduct proven by a final judgement, or final administrative decision, or award, or arbitral proceedings, or under the Dispute Resolution Procedure; or
- (ix) if ECMWF has evidence that the Contractor or any Related Person has committed Fraud, Corruption or is involved in a Criminal Organisation, Money Laundering or any other illegal activity detrimental to the financial interests of ECMWF or the Union; or
- (x) if ECMWF has evidence that the Contractor or any Related Person has committed Substantial Errors, Irregularities or Fraud in the performance of the Services, including in the event of submission of false information during its selection by ECMWF; or

- (xi) if ECMWF has evidence that the Contractor has committed Systemic or Recurrent Errors, Irregularities, Fraud or breach of obligations under this Agreement and/or a Service Contract or other agreements funded by Union funds which call into question the reliability of its internal control system or the legality and regularity of the underlying costs; or
- (xii) if the Contractor, any of its Sub-contractors or any persons having powers of representation, decision-making or control over any of them have their names entered into the Union's Early Discovery and Exclusion System;
- (xiii) if ECMWF does not secure, from the budgetary authority of the Commission, sufficient funds to continue with the Agreement and/or any Service Contract;
- (xiv) if the Commission determines that it is necessary and appropriate to exclude or limit the Contractor from providing the Services in order to preserve the security, integrity and resilience of the operational Union systems; or
- (xv) the Contractor is no longer established in a Copernicus participating states in accordance with the conditions laid down in the Space Regulation.

5.5.1.2 Before terminating this Agreement or any Service Agreement pursuant to this Clause 5.5.1.1, ECMWF may notify the Contractor of its intention to terminate, specifying the reasons termination and inviting the Contractor to submit observations within 30 (thirty) days from receipt of the notification and inform ECMWF about any measures taken to ensure that the Contractor continues to fulfil its obligations under this Agreement and/or any Service Agreement.

5.5.2 Termination by the Contractor

The Contractor may terminate this Agreement and/or a Service Contract immediately by notice in writing to ECMWF if ECMWF shall fail to pay any undisputed sum due under the terms of this Agreement and/or a Service Contract (otherwise than in consequence of any Default on the part of the Contractor) and such sum remains unpaid for thirty (30) calendar days after written notice from the Contractor that such sum has not been paid (such notice to contain a warning of the Contractor's intention to terminate).

5.5.3 Termination for Convenience

If either Party believes that this Agreement and/or a Service Contract can no longer be effectively or appropriately carried out, it shall consult the other Party. Failing agreement on a solution, either Party may terminate this Agreement and/or a Service Contract by formally notifying the other Party thereof. Termination shall take effect forty-five (45) calendar days after receipt of the notification, unless agreed otherwise by the Parties.

5.5.4 Expiry and termination of this Agreement, howsoever arising, shall cause each Service Contract then in force at the effective date of such expiry or termination to terminate.

5.6 Consequences of Termination or Expiry

5.6.1 Any termination or expiry of this Agreement and/or a Service Contract (however occasioned) shall not affect any accrued rights or liabilities of either Party nor shall it affect the coming into force or continuance in force of any provision thereof which is expressly or by implication intended to come into or continue in force on or after such termination or expiry.

5.6.2 Neither Party shall be entitled to claim compensation by the other Party on account of a termination or expiry of this Agreement and/or a Service Contract.

5.6.3 Contractor's Obligations on Termination or Expiry

5.6.3.1 On the termination or expiry of this Agreement and/or a Service Contract, the Contractor shall co-operate with ECMWF and with any new contractor under any arrangements notified to it by ECMWF, to effect a full and orderly transition to ECMWF or to such new contractor and shall furnish ECMWF or a new contractor with any work in progress, Deliverables, Assets, information or documentation reasonably required by ECMWF.

5.6.3.2 The Contractor shall comply with all reasonable instructions from ECMWF with regard to termination or expiry and shall take reasonable steps to mitigate any costs which ECMWF shall incur as a result of termination of this Agreement and/or a Service Contract.

5.6.3.3 On ECMWF's request, the Contractor shall promptly deliver to ECMWF all ECMWF materials and documents in the Contractor's (or any Contractor Personnel's) possession together with all the documents and information (in any format) requested by ECMWF at the time of termination or expiry.

5.6.3.4 The Contractor shall repay to ECMWF, on demand and on a pro-rata basis, any charges pre-paid by ECMWF for Services or Deliverables that have not been provided to ECMWF or have not received a Notice of Acceptance from ECMWF.

5.6.4 Personnel on Termination or Expiry

5.6.4.1 It is not anticipated that the Services to be provided under this Agreement or any Service Contract will or are likely to give rise to a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended ("TUPE") or any equivalent or analogous Law in any part of the world. Accordingly, the Contractor hereby agrees to indemnify ECMWF against all Loss together with reasonable legal expenses suffered by ECMWF, which arise out of or in connection with:

- (i) any breach by the Contractor or a Sub-contractor of Regulation 13 (duty to inform and consult representatives) of TUPE or any equivalent or analogous provision in any Law in any part of the world;
- (ii) any act or omission by the Contractor or a Subcontractor in respect of any of their obligations or liabilities in relation to current or former Contractor Personnel; and
- (iii) any claim for redundancy payment, unfair dismissal compensation or notice monies and expenses or a protective award, in connection with or as a result of any claim or demand by any such Contractor Personnel whether arising directly from the termination or expiry of the Agreement or otherwise directly from TUPE and whether in respect of their employment or its termination (including any claim that they are employed either by ECMWF or by a person engaged to provide services which are the same or similar to the Services (a "New Supplier") as a result of TUPE or that ECMWF or a New Supplier has otherwise inherited liability as a result of TUPE).

5.6.4.2 The Contractor's indemnification obligations herein are subject to:

- (i) ECMWF promptly providing the Contractor with notice of any matter which may come within the scope of the indemnity;
- (ii) ECMWF allowing the Contractor sole control over the defence of any claim and any related settlement negotiations; and
- (iii) ECMWF reasonably co-operating with the Contractor's requests for assistance.

5.7 Force Majeure

- 5.7.1 A Party faced with Force Majeure shall formally notify the other Party without delay, stating the nature, likely duration and foreseeable effects.
- 5.7.2 The Parties shall use all reasonable endeavours to limit any damage due to Force Majeure. They shall use best endeavours to resume the performance of the Services as soon as possible.
- 5.7.3 The Party faced with Force Majeure shall not be held to be in breach of its obligations under this Agreement if it has been prevented from fulfilling them by Force Majeure.

5.8 Indemnities

- 5.8.1 Subject to the other terms of this Agreement and/or a Service Contract, the Contractor agrees to indemnify, keep indemnified and hold harmless ECMWF from any Claim, for damage or injury of any kind, which is made by a third party relating to the performance by the Contractor of its tasks, activities and responsibilities under this Agreement and/or a Service Contract.
- 5.8.2 Subject to the other terms of this Agreement and/or a Service Contract, the Contractor also agrees to indemnify, keep indemnified and hold harmless ECMWF from any Claim, which is made by a third party in respect of the said third party's Intellectual Property Rights and/or rights of confidentiality and which, if proven would have the effect of limiting ECMWF's rights, under this Agreement and/or a Service Contract, in respect of the Deliverables or any Technology. However, the Contractor shall not be liable to ECMWF under this Clause 5.8.2 if and to the extent that the said claim results from any unauthorised alteration or modification to any part of the Deliverables or Technology by ECMWF without the prior consent of the Contractor.
- 5.8.3 Should any third party claim arise, the Party who first becomes aware of it shall notify the other Party of such claim in writing; ECMWF shall, at the Contractor's expense, give to the Contractor such authority, information and assistance as it shall reasonably require for the defence or settlement of such Claim; and the Contractor shall subsequently undertake at its own expense all negotiations and other work to defend or settle any such Claim;
- 5.8.4 Infringement under Clause 5.8.2
 - 5.8.4.1 If an arbitrator (properly appointed in accordance with Clause 6.8.2) holds or legal Counsel (having been selected and briefed by mutual agreement between the Parties) advises that any part of any claim, of the type described in Clause 5.8.2 is or will be proven, the Contractor shall, at its own expense and at its option:
 - (i) procure for ECMWF the right to continue using such part of the Deliverables or Technology as is affected by the said claim;
 - (ii) replace such part with non-infringing substitutes, provided that such substitutes do not entail a material diminution in performance or function; or

- (iii) modify such part so that it becomes non-infringing without incurring a material diminution in performance or function.

5.8.4.2 In the event that the Contractor is unable to exercise any of the options set out above within a reasonable time then ECMWF, without prejudice to any rights or remedies either Party may have under this Agreement, under a Service Contract or at law, shall be entitled to terminate the licence for any affected Software at no cost to ECMWF and the Contractor shall refund Price and any other charges paid by ECMWF in respect of the affected Deliverables or Technology.

5.8.4.3 If any such claim prevents the Services from being performed in accordance with the Specification then ECMWF will be able to terminate this Agreement and/or the relevant Service Contract in accordance with Clause 5.5 (Termination).

5.9 Limits of Liability

5.9.1 *Cap on Liabilities for Defaults* - Subject to the following provisions of this Clause 5.9, a Party's total aggregate liability to the other Party, in respect of all Loss caused by its own and its Sub-Contractors' Defaults under or in connection with this Agreement and/or a Service Contract shall be capped at a value of two times the Overall Price.

5.9.2 *Cap on Liability for Indemnities* - Notwithstanding Clause 5.9.1 but subject to the following provisions of this Clause 5.9, the Contractor's total aggregate liability to ECMWF, in respect of the indemnities set out at Clause 5.8.1 and 5.8.2 shall be capped at a value of two times the Overall Price and no amount payable in respect of such indemnities shall count towards the cap on liability for Defaults under Clause 5.9.1.

5.9.3 *Unlimited Liability* - Notwithstanding any contrary provision in this Agreement and/or a Service Contract, neither Party limits or excludes its liability in respect of any death or personal injury caused by its negligence, any fraudulent misrepresentation, any intentional default or any other statutory or other liability, which cannot be excluded under applicable Law.

5.10 Liabilities for Direct and Indirect Losses

5.10.1 The direct losses for which a Party may be liable to the other Party under or in connection with this Agreement and/or a Service Contract shall include:

5.10.1.1 any reasonable and actual operational and/or administrative costs and expenses arising from the Default, including costs relating to the time spent by the innocent Party's management and employees in dealing with the consequences of the Default; and

5.10.1.2 any reasonable and actual costs and expenses incurred by the innocent Party in rectifying a Default of the other Party or a Sub-contractor and in procuring new or replacement Services for the remainder of the Term of such Service Contract.

5.10.2 Neither Party shall be liable to the other for any loss of profit, loss of revenue, any loss of turnover, goodwill, reputation or opportunity or any indirect, or consequential loss, arising out of or in connection with this Agreement or a Service Contract.

5.10.3 Each Party shall assume sole liability towards third parties, including liability for damage or injury of any kind sustained by third parties, in the course of the performance of its tasks or activities under this Agreement. Neither Party shall be liable under this Agreement for any activities relevant to this Services carried out jointly or separately prior to the Effective Date.

6. Miscellaneous

6.1 General Undertakings

6.1.1 Each Party undertakes to the other that:

- 6.1.1.1 it has all necessary power and authority to enter into and perform its obligations under this Agreement and each Service Contract;
- 6.1.1.2 it has taken all requisite corporate and other action to approve the entering into and performance of this Agreement and each Service Contract and shall provide evidence of that action to the other Party on request;
- 6.1.1.3 there are no actions, suits or proceedings or regulatory investigations pending or, to that Party's knowledge, threatened against or affecting that Party before any court or administrative body or arbitration tribunal that might affect the ability of that Party to meet and carry out its obligations under this Agreement and each Service Contract;
- 6.1.1.4 once duly executed, by hand or by electronic signature, this Agreement and each Service Contract will constitute legal, valid and binding obligations on it;
- 6.1.1.5 it is solvent and able to perform all of its obligations under this Agreement and each Service Contract and will remain so throughout the Term; and
- 6.1.1.6 entering into this Agreement and each Service Contract will not cause that Party to be in breach of any other contract to which it is a Party or any statutory or other legal requirement.

6.2 Language

All requests for payments, reports and documents under this Agreement and each Service Contract shall be transmitted in English.

6.3 Severance

If any provision of this Agreement or each Service Contract is held invalid, illegal or unenforceable for any reason by any Court of competent jurisdiction, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if this Agreement and each Service Contract had been executed with the invalid illegal or unenforceable provision eliminated. In the event of a holding of invalidity so fundamental as to prevent the accomplishment of the purpose of this Agreement, ECMWF and the Contractor shall immediately commence good faith negotiations to remedy such invalidity.

6.4 Independence of Contractor

6.4.1 Nothing in this Agreement or any Service Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the Parties, constitute any Party the agent of another Party, or authorise any Party to make or enter into any commitments for or on behalf of any other Party.

6.4.2 Each Party confirms it is acting on its own behalf and not for the benefit of any other person.

6.5 Third Party Rights and Claims

6.5.1 Subject to the provisions of Clause 5.1 (Audits), no one other than a Party to this Agreement, or a Service Contract (as appropriate) shall have any right, under the Contracts (Rights of Third Parties) Act 1999 or otherwise, to enforce any of its terms.

6.5.2 As some of the Deliverables shall be provided to users without any warranty as regards quality or suitability for any purpose, the Parties shall cooperate to defend any claim brought by a user relating to the same.

6.6 Entire Agreement

6.6.1 This Agreement and each Service Contract (as appropriate) constitutes the entire understanding between the Parties relating to the subject matter thereof and it shall supersede all prior negotiations, understandings or agreements with respect to such subject matter. The Parties acknowledge that neither is relying on any statement, representation, warranty or understanding (whether negligently or innocently made) of any person, whether a Party to this Agreement, or to a Service Contract or not, other than is expressly set forth in this Agreement or the Service Contract (as appropriate). Nothing in this Clause 6.6 shall, however, operate to limit or exclude any liability for fraudulent misrepresentation.

6.7 Provisions with Continuing Effect

6.7.1 The following Clauses together with all other provisions of this Agreement and each Service Contract which are intended to have effect following any expiry or termination of this Agreement and each Service Contract, shall survive expiry or termination of this Agreement and each Service Contract to the extent permissible by law: Clause 1.2 (Definitions and Interpretation); Clause 2.1.8 (Insurance Requirements); Clause 2.6 (Process for Resolving Disputes); Clause 2.7 (Confidentiality); Clause 3 (Intellectual Property Rights); Clause 5.1 (Audit); Clause 5.6 (Consequences of Termination or Expiry); Clause 5.9 (Limits of Liability); and Clause 6 (Miscellaneous).

6.8 Governing Law and Arbitration

6.8.1 Unless otherwise agreed in writing, the laws of England shall govern the validity, construction and performance of this Agreement and each Service Contract.

6.8.2 In the event of a dispute arising in connection with this Agreement and/or a Service Contract, the Parties shall comply with Clause 2.6 (Process for Resolving Disputes) if any dispute cannot be so settled, it shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by three (3) arbitrators one each to be appointed by the Parties and the third to be appointed in accordance with the said rules, sitting in London, England. The proceedings shall be in the English language and for the avoidance of doubt this arbitration agreement shall also be governed by the laws of England. In accordance with the Arbitration Act 1996, the right of appeal by either Party to the courts of England and Wales on a question of law arising in the course of any arbitral proceedings or out of an award made in any arbitral proceedings is hereby agreed to be excluded.

6.8.3 Nothing in this Agreement or in each Service Contract shall be considered a waiver of any of the privileges and immunities vested in ECMWF by virtue of its Convention and Protocol.

Annex 1 - ECMWF's Specification for Framework Agreement

Annex 2 - Contractor's Tender for Framework Agreement

Annex 3 - Model Service Contract

SERVICE CONTRACT No [complete]
implementing Framework Agreement No [complete]

ERP CODE LEVEL 2_XXXX

This Service Contract is made on [ECMWF signatory will insert date when he/she signs]

- (1) The European Centre for Medium-Range Weather Forecasts, an inter-governmental organisation, governed by its Convention and associated Protocol on Privileges and Immunities, based at Shinfield Park, Reading, RG2 9AX, United Kingdom (“ECMWF”) acting through its duty station at [TBC]; and
- (2) [Name and address of Contractor] the (“Contractor”)

In the terms of this Service Contract, ECMWF and the Contractor may each be referred to as a "Party" or, collectively as "Parties".

By the application of an authorised signature, by hand or by electronic signature, the Parties each show their intention and willingness to be bound by the terms of this Service Contract, with effect from the date shown above.

This Service Contract has been signed on behalf of each of the Parties by a duly authorised signatory on the date stated at the beginning of this document.

SIGNED for and on behalf of ECMWF:

.....

Signature

.....

Print name

.....

[Title]

SIGNED for and on behalf of [.....]

.....

Signature

.....

Print name

.....

[Title]

1. Interpretation
 - 1.1 This Service Contract implements Framework Agreement No [complete] (the "Agreement").
 - 1.2 Unless otherwise defined in this Service Contract, terms used in this Service Contract shall have the meaning given to them in the Agreement.
 - 1.3 The terms of the Agreement are incorporated into and form part of this Service Contract, as varied and amended by the other provisions of this Service Contract.

2. Subject Matter and Timing

- 2.1 The Contractor undertakes, in accordance with the terms set out in the Agreement and in this Service Contract and the annexes thereto, which form an integral part thereof, to perform the Services set out in the Service Description in accordance with the timeframes set out in the Payment Plan.

3. Price

- 3.1 The Price for this Service Contract is calculated on a [Pre-Agreed Price Basis / a Cost Reimbursement Basis].

OR

The Price for the following Services and Deliverables shall be calculated on a Pre-Agreed Price Basis: [insert]. The Price for the following Services and Deliverables shall be calculated on a Cost Reimbursement Basis: [insert].

- 3.2 The maximum Price to be paid under this Service Contract shall be the Maximum Budget (as set out in the Payment Plan), which is broken down in detail in the Payment Plan which shall cover all Services performed under this Service Contract.

4. Software

[Only applicable if the Contractor will develop software under this Service Contract – otherwise delete]

- 4.1 The [Traditional Development / Agile Development] terms shall be incorporated into this Service Contract [and the Contractor shall comply with such terms in connection with its development of [insert list of software Deliverables / all software developed under this Service Contract]].

5. Additional Terms

[Insert any Service Contract-specific terms and any amendments to the KPIs].

Annexes A, B and C

Annex A – ECMWF's Request for Service

[To be completed by ECMWF]

Annex B - Service Description

[Insert the Service Description agreed by both Parties]

Annex C - Payment Plan

Service Contract 20XX/XX_YY-LotAA-WW/SC1

ERP CODE LEVEL2_XXXX

						Duration	Amount (EUR)			
Overall Price Framework Contract (maximum)						XX months	0.000.000,00			
Price Service Contract (Maximum Budget) [1]						XX months	0.000.000,00			
Payment Milestone number	Payment method	Anticipated date of payment Milestone completion	Period of activities / Milestone covered	Activities and Deliverables covered by payment Milestone	Full value of activities covered (EUR)	Payment amount (EUR)	Percentage	Cumulative budget (EUR)	Anticipated review time (days)	
[](*)	PAP	[dd/mm/yyyy]	Payment at contract signature	[Payment covering price of activities covered under PM 2 (X%), PM 3 (Y%), etc.]		[]	[max 25] %	[]	/	
[](**)	[]	[dd/mm/yyyy]	[Q1, Q2, Q3, Q4 + year or Milestone T0+x, T0+y, etc.]	[indicate Annex B WP and/or Deliverables numbers]	[]	[]	[]%	[]	[]	
							[min 10] %			

<p>For payment at contract signature: * ECMWF reserves the rights to re-claim the payment on a pro-rata basis in case the contractor fails to perform as defined in the in the Service Contract, in accordance with Clause 5.6.3.4</p> <p>For payment as a CR: ** Payment amount is capped at the indicated Maximum Budget</p>	TOTAL		100%		
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Annex 4- Software

Part 1 - Agile Development

1. Additional Definitions applying to Part 1 of this Annex

In this Annex only the following expressions have the meanings set out below, unless the context requires otherwise:

"ECMWF Lead" means the technical lead ECMWF representative appointed by ECMWF;

"Definition of Done" means the criteria against which an Outcome will be assessed or tested by ECMWF against its Specification(s) to ensure that it has been fully and properly completed;

"Development Team" means the team appointed by the Contractor which is responsible for delivering the Project;

"Iteration Backlog" means a plan setting out the parameters of that Iteration and which should include the specific Outcomes to be delivered and Definition of Done to be achieved during the Iteration;

"Iteration" means a fixed period of time agreed in each Project Plan during which:

- (c) specific Outcome(s) set out in the Iteration Backlog in respect of that fixed period of time; and
- (d) as many other Outcomes (not specifically set out in the Iteration Backlog as being developed and delivered during that fixed period of time) as may be practical to achieve within the timing, budgetary and staffing constraints,

shall be developed by the Contractor and delivered to the ECMWF;

"Open Source Software" means any software licensed under any form of open-source licence meeting the Open Source Initiative's Open Source Definition (<http://www.opensource.org/docs/definition.php>) or any libraries or code licensed from time to time under the General Public Licence (as described by the Free Software Foundation and set out at <http://www.gnu.org/licenses/gpl.html>), or anything similar;

"Outcome" means;

- (e) any intangible thing (including functionality, methodology, process, procedure, idea, or strategy) which is not recorded in writing or in any other form; and
- (f) any Deliverable, including:
 - (i) any software, application, computer program, computer system or similar item (or any part thereof);
 - (ii) any Source Code or object code relating to (i) above; and
 - (iii) any material created in respect of the intangible outcomes referred to at a) above,

which is stated in the Outcome Backlog to be delivered by the Contractor to the ECMWF;

“Outcome Backlog” means a list of Outcomes, ranked by priority, which are agreed between the Parties to be delivered by the Contractor as part of the Project;

"Project Initiation Document" has the meaning given to it in paragraph 6.1(c);

"Project Manager" has the meaning given to it in paragraph 11.1;

"Project Plan" means the project plan for implementation and provision of the Services to achieve the Requirements of the Project, as agreed between the Parties;

"Project" means the project described in the Project Vision Document, the Requirements, the Specification, the Project Initiation Document and the Outcome Backlog;

"Project Vision Document" has the meaning given to it in paragraph 6.1(b);

"Requirements" means ECMWF's objectives and requirements for the Project as detailed in paragraph 6.1;

“Sign-Off” means the carrying out of the Sign-Off Process in respect of an Outcome;

"Sign-Off Process" has the meaning given to it in paragraph 7.1;

"Source Code" means all logic, logic diagrams, flow charts, representations, algorithms, utilities, modules, file structures, coding sheets, listings, schematics, functional specifications and program specifications and/or other materials and documents necessary to enable an English speaking and reasonably experienced programmer to maintain, enhance and modify an item of software without reference to any person or document; and

"Specification(s)" means the specification(s) to be produced, agreed and updated for each item on the Outcome Backlog.

6. Specification, design and delivery

6.1 Prior to commencing a Project, the Parties shall agree a Service Contract to which shall be annexed in writing:

- (a) ECMWF's high-level requirements and objectives for the Software;
- (b) a “Project Vision Document” describing the Project’s objectives, success criteria, risks and dependencies, and explain how the Project will be managed, using an iterative approach and conducted in phases with progressive handover of responsibility to ECMWF; and
- (c) a Project Initiation Document identifying:
 - (A) who will be working on the Project team;
 - (B) length of Iterations, milestones, reporting requirements, stakeholders and foreseeable risks;
 - (C) at a high-level, the Outcomes for the Project and how the success of these will be assessed;
 - (D) responsibilities and duties of the Contractor and ECMWF (and their respective members of the Project team) for delivery of the Project; and
 - (E) an Outcome Backlog and Project Plan.

Iterations

- 6.2 Prior to the start of each Iteration, the Parties shall agree an Iteration Backlog which shall include:
- (a) the Outcomes to be delivered as part of that Iteration;
 - (b) the Specifications of the Outcomes to be delivered as part of that Iteration; and
 - (c) the Definition of Done for the Outcomes to be delivered as part of that Iteration.

6.3 Prior to the start of each subsequent Iteration, the Parties shall ensure that the Iteration Backlog is updated.

6.4 If the Contractor fails to deliver all agreed Outcomes in an Iteration, the Parties may agree to reinsert such Outcomes into the Outcome Backlog and will reschedule such Outcomes to be delivered in a later Iteration.

6.5 The Contractor shall keep up to date the Outcome Backlog throughout the duration of the Project.

7. Sign-Off

7.1 The Parties shall conduct appropriate reviews (which may include testing) of all Outcomes to ensure that they comply with the Definition of Done ("**Sign-Off Process**").

7.2 The Contractor shall notify ECMWF in writing when an Iteration has been completed and Outcomes are ready for Sign-Off. The Sign-Off Process shall be carried out by ECMWF (or its representatives, agents or consultants) within 5 Business Days after receipt by ECMWF of the Contractor's written notice that the Outcomes are ready for Sign-Off.

7.3 The Contractor shall give ECMWF such reasonable assistance in carrying out the Sign-Off Process as ECMWF may request and the Contractor shall be entitled to attend the Sign-Off Process on the dates notified.

7.4 If any Outcome (or part of any Outcome) fails the Sign-Off Process, the Contractor shall remedy such failure at its expense within a reasonable time after notification of failure. If not agreed, the timing for resolution of such failure will be decided by ECMWF at its sole discretion. Thereafter the Contractor shall resubmit the relevant Outcome to ECMWF for Sign-Off again. If, after the Sign-Off Process have been repeated, the Outcomes have still not passed the Sign-Off Process, ECMWF may, at its option:

- (a) accept the Outcome subject to the Parties agreeing a reasonable abatement of the Price payable by ECMWF for that Outcome;
- (b) accept the Outcome subject to the Contractor resolving any outstanding failures and abate a reasonable proportion of the Price payable for the Outcome (not being less than 10%) until the Sign-Off Process is passed; or
- (c) reject the Outcomes, in which case ECMWF shall return or destroy the rejected Outcomes and the Contractor shall refund to ECMWF all sums paid by ECMWF in respect of those rejected Outcomes.

7.5 If ECMWF does not accept the Outcomes, ECMWF shall have the right at its discretion to:

- (a) cease work on any other Iterations until Sign-Off of the Outcomes; or

- (b) terminate the Project.

8. Warranties

8.1 The Contractor warrants and undertakes that it will:

- (a) produce and supply ECMWF with the Outcomes in accordance with their Specification and the Project Vision Document;
- (b) correct any Outcomes which do not conform with their Specification for a period of twelve (12) months from Sign-Off;
- (c) not include in any Outcome any third party Intellectual Property Rights (including Open Source Software), other than third party Intellectual Property Rights (including Open Source Software) identified and agreed in the Specification;
- (d) ensure that, where an Outcome has been identified and agreed in the Specification as including Open Source Software, such Open Source Software shall be free from any stipulation requiring any part of the Outcomes to be made on an open source basis; and
- (e) not introduce any computer viruses, trojan horses, worms, software bombs or similar items into ECMWF's systems or in any other way destroy, damage or corrupt any software or data on such systems.

9. ECMWF responsibilities

9.1 ECMWF shall in relation to the Services:

- (a) ensure that the ECMWF Lead(s) participate in each Iteration as required under the Project Plan; and
- (b) provide the Contractor with reasonable access to information it holds which is reasonably required for the Contractor fulfil its obligations under this Annex.

10. Development Team

10.1 The Contractor may not change any members of the Development Team without the prior written consent of ECMWF.

10.2 ECMWF shall be entitled to reasonably request that a member of the Development Team is replaced and the Contractor shall replace that member accordingly with an appropriately skilled individual.

11. Project Management

11.1 The following representatives are appointed by the Parties to manage the Project under this Annex:

- (a) for ECMWF: [INSERT NAME]; and
- (b) for the Contractor: [INSERT NAME],

(the "Project Managers").

11.2 Each Party's Project Manager shall be assigned with responsibility for:

- (a) managing and co-ordination of the performance of that Party's obligations on a day-to-day basis;
 - (b) carrying out the Project Manager's responsibilities set out in the Project Plan;
 - (c) liaising with the other Party's Project Manager; and
 - (d) the administration of all matters arising under this Annex including the Price payable by ECMWF, invoices, communications, documentation and materials.
- 11.3 The Project Managers shall meet together not less than once per week or such other period as may be agreed, to discuss the progress of the Project, performance of the Development Team and costs incurred by the Contractor in the performance of the Services. Both Parties shall give immediate attention to any matter raised by the other relating to the performance of its obligations and escalate any serious issues which they have failed to resolve as appropriate.
- 11.4 The Contractor agrees not to replace any Project Manager without ECMWF 's prior written consent (such consent not unreasonably withheld or delayed) unless for reasons of illness or termination of their contract of employment with the Contractor, and in which case the Contractor shall take all reasonable steps to arrange that a suitably qualified replacement is appointed as soon as reasonably practical so that any adverse effects from the changeover is minimised and ECMWF is notified in writing of such a change.

12. Governance

- 12.1 During the term of this Annex, the Parties shall participate in the governance meetings set out below and any other meetings reasonably required by ECMWF.

Meeting and Frequency	Attendees	Purpose
Stand-up (daily)	Development Team + ECMWF Team	To agree: agree what has been accomplished since the last meeting; agree what is being worked on until the next meeting; and understand and discuss any issues which are (or could be) impacting on the successful and timely delivery of the Project.
Iteration Planning (at the start of every Iteration)	Development Team + ECMWF Team	To agree the Iteration Backlog (as set out in Paragraph 6.2)

Show & Tell (at the end of each Iteration)	ECMWF Lead, Project Manager and any other appropriate ECMWF personnel (as determined by the ECMWF)	To demonstrate the Outcome(s) delivered in that Iteration.
Retrospective (at the end of each Iteration)	Development Team + ECMWF Team	To review working practices and agree stop/ start/ modify items to ensure continual improvement of the working relationship between the Development Team and ECMWF Team.

Part 2: Traditional Development

1. Additional Definitions applying to Part 2 of this Annex

1.1 In this Annex only the following expressions have the meanings set out below, unless the context requires otherwise:

"Acceptance" means acceptance of the Deliverables in accordance with paragraph 3;

"Acceptance Criteria" means the criteria specified by ECMWF which are designed to ensure the Deliverable meet the requirements of the Requirements and the Specification;

"Acceptance Tests" means the tests of the Deliverables made in accordance with paragraph 3;

"Development Team" means the team appointed by the Contractor which is responsible for delivering the Project;

"Open Source Software" means any software licensed under any form of open-source licence meeting the Open Source Initiative's Open Source Definition (<http://www.opensource.org/docs/definition.php>) or any libraries or code licensed from time to time under the General Public Licence (as described by the Free Software Foundation and set out at <http://www.gnu.org/licenses/gpl.html>), or anything similar;

"Project Initiation Document" has the meaning given to it in paragraph 6.1(c);

"Project Manager" has the meaning given to it in paragraph 11.1;

"**Project Plan**" means the project plan for implementation and provision of the Services to achieve the Requirements of the Project, as agreed between the Parties;

"**Project**" means the project described in the Requirements, the Specification and the Project Initiation Document;

"**Requirements**" means ECMWF's objectives and requirements for the Project as detailed in paragraph 6.1;

"**Source Code**" means all logic, logic diagrams, flow charts, representations, algorithms, utilities, modules, file structures, coding sheets, listings, schematics, functional specifications and program specifications and/or other materials and documents necessary to enable an English speaking and reasonably experienced programmer to maintain, enhance and modify an item of software without reference to any person or document; and

"**Specifications**" means the specifications for the Deliverables.

2. Specification, design and delivery

2.1 Prior to commencing a Project, the Parties shall agree [a Service Contract to which shall be annexed] [in writing]:

- (a) ECMWF's high-level requirements and objectives for the Project;
- (b) the Contractor's Specifications for meeting the Requirements; and
- (c) a Project Initiation Document identifying:
 - (i) who will be working on the Project team;
 - (ii) a Project Plan, milestones, reporting requirements, stakeholders and foreseeable risks;
 - (iii) Acceptance Criteria for the Project; and
 - (iv) responsibilities and duties of the Contractor and ECMWF (and their respective members of the Project team) for delivery of the Project.

2.2 The Contractor shall complete each Deliverable to meet the requirements of the Requirements, the Specification and the Project Plan.

3. Acceptance

3.1 The Parties shall conduct acceptance testing of all Deliverables to ensure that they comply with the Acceptance Criteria.

3.2 The Contractor shall notify ECMWF in writing when the Deliverables are ready for Acceptance Tests. The Acceptance Tests shall be carried out by ECMWF (or its representatives, agents or consultants) within 5 Business Days after receipt by ECMWF of the Contractor's written notice that the Deliverables are ready for Acceptance Tests.

- 3.3 The Contractor shall give ECMWF such reasonable assistance in carrying out the Acceptance Tests as ECMWF may request and the Contractor shall be entitled to attend the Acceptance Tests on the dates notified.
- 3.4 If any Deliverable fails the Acceptance Tests, the Contractor shall remedy such failure at its expense within a reasonable time after notification of failure. If not agreed, the timing for resolution of such failure will be decided by ECMWF at its sole discretion. Thereafter the Contractor shall resubmit the relevant Deliverable to ECMWF for Acceptance Tests again. If, after the Acceptance Tests have been repeated, the Deliverables have still not passed the Acceptance Tests, ECMWF may, at its option:
- (a) accept the Deliverables subject to the parties agreeing a reasonable abatement of the Charges payable by ECMWF for those Deliverables;
 - (b) accept the Deliverables subject to the Contractor resolving any outstanding failures and abate a reasonable proportion of the Price payable for those Deliverables (not being less than 10%) until the Acceptance Tests are passed; or
 - (c) reject the Deliverables, in which case ECMWF shall return or destroy the rejected Deliverables and the Contractor shall refund to ECMWF all sums paid by ECMWF in respect of those rejected Deliverables.
- 3.5 If ECMWF does not accept the Deliverables, ECMWF shall have the right at its discretion to:
- (a) cease work on any other Deliverables until Acceptance of the rejected Deliverables; or
 - (b) terminate the Project.

4. Warranties

- 4.1 The Contractor warrants and undertakes that it will:
- (a) produce and supply ECMWF with the Deliverables in accordance with the Requirements and Specifications;
 - (b) correct any Deliverables which do not conform with the Requirements or the Specification for a period of twelve (12) months from Acceptance;
 - (c) not include in any Deliverable any third-party Intellectual Property Rights (including Open Source Software), other than third party Intellectual Property Rights (including Open Source Software) identified and agreed in the Specification;
 - (d) ensure that, where a Deliverable has been identified and agreed in the Specification as including Open Source Software, such Open Source Software shall be free from any stipulation requiring any part of the Deliverables to be made on an open source basis; and
 - (e) not introduce any computer viruses, trojan horses, worms, software bombs or similar items into ECMWF's systems or in any other way destroy, damage or corrupt any software or data on such systems.

5. ECMWF responsibilities

5.1 ECMWF shall in relation to the Services provide the Contractor with reasonable access to information it holds which is reasonably required for the Contractor fulfil its obligations under this Annex.

6. Development Team

6.1 The Contractor may not change any members of the Development Team without the prior written consent of ECMWF.

6.2 ECMWF shall be entitled to reasonably request that a member of the Development Team is replaced and the Contractor shall replace that member accordingly with an appropriately skilled individual.

7. Project Management

7.1 The following representatives are appointed by the Parties to manage the Project under this Statement of Work:

- (a) for ECMWF: [INSERT NAME]; and
- (b) for the Contractor: [INSERT NAME],

(the "Project Managers").

7.2 Each Party's Project Manager shall be assigned with responsibility for:

- (a) managing and co-ordination of the performance of that Party's obligations on a day to day basis;
- (b) carrying out the Project Manager's responsibilities set out in the Project Plan;
- (c) liaising with the other Party's Project Manager; and
- (d) the administration of all matters arising under this Annex including the Price payable by ECMWF, invoices, communications, documentation and materials.

7.3 The Project Managers shall meet together not less than once per week or such other period as may be agreed, to discuss the progress of the Project, performance of the Development Team and costs incurred by the Contractor in the performance of the Services. Both Parties shall give immediate attention to any matter raised by the other relating to the performance of its obligations and escalate any serious issues which they have failed to resolve as appropriate.

7.4 The Contractor agrees not to replace any Project Manager without ECMWF 's prior written consent (such consent not unreasonably withheld or delayed) unless for reasons of illness or termination of their contract of employment with the Contractor, and in which case the Contractor shall take all reasonable steps to arrange that a suitably qualified replacement is appointed as soon as reasonably practical so that any adverse effects from the changeover is minimised and ECMWF is notified in writing of such a change.

Annex 5 Report content

1. Annual Implementation Report

1.1 Part one of the Annual Implementation Report shall include:

- (a) an account of all relevant aspects of the implementation of the Services for the previous Year, including respective statistics;
- (b) a technical summary report that shall include: a summary description of the implementation of the Services and the use of the Funds, covering technical, schedule and financial aspects of the previous Year. This should include in particular a summary dashboard of all Key Performance Indicators, a table listing the status of all Milestones, as outlined in the Annual Implementation Plan, and their status as well as conclusions and lessons learned as appropriate; and
- (c) a financial report that shall include the following preliminary accounting information:
 - (i) for the previous Year, in a format specified by ECMWF, in order to comply with ECMWF's accounting obligations to the Commission:
 - (A) for all Prices paid on a Cost Reimbursement basis, the breakdown of (i) the direct costs reimbursed by ECMWF under Clause 4.2.3; (ii) the costs and expenses incurred by the Contractor for the Services; and (iii) any committed costs that the Contractor anticipates will be claimed under Clause 4.2.3;
 - (B) for all Prices paid on a Pre-Agreed Price basis, an estimate of the value of work done for each Milestone but not invoiced at the date of the report; and
 - (C) to be signed by the Contractor's Authorised Representative.
 - (ii) the following information:
 - (A) an update of the forecasted costs expected in the current Year;
 - (B) a list of all IPRs and Assets, including the assets under construction with status as of 31 December of the previous Year, which have been acquired by ECMWF under Clause 3.1 since the Effective Date, with their individual values in EUR, dates of acquisition, contract references, and their physical location;
 - (iii) statistics on the implementation of the Services during the previous Year, which shall include: budget information; names of Sub-contractors; country of registration of each Sub-Contractor; and profile of each Sub-Contractor (i.e. Industry, Small and Medium Enterprises, Academia, Research organisations, Public Sector and Other);
- (d) a security information report that shall include the following:

- (i) information on the technical and organisational security activities and measures put in place by the Contractor during the previous Year. This information should include, but not limited to, information security policies, measures related to asset management, access control, human resource security, physical and environmental security, operations and communications security. This should include as well information on possible security incidents and identified weaknesses, their impact and the remedial measures adopted. Any other measure undertaken during the previous Year to assess or enhance security and risk management must also be reported; and
- (ii) a report by the Contractor on the main findings of its verification of the effectiveness of its technical and organisational security measures through the means of audit, assessment, testing and/or evaluation in accordance with Clause 2.1.6.4.

1.2 Part two of the Annual Implementation Report shall include:

- (a) an account of all relevant aspects of the implementation of the Services for the previous Year, including respective statistics;
- (b) a technical summary report that shall include the following:
 - (i) a summary description of the implementation of the Services and the use of the Funds, covering technical, schedule and financial aspects of the previous Year. This should include in particular a summary dashboard of all Key Performance Indicators, a table listing the status of all Milestones, as outlined in the Annual Implementation Plan, and their status as well as conclusions and lessons learned as appropriate;
 - (ii) a summary of risk controls carried out in relation to Sub-contractors by the Contractor and available final audit reports for Sub-contractors. Where errors and weaknesses in systems were identified, analysis of their nature and extent, as well as information on corrective measures taken or planned shall also be provided;
 - (iii) an updated version of the Risk Register ranking all identified risks; and an executive high-level summary of the risks identified in the Risk Register that shall contain a reduced set of high level risks;
- (c) a financial report that shall include a consolidated and final version of:
 - (i) for the previous Year, in a format specified by ECMWF, in order to comply with ECMWF's accounting obligations to the Commission:
 - (A) for all Prices paid on a Cost Reimbursement basis, the breakdown of (i) the direct costs reimbursed by ECMWF under Clause 4.2.3; (ii) the costs and expenses incurred by the Contractor for the Services; and (iii) any committed costs that the Contractor anticipates will be claimed under Clause 4.2.3;
 - (B) for all Prices paid on a Pre-Agreed Price basis, an estimate of the value of work done for each Milestone but not invoiced at the date of the report; and

- (C) to be signed by the Contractor's Authorised Representative.
- (ii) an update of the forecasted costs expected in the current Year;
- (iii) a list of any material non-compliances or breaches of the terms of this Agreement by the Contractor;
- (iv) a management declaration confirming that, in the opinion of those in charge of the Contractor:
 - (A) the information is properly presented, complete and accurate;
 - (B) the Funds applied to any Services charged on a Cost Reimbursement basis were used for their intended purpose as defined in this Agreement;
 - (C) the control systems which the Contractor has in place give the necessary guarantees concerning the legality and regularity of the underlying transactions;
 - (D) the Funds were used and accounted for in compliance with the obligations laid down in this Agreement; and
 - (E) the Contractor:
 - I. sets up and ensures the functioning of an effective and efficient internal control system;
 - II. uses an accounting system that provides accurate, complete and reliable information in a timely manner;
 - III. is subject to an independent external audit, performed in accordance with internationally accepted auditing standards by a functionally independent audit service;
 - IV. applies appropriate rules and procedures for providing financing from Union funds in accordance with the Agreement; and
 - V. ensures a reasonable protection of personal data in accordance with Clause 2.8 and Annex 6.

2. Quarterly Implementation Reports

2.1 The Quarterly Implementation Reports shall describe the progress made in the performance of the Services covering programmatic, technical, and contractual aspects, including Key Performance Indicators, the status of the Risk Register, statistics on the implementation actions, and any deviations from the foreseen schedules and/or budgeted limits. Each Quarterly Implementation Report shall include the following:

- (d) a summary description of the performance of the entrusted tasks and the use of the funds allocated to it, covering technical, schedule and financial aspects, including:

- (i) any changes to the product portfolio implemented in the reporting period and planned for the next six months;
- (ii) a summary dashboard the Key Performance Indicators;
- (iii) an updated, cumulative database comprising all data necessary to determine the Key Performance Indicators on the service execution (progress) and quality, as well as to process these Key Performance Indicators;
- (iv) a table listing all Milestones and Deliverables, set out in the Implementation Plan and their status, as well as conclusions and lessons learned;
- (v) a summary of major expected activities for the next four quarters;
- (b) a section on checks, controls and risk management setting out:
 - (vi) an updated version of the Risk Register ranking all identified risks; and
 - (vii) an executive high-level summary of the risks identified in the Risk Register, that shall contain a reduced set of high level risks; and
 - (viii) a summary of risk controls carried out by the Contractor and available final audit reports. Where errors and weaknesses in systems were identified, analysis of their nature and extent, as well as information on corrective measures taken or planned shall also be provided.

2.2 In addition to the contents set out in Paragraph 2.1 of this Annex 5, the Quarterly Implementation Reports prepared by the Contractor for the second quarter for each Year shall include:

- (e) for the previous two quarters, in a format specified by ECMWF, in order to comply with its accounting obligations to the Commission:
 - (i) for all Prices paid on a Cost Reimbursement basis, a breakdown of (i) the direct costs reimbursed by ECMWF under Clause 4.2.3; (ii) the costs and expenses incurred by the Contractor for the Services; and (iii) any committed costs that the Contractor anticipates will be claimed under Clause 4.2.3; and
 - (ii) for all Prices paid on a Pre-Agreed Price basis, an estimate of the value of work done for each Milestone but not invoiced at the date of the report; and
- (f) statistics on the implementation of the Services during the previous two quarters, which shall include: budget information; names of Sub-contractors; country of registration of each Sub-Contractor; and profile of each Sub-Contractor (i.e. Industry, Small and Medium Enterprises, Academia, Research organisations, Public Sector and Other).

3. Final Implementation Report

- (a) The Final Implementation Report shall contain comprehensive information on the implementation of the Services throughout the Term and the financial details of the Services, including ex-post audits and recoveries. The Final Implementation Report shall include the following material:
- (b) a description of the results generated in the performance of this Agreement and each Service Contract with respect to the expected achievements (as defined in particular in

Annex 1 (ECMWF's Specification for Framework Agreement)) and in the relevant Implementation Plans;

- (c) all financial information requested in the Annual Implementation Report under Clause 2.3.1 aggregated across the Term, including:
 - (i) for all Services charged on a Cost Reimbursement basis, the totals of prices claimed and costs and expenses incurred under this Agreement and each Service Contract, including the total amount actually paid by the Contractor to Sub-contractors; and
 - (ii) for all Services charged on a Pre-Agreed Price basis the totals of all invoices raised by the Contractor and paid by ECMWF under this Agreement and each Service Contract.
- (d) the following annexes shall be attached to the Final Implementation Report:
 - (i) a summary table setting out the final and total amount paid by ECMWF to the Contractor under this Agreement and each Service Contract and the reference of the related implementation reports for each action;
 - (ii) a summary inspection report indicating the number and results of on-Site checks and ex-post audits carried out by the Contractor on Sub-contractors, accompanied, if appropriate, by current information on measures taken to remedy any problems identified including where applicable, an overview of any funds unduly or incorrectly paid regardless if already recovered or not; and
 - (iii) summary report on the control and audit measures to which the Contractor has been subjected or will be subjected.

4. Implementation Plan

The Implementation Plan shall include scope and phasing of the Services foreseen in the respective year, including:

- (a) service coordination and management;
- (e) indicative schedule and Milestones,
- (f) indicative resource planning (consistent with the forecast provided as part of the periodic financial reporting);
- (g) detail of the operational activities for the year, indicating activities that are implemented by the Contractor and its Subcontractors;
- (h) key products and Deliverables;
- (i) activities for validation and quality control;
- (j) risk management approach for maintaining and periodically monitoring the Risk Register in order to determine the evolution each risk's magnitude and to verify if the mitigation actions have produced the intended effect;
- (k) data and information access and distribution;

- (l) archiving activities;
- (m) an indicative short planning outlining the foreseen activities of the next three years; and
- (n) a plan for the implementation of communication, user engagement and information activities implemented in connection with this Agreement, including the coordination process with ECMWF, any interfaces required with the Commission, and a breakdown of any budget allocated to communication and information activities.

Annex 6 Personal Data Protection

This Annex 6 deals with the Processing of Personal Data under the Agreement. In case of a conflict between the terms and conditions of the Agreement and this Annex, the terms and conditions set out in this Annex shall prevail.

In this Annex 6, the following the following words and phrases shall have the following meanings except where the context requires otherwise:

"Adequacy"	means a decision of the European Commission under Article 45(3) of the General Data Protection Regulation 2016/679/EU [or a adequacy regulations under Article 45(3) of the UK GDPR and section 17A of the UK's Data Protection Act 2018];
"Data Protection Law"	means the General Data Protection Regulation 2016/679/EU, [the UK GDPR and the UK's Data Protection Act 2018], and any alternative data protection Law applicable to the Contractor;
"Data Subject"	means a natural person to whom Personal Data relates;
"Personal Data"	means any information relating to a natural person, who can be identified from or by way of that information;
"Process or Processing"	means any operation or set of operations which is performed upon Personal Data, whether or not by automatic means, such as collection, recording, organization, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction;
"Processor"	means any natural or legal person who Processes Personal Data on behalf of ECMWF;
"Special Category Data"	means data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, biometric data for the purposes of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation;
"Standard Contractual Clauses"	means clauses adopted or approved by the European Commission under Article 46 of the General Data Protection Regulation 2016/679/EU [or standard data protection clauses specified by the Secretary of State under Article 46 of the UK GDPR and section 17C or issued by the Commissioner under Article 46 of the UK GDPR and section 119A of the UK's Data Protection Act 2018]; and
"UK GDPR"	means the GDPR as it applies in UK domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018.]

1. ECMWF data protection rules

ECMWF is an international organisation. ECMWF complies with its own rules on data protection. Those rules are contained in the Policy on Personally Identifiable Information Protection, as amended from time to time.

2. Data Protection

- 2.1 Where the Processing of Personal Data by the Contractor is required under this Agreement, the Contractor shall Process Personal Data as a Processor.
- 2.2 The Contractor shall Process Personal Data in accordance with applicable Data Protection Law during the Term of this Agreement.
- 2.3 The Personal Data to be Processed by the Contractor in accordance with this Agreement is as described in Appendix 1 to this Annex ("the Data").
- 2.4 The Contractor shall Process the Data for the purposes described in Appendix 1 ("the Permitted Purpose") and strictly in accordance with the documented instructions of ECMWF, except where otherwise required by any Law applicable to the Contractor. In no event shall the Contractor Process the Data for its own purposes or those of any third party. Where any Law applicable to the Contractor precludes the Contractor from processing the data in accordance with the documented instructions of ECMWF, the Contractor shall notify ECMWF, unless the Law in question precludes the Contractor from so doing.
- 2.5 The Contractor shall not transfer the Data (nor permit the Data to be transferred to or accessed from) outside of the European Economic Area [or the UK] unless (i) it has first obtained ECMWF's prior written consent; and (ii) it takes such measures as are necessary to ensure the transfer is in compliance with Data Protection Law. Such measures may include (without limitation) transferring the Data to a recipient in a country on the basis of Adequacy, or to a recipient that has executed Standard Contractual Clauses.
- 2.6 The Contractor shall ensure that any person that it authorises to Process the Data (including the Contractor's staff, agents and sub-processors) (an "Authorised Person") shall be subject to a strict duty of confidentiality (whether a contractual duty or a statutory duty), and shall not permit any person to Process the Data who is not under such a duty of confidentiality. The Contractor shall ensure that all Authorised Persons Process the Data only as necessary for the Permitted Purpose.
- 7.5 The Contractor shall implement appropriate technical and organisational measures to protect the Data (i) from accidental or unlawful destruction, and (ii) loss, alteration, unauthorised disclosure of, or access to the Data (a "Security Incident"). At a minimum, such measures shall include the measures identified in Appendix 2.
- 2.7 The Contractor shall provide all reasonable and timely assistance (including by appropriate technical and organisational measures) to ECMWF (at the Contractor's own expense) to enable ECMWF to respond to: (i) any request from a Data Subject to exercise any of its rights (including its rights of access, correction, objection and erasure, as applicable); and (ii) any other correspondence, enquiry or complaint received from a Data Subject or other third party in connection with the Processing of the Data. In the event that any such request, correspondence, enquiry or complaint is made directly to the Contractor, the Contractor shall promptly inform ECMWF's Data Protection Officer, providing full details of the same. Until further notice, ECMWF's

Data Protection Officer can be reached as follows: pii-protection-officer@ecmwf.int or ECMWF PII Protection Officer (Legal Section); ECMWF, Shinfield Park, Reading, RG2 9AX, United Kingdom

- 2.8 Upon becoming aware of a Security Incident, the Contractor shall inform ECMWF without undue delay and shall provide all such timely information and cooperation as ECMWF may require. The Contractor shall further take all such measures and actions as are necessary to remedy or mitigate the effects of the Security Incident and shall keep ECMWF informed of all developments in connection with the Security Incident.
- 2.9 Upon termination or expiry of this Agreement, the Contractor shall (at ECMWF's election) destroy or return to ECMWF all Data (including all copies of the Data) in its possession or control (including any Data sub-contracted to a third party for Processing). This requirement shall not apply to the extent that the Contractor is required by any EU (or any EU Member State) or other national law to retain some or all of the Data, in which event the Contractor shall isolate and protect the Data from any further Processing except to the extent required by such law until deletion is possible.
- 2.10 The Contractor shall permit ECMWF (or its appointed third party auditors) to audit the Contractor's compliance with this Clause, and shall make available to ECMWF all information, systems and staff necessary for ECMWF (or its third party auditors) to conduct such audit. The Contractor acknowledges that ECMWF (or its third party auditors) may enter its premises for the purposes of conducting this audit, provided that ECMWF gives it reasonable prior notice of its intention to audit, conducts its audit during normal business hours, and takes all reasonable measures to prevent unnecessary disruption to the Contractor's operations. ECMWF will not exercise its audit rights more than once in any twelve (12) calendar month period, except if ECMWF believes a further audit is necessary due to a Security Incident suffered by the Contractor.

3. Sub-processing

- 3.1 The Contractor shall not sub-contract any Processing of the Data to a third party sub-processor without the prior written consent of ECMWF.
- 3.2 Prior to the engagement of any sub-processor, the Contractor must be able to demonstrate that:
- (a) the sub-processor is suitable to make the proposed contribution to the Services (ECMWF will have complete discretion to judge suitability, which will include, without limitation, being suitably qualified and resourced);
 - (b) the same data protection terms have been agreed as between the Contractor and sub-processor in relation to the Processing of the Data as are set out in this Annex 6 as between ECMWF and the Contractor and therefore that the Data will be protected to the same standard provided for by this Annex;

If ECMWF refuses to consent to the Contractor's appointment of a sub-processor on grounds relating to the protection of the Data then either the Contractor will not appoint the sub-processor or ECMWF may elect to suspend or terminate this Agreement.

- 3.3 The Contractor remains fully liable for any breach of this Clause that is caused by an act, error or omission of its sub-processor.
- 3.4 If it appears to ECMWF that the Services are being disrupted by the acts or omissions of a sub-processor or that its qualifications, resources or the service it provides are no longer satisfactory, ECMWF shall have the right to make a reasoned request for its replacement as soon as possible.

Appendix 1

Data Processing Description

This Appendix 1 forms part of the Agreement and describes the Processing that the Contractor will perform on behalf of ECMWF.

ECMWF

ECMWF Processes Data in the course of its activities as a research institute and an operational service, providing global numerical weather predictions. As part of those activities ECMWF collects Personal Data of staff and business contacts.

Contractor

The Contractor is (please specify briefly the contractor's activities relevant to the processing):

Categories of Data Subjects

The Data to be Processed concern the following categories of Data Subjects (please specify):

- ECMWF's business partners
- Data relating to ECMWF's staff
- Business contact details of ECMWF's partners including email addresses, telephone numbers, business address, name and corporate title

Categories of Data

The Data to be Processed concern the following categories (please specify):

- Business contact details of ECMWF's partners including name and corporate title, email addresses, telephone numbers, business address

Special Category Data (if appropriate)

The Data to be Processed concern the following Special Category Data (please specify):

Duration of the Processing

The duration of the Processing is for the Term of the Agreement as set out in Clause 1.4.

Nature of the Processing

The Data will be subject to the following Processing activities: [add here the type of operations performed as part of the processing (for example storing, recording, archiving etc)]

Purpose of the Processing:

[insert]

Appendix 2

Minimum Security Measures

[List any minimum security measures here.]

[OPTIONAL]

Appendix 3

Approved Sub-processors

[List any approved sub-processors here.]

Name	Processing	Territory(ies)

Annex 7 Logos

Copernicus Logo:



EU Logo:

