

Agreement Number: KNMI-2016/3411

Our reference: KNMI-2015/1694

LICENCE AGREEMENT

FOR THE SUPPLY OF EUROPEAN CENTRE for MEDIUM-RANGE WEATHER FORECASTS
(ECMWF) PRODUCTS

Between

**KNMI
Postbus 201
3730 AE De Bilt
The Netherlands**

(Hereinafter called the Licensor)

And

**Global Change Research Institute CAS (GCRI CAS)
Ústav výzkumu globální změny AV ČR, v. v. i.
To: prof. Michal V. Marek
Bělidla 986/4a
603. 00 Brno
Czech Republic
VAT: CZ86652079**

(Hereinafter called the Licensee).

Article 1.

Definitions

Additional Internet Broadcast Fee: The additional fees chargeable for the Broadcast of Type B Value Added Services over the open Internet.

Archive-Products: The items of the ECMWF archive catalogue.

Broadcast/Broadcasting: The Dissemination of Value Added Services by means that are publicly accessible including, but not limited to, Internet, terrestrial, or satellite transmissions.

Broadcaster/Publisher: The recipient or producer of Value Added Services who provides a service by means of Broadcasting or publishing in any form.

Contractor: A person or entity that enters into a contract with the Licensee to provide services to the Licensee which require that the Contractor accesses the Products in order to provide such services.

Co-operating State: A State with which a co-operation agreement providing for access to ECMWF data and Products has been concluded. See also "Type 1 Co-operating State" and "Type 2 Co-operating State".

Dissemination: Supply via public media e.g. Broadcasting.

Distribution: Controlled transmission or supply to clearly identified and known users.

ECMWF Catalogue: The list of ECMWF Type A Products for Distribution or Dissemination by NMSs of ECMWF Member States and Co-operating States and ECMWF.

ECMWF Delivery: Distribution of Products directly from ECMWF to the Licensee.

Educational Use: Any use of the Products solely for educational purposes, without passing the Products on to any third party, nor using them to generate Value Added Services.

End User: The recipient of Products or Value Added Services, who uses them for their own commercial, industrial, or personal purposes and does not pass them on to any third party, nor uses them to generate Value Added Services.

Essential Products: Products which are made available by decision of the ECMWF Council on a free and unrestricted basis.

Maximum Charge Customer: The Licensee who pays the maximum information charge, i.e. the cap set by the ECMWF Council to the information charge.

Member States: The States which are parties to the Convention for the Establishment of a European Centre for Medium-Range Weather Forecasts.

National Meteorological Service (NMS): The service in a Member State or Co-operating State that is responsible at the national level, in conformity with its legal status, for the gathering, classification and production of meteorological information in the national interest, and responsible at the international level for participating in WMO programmes.

NMS Delivery: Distribution of Products from the Member State or Co-operating State National Meteorological Service to the Licensee.

Products: The Type A Products.

Product Daily Volume: The daily volume of the Products delivered to the Licensee via ECMWF Delivery or NMS Delivery, including the Archive-Products retrieved by the Licensee from the ECMWF archive.

Research Project: Any project organised for non-commercial research purposes only. A necessary condition for the recognition of non-commercial purposes is that all the results obtained are openly available at delivery costs only, without any delay linked to commercial objectives, and that the research itself is submitted for open publication.

Research or Educational User: The recipient of the Products who uses them for Educational Use or for a Research Project.

Schedule Change Fees: The fees levied for changes to the Schedule of Products in case of ECMWF Delivery.

Schedule of Products: The detailed list of Products agreed by the Licensor for Distribution to the Licensee and subject to variation in accordance to this agreement.

Service Provider: The recipient of Products who uses them in order to Distribute Value Added Services under specific conditions to third parties who are clearly identified and known to the Service Provider.

Subsidiary: Any subsidiary of the Licensee which is controlled by the Licensee by means of the Licensee holding the majority of the voting rights (50% plus one vote).

Type 1 Co-operating State: A State that has concluded a co-operation agreement before April 2005 or concluded a co-operation agreement for eventual accession to the ECMWF Convention.

Type 2 Co-operating State: A State that has concluded a co-operation agreement for scientific and technical co-operation.

Type A Products: All real-time meteorological information that results from the transformation or processing of data sets by the ECMWF forecasting system in the form of pictures, charts, text or data files, and has been prepared specifically to meet the operational requirements of an NMS.

Type B Value Added Services: VAS derived from Type A Products by non-meteorological processing beyond pure delivery such as colouring, formatting, geometric transformation, etc. or which display original Type A Products and from which the original Type A Products can be retrieved easily or their use can be identified unambiguously.

Type C Value Added Services: VAS generated through processing, where the original Type A Products or Type B VAS cannot be retrieved easily and their use cannot be identified unambiguously.

Value Added Services (VAS): All meteorological services specifically conceived to meet the needs of third parties and made available under specific conditions.

Web Products: The items of product set VII of the ECMWF Catalogue.

Article 2.

Object

The object of this agreement is to define the conditions under which the Licensee may use ECMWF Products.

Article 3.

Purpose

1. If the Licensee is defined in Annex 1 to this agreement as a **Service Provider/Broadcaster**, the Licensee is authorised to use on a non-exclusive basis the Products detailed in the Schedule of Products:
 - for its own internal purposes;
 - to Distribute Type B Value Added Services to End Users;
 - to Broadcast Type B Value Added Services, subject to the payment of the Additional Internet Broadcast Fee where Dissemination occurs over the open Internet;
 - to Distribute Type B Value Added Services to Broadcasters solely for the purpose of Broadcasting, subject to the payment of the Additional Internet Broadcast Fee where Dissemination occurs over the open Internet;
 - to Distribute and Broadcast Type C Value added Services.
2. If the Licensee is defined in Annex 1 to this agreement as an **End User**, the Licensee is authorised to use on a non-exclusive basis the Products detailed in the Schedule of Products for its own internal commercial, industrial, or personal purposes but is not authorised to use them to generate Value Added Services.
3. If the Licensee is defined in Annex 1 to this agreement as a **Research or Educational User**, the Licensee is authorised to use on a non-exclusive basis the Products detailed in the Schedule of Products only for the Research Project or Educational Use described in the Scope of Use.

Article 4.

Exclusions

1. The use of the Products is limited to the purpose of the licence detailed in Article 3 hereof.
2. The Licensee shall not use, store or deal with the Products or any associated data, software, documentation or other information in a manner that contradicts the purpose as detailed in Article 3 hereof without the prior written consent of the Licensor.
3. The Licensee shall not reproduce, distribute, license, transfer, assign, sell, disclose to or otherwise forward the Products or any associated data, software, documentation, or other information to any third party other than as provided for in Articles 3, 5.8 and 5.9 without the prior written consent of the Licensor.
4. The Licensee shall not use the Products for the provision of services other than as authorised under Article 3 hereof.
5. The Licensee, when Broadcasting Type B Value Added Services or Distributing Type B Value Added Services to Broadcasters, must ensure that recipients of the broadcasted Type B Value Added Services are not granted any rights beyond those granted to End Users.
6. Nothing in this licence shall prevent the Licensee from making necessary back-up copies or otherwise exercising a right in relation to the Products which cannot be excluded by agreement.

Article 5.

Conditions

1. ECMWF reserves the right to discontinue a Product that is in the ECMWF Catalogue.
2. ECMWF reserves the right to reclassify Products as Essential Products.
3. The Licensor shall inform the Licensee in writing three months in advance of the effective date of any discontinuation, or reclassification of Products, in accordance with Article 5.1 and 5.2, which are part of the Schedule of Products.
4. In accordance with Article 5.1 to 5.3, if, for any reason whatsoever, a discontinuation without the provision of suitable replacement Products, or a reclassification of one or more of the Products detailed in the Schedule of Products occurs without the provision of suitable replacement Products, the fees for the period involved as agreed in Article 7 hereof will be decreased pro-rata. Such a decrease of fees is not applicable to Maximum Charge Customers.
5. The Licensee who subscribes to Web Products is subject to the following additional conditions:
 - a) Access to all analysis and forecast Web Products is provided on an 'as is' basis; the range of Web Products will be adjusted in the light of experience and in response to the evolution of the forecasting system; newly developed items will be added but others may be removed.
 - b) ECMWF endeavours to provide the Web Products with operational priority but the entire Web service or selected Web Products may be unavailable for up to 24 hours.
 - c) Subscribers to Web Products may view them using interactive software which accesses the products directly from ECMWF systems; no other downloading aided by computer programs is permitted.
 - d) Web Products cannot be redistributed nor used in any publication, website, television broadcasting or via any other media.
6. The Licensee who is defined as a Maximum Charge Customer in Annex 1 to this agreement, is subject to the following additional conditions:
 - a) The Licensee has the right to receive any of the Products available from the ECMWF Catalogue.
 - b) Product delivery to the Licensee is based on the Schedule of Products.
 - c) In case of ECMWF Delivery, after the initial two month set-up phase, the number of changes to the Schedule of Products by the Licensee during each twelve month period of the agreement must not exceed the Schedule Changes Limit as set in Annex 1 to this agreement.
 - d) In case of NMS Delivery, the Licensee may agree changes to the Schedule of Products with the NMS according to the administrative procedures of the NMS.
 - e) Access to Archive-Products is provided upon the Licensee's request and subject to the acceptance of the applicable terms and conditions for Archive-Products.
 - f) Access to Archive-Products is granted by using tools provided by ECMWF and is subject to the payment of the appropriate handling charges, depending on the use of the archive.

- g) Retrieval of Archive-Products from the archive shall not exceed the Annual Archive-Products Retrieval Allowance as set in Annex 1 to this agreement.
 - h) The Product Daily Volume shall not exceed the limits as set in Annex 1 to this agreement.
7. The Licensee who is not defined as a Maximum Charge Customer in Annex 1 to this agreement and receives the Products via ECMWF Delivery, is subject to the following additional conditions:
- a) The Licensee will be allowed a maximum of four changes per contract year to the Schedule of Products, free of any Schedule Change Fees.
 - b) Additional Schedule Change Fees shall be charged for any further change to the Schedule of Products within the contract year.
8. Subject to Article 5.10, the Licensee is authorised to distribute the Products to the Subsidiaries listed in Annex 1 to this agreement.
9. The Licensee is authorised to distribute the Products to Contractors solely for the purpose of allowing the Contractors to provide services to the Licensee. Any other use and any redistribution by Contractors is prohibited and shall be considered as a default of the Licensee and shall render the Licensee liable vis-à-vis the Licensor and shall lead, in particular, to the application of Article 9 hereinafter.
10. The Subsidiaries are entitled to use the Products for the same purposes as the Licensee. Any other use and any redistribution by Subsidiaries is prohibited and shall be considered as a default of the Licensee and shall render the Licensee liable vis-à-vis the Licensor and shall lead, in particular, to the application of Article 9 hereinafter.

Article 6.

Duration

Subject to fulfilling its obligations in this agreement, the Licensee shall be entitled to exercise the rights set out in Article 3 hereof in the period specified in Annex 1.

Article 7.

Fees

- 1. The rights set out in Article 3 hereof are subject to the payment of fees, as detailed in Annex 1 to this agreement.
- 2. The Licensee shall make payments according to the payment schedule set out in Annex 1 to this agreement.
- 3. All payments shall be made into :

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BICcode INGBNL2A

Details on payment will be set out on invoices.

4. The annual fees may be changed by the Licensor, giving the Licensee six months notice of such change in writing. Within the period of this agreement these fees are firm, fixed, i.e. without adjustment or revision of the fees of any sort other than as permitted in this Clause.
5. Notwithstanding Clause 4 of this Article, the parties may at any time negotiate variation to the Schedule of Products with corresponding revision of fees.

Article 8.

Ownership of Intellectual Property Rights

1. All Intellectual Property Rights of the Products owned by ECMWF shall remain the property of ECMWF and the Licensee acknowledges the full title and ownership by ECMWF of all the Products supplied.
2. The Intellectual Property Rights to Type B Value Added Services are shared between ECMWF and the Service Provider/Broadcaster generating the Value Added Service.
3. The Licensee acknowledges that the supplied Products are protected from use by unauthorised third parties by ECMWF's intellectual property rights and by unfair competition law.
4. When using the Products for the provision of the services referred to in Article 3 in any recognisable form, the Licensee should mark the Products with an acknowledgement indicating ownership, as follows: " © [year] ECMWF ".

If the Licensee does not use the mark specified in this Clause, the Licensee shall make no reference to ECMWF or the Licensor and may not publicise the source of the Products and shall not use ECMWF's, or the Licensor's, name in association with the services referred to in Article 3.

5. The following wording should be attached to the services referred to in Article 3:

" this service is based on data and products of the European Centre for Medium-range Weather Forecasts ".

If the Licensee does not use the exact wording specified in this Clause, the Licensee shall make no reference to ECMWF or the Licensor and may not publicise the source of the Products and shall not use ECMWF's, or the Licensor's, name in association with the services referred to in Article 3.

6. The Licensee accepts all responsibility and liability for the Value Added Services and shall not claim to any customer, or potential customer, accuracy of the Products which are components of the Value Added Services inappropriate to the scientific basis of such Products.

Article 9.

Default

Default and the consequences thereof shall be governed by the Dutch legal system. In addition:

1. Default by the Licensee of its obligations under this agreement shall entitle the Licensor to terminate this agreement without notice. The Licensor shall furthermore be entitled to full damages regardless of whether this agreement is terminated.

2. Without excluding the Licensor's rights to invoke other legal sanctions related to default in payments (e.g. termination) the Licensee shall, in cases of any late payment, pay interest for the period of delay at the rate of 5% above the three month EUR market rate.

Article 10.

Termination

1. This agreement may be terminated at any time by the Licensee or by the Licensor upon three months written notice to the other party and the annual fees payable to the Licensor shall be reduced pro rata.
2. Either party may terminate this agreement by notice upon a material breach of this agreement by the other party. Where the breach is capable of remedy, the notice shall specify the breach and allow 30 days for the breach to be remedied, failing which the notice shall come into effect. In other cases, the notice shall have immediate effect.

Article 11.

Warranty and Liability

1. The Licensor warrants that it has the authority to enter into this agreement.
2. The Licensor makes no warranty as to the accuracy or completeness of the Products or the uninterrupted provision of the Products. All Products are provided on an "as is" basis. Any warranty implied by statute or otherwise is hereby excluded from this agreement to the fullest extent permissible by law.
3. If any of the Products are temporarily unavailable for a continuous period exceeding 48 hours due to an act or omission of the Licensor, the fees specified in Article 7 for the Products which are unavailable shall be reduced pro rata for the period of unavailability. There will be no reduction in fees for interruptions of 48 hours or less.
4. The Licensee shall be responsible for ensuring that its employees, Subsidiaries and Contractors use the Products in accordance with the terms of this agreement.
5. Neither party shall be liable to the other under any cause of action for any loss of profit or loss of revenue (whether direct or indirect); any indirect loss; loss of goodwill, reputation or opportunity; or any loss of or corruption of data however so arising out of or in connection with this agreement whether or not that party had been informed of or was aware that there was a serious possibility of such loss.
6. The liability of the Licensor however so arising out of or in connection with this agreement under any cause of action shall not exceed the fees paid in accordance with Article 7.
7. Notwithstanding any contrary provision in this agreement, neither party limits or excludes its liability in respect of any death or personal injury caused by its negligence; any fraud; or any statutory or other liability which cannot be excluded or limited under applicable law.
8. Neither the Licensor nor ECMWF shall be liable should ECMWF discontinue the provision of the Products at any time.
9. ECMWF shall have no liability in contract, tort or otherwise arising out of or in connection with this agreement, except when ECMWF is the Licensor.

Article 12.

Force Majeure

Neither ECMWF nor the Licensor shall be liable for failure to fulfil this agreement due to circumstances outside the control of the Licensor and/or ECMWF which could not have been foreseen at the time of entering into this agreement and which could not be reasonably avoided or overcome by the Licensor and/or ECMWF. For the avoidance of doubt, delay or corruption of the Products due to transfer over the Internet shall be considered to be Force Majeure.

Article 13.

Dispute

This agreement shall be governed by, and construed in accordance with, Dutch law. Each of the parties irrevocably submits to the exclusive jurisdiction of the Dutch Courts.

In the event of a dispute relating to this agreement, and with the agreement of both parties hereto, such dispute shall be referred to arbitration. This clause shall not in any way impede either parties rights under the Laws of The Netherlands to take action in the Dutch Courts.

Article 14.

Transfer of Agreement

The Licensee shall not transfer the benefit or burden of this agreement in whole or in part.

Article 15.

Waiver

If a party fails to enforce, or delays in enforcing, an obligation of the other party, or fails to exercise, or delays in exercising, a right under this agreement, that failure or delay will not affect its right to enforce that obligation or constitute a waiver of that right. Any waiver of any provision of this agreement will not, unless expressly stated to the contrary, constitute a waiver of that provision on a future occasion.

SIGNED

In (place)

In..... (place)

on (date)

on..... (date)

title

title

for **KNMI**

for **GCRI CAS**

.....

.....

ANNEX 1.

AGREEMENT TYPE

End User x Service Provider/Broadcaster Research or Educational User

MAXIMUM CHARGE CUSTOMER

Yes No

DELIVERY TYPE

x NMS Delivery ECMWF Delivery

DURATION

Commencement date of agreement: **1th August 2016**

Termination date of agreement: **31th July 2017**

SCOPE OF USE

Providing early warnings for farmers, foresters and key decision makers in near-real time combining ground-data-based modelling, remote sensing and expert assessment by crowd-sourcing.

FEES

[See Annex with Product details](#)

PAYMENT SCHEDULE

The first payment of the year shall be by the date of **"Upon receipt of invoice"**

Payment scheme **monthly**

CURRENT ADDITIONAL CHARGES AND LIMITS

Contract Amendment Fees: **N/A**

Schedule Change Fees: **N/A**

Annual Archive-Products Retrieval Allowance: **N/A**

Schedule Changes Limit: **N/A**

Product Daily Volume	Delivery Fees
Up to Enter Value set by ECMWF GB	N/A
Up to Enter Value set by ECMWF GB	Enter Value set by ECMWF
Up to Enter Value set by ECMWF GB	Enter Value set by ECMWF
Up to Enter Value set by ECMWF GB	Enter Value set by ECMWF
Up to Enter Value set by ECMWF GB	Enter Value set by ECMWF
Up to Enter Value set by ECMWF GB	Enter Value set by ECMWF