

# **SOFTWARE LICENCE**

# **PARTICULARS**

LICENSOR'S DETAILS	The European Centre for Medium range Weather
	Forecasts ( <b>ECMWF</b> )
ECMWF's address:	Shinfield Park, Reading, RG2 9AX, UK
ECMWF's contact details:	Name of main contact: Mr Fabio Venuti
	Telephone number: +44 118 949 9422
	Email address: Fabio.venuti@ecmwf.int
Licence Reference Number:	SW-2441

LICENSEE'S DETAILS	
Licensee's name:  legal identity of the organisation taking the licence	Max-Planck-Gesellschaft zur Förderung der Wissenschaften e.V.
Licensee's address:	Hofgartenstrase 8, 80539 Munchen
Licensee's contact details:	Name of main contact: Reinhard Budich Telephone number: +49 40 41173369 Email address: reinhard.budich@mpimet.mpg.de

SOFTWARE	Scheme	Process	Origin
	ecRad	Radiation	IFS

Licence Term	Tick/Cross out as appropriate
	Perpetual √

Permitted Use	The Licensee may use the Software, as part of IC		
The words and phrases in this	for Educational Use and/or for Non-Commercial		
	Research.		
	The Licensee may also grant sub-licences of the		
	Software on condition that:		
	1. the Software is incorporated in ICON; and		

2. each sub-li	censee	is permit	ted to	use ICON only for
Educational	Use	and/or	for	Non-Commercial
Research.				

FEE	Tick/Cross out as appropriate
	No Fee √

SPECIAL CONDITIONS (if any)	None
Note: Anything documented in this section will override the Licence Terms to the extent that they conflict.	



DATE

# **SOFTWARE LICENCE TERMS**

# 1. DEFINITIONS AND INTERPRETATION

JOB TITLE

1.1 In this Licence, the following words and expressions shall have the following meanings:

**Authorised Use of Modifications:** Use of one or more Modifications for any of ECMWF's legitimate business purposes, copying, modifying, adapting, altering, translating or creating derivative works from, a Modification and distributing copies of a Modification and its source code to any person (Note - this phrase only applies to ECMWF's use of Modifications made by the Licensee);

**Benchmarking Use:** Use of the Software for the sole purpose of compiling and executing benchmarking and scalability experiments and use of the Software only in conjunction with the data sets supplied by ECMWF for that specific purpose;

**Commercial Use:** Use of the Software for the Licensee's usual business purposes and anything reasonably incidental to them;

**Educational Use:** Use of the Software solely for educational purposes, without passing the Software or any part of it on

to any third party and not using it to generate Value Added Services:

**ECMWF:** The European Centre for Medium-Range Weather Forecasts, whose identity as the licensor and whose contact details are set out in the attached Licence Particulars;

**Fee:** The handling or licence fee, if any, mentioned in the Licence Particulars, which must be paid by the Licensee, within 30 days of receipt of an invoice for the same from ECMWF;

**ICON:** The global weather forecasting model, which the Licensee has helped to develop.

IPR: All patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

**Licensee:** The licensee who's name and contact details are set out in the attached Licence Particulars:

**Modifications:** Amendments corrections additions or alterations to the Software or adaptations of the Software to make the Software more efficient or more effective (excluding code which is designed to work in combination with the Software but from which the Software remains independent);

Non-Commercial Research: Original investigation which is submitted for peer review and open publication and the results of which are made public as soon as reasonably practicable, without any delay linked to commercial objectives, without restriction of access and at a fee which does not exceed the cost of delivery; and

which does not involve the production or dissemination of live (real-time) data feeds; and

which is not associated with the provision by the Licensee of Value Added Services;

Party/Parties: ECMWF and the Licensee;

**Permitted Use:** Use of the Software **only** as indicated in the Licence Particulars (such use(s) being explained and defined in these Licence Terms), **including:** 

loading and running of the Software, by the employees and authorised contractors of the Licensee;

making Modifications (provided that if the Permitted Use indicated in the Licence Particulars is Benchmarking Use, the Licensee may modify the Software only for the

purpose of optimizing the code to execute benchmarks more efficiently on a given computer architecture);

adapting, altering, translating or creating derivative works from, the Software;

copying and storing the Software for the Permitted Use and for backup purposes;

decompiling the Software to the extent permitted by the law applicable to this Licence;

#### But excluding:

use of the Software or any part of it for purposes other than those of the Licensee;

loading or running of the Software or any part of it by any individuals or legal persons other than the employees and authorised contractors of the Licensee;

transmission or distribution of the Software or any part of it or any copies in any form to a third party;

Software: The software identified in the Licence Particulars, together with: the tools, documentation and data files necessary to make Permitted Use of the Software; such access to the source code of the Software as reasonably necessary (in ECMWF's opinion) to enable the Licensee to develop Modifications; the information necessary to achieve de-compilation of the Software, where required by applicable law; Upgrades which may be delivered to the Licensee from time to time;

**Sub-Licensee:** a person of reputable and trustworthy legal standing who/which is granted a sub-licence, by the Licensee to use the Software, within a licence to use ICON;

**Upgrade:** Any improvement, enhancement or amended version of the whole or a part of the Software that may be issued by ECMWF from time to time;

Value Added Services: Meteorological services specifically conceived to meet the needs of third parties and made available under specific conditions;

- 1.2 The headings used in this Licence are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of any of the terms themselves:
- 1.3 Each provision of this Licence shall be construed separately. In the event that any provision shall be determined by any competent authority to be invalid, unlawful or unenforceable to any extent, such provision shall to that extent be severed from the remaining provisions which shall continue to be valid to the fullest extent permitted by law.

# 2. LICENCE

2.1 ECMWF hereby grants to the Licensee a non-exclusive nontransferable licence to make Permitted Use of the Software, within ICON and to grant sub-licenses such that a Sub-

- Licensee may make Permitted Use of the Software, within ICON:
- 2.2 If and to any extent that the Licence Particulars are inconsistent with the Licence Terms, the Licence Particulars shall prevail;
- 2.3 ECMWF warrants that it has the right to grant the Licensee this Licence;

#### 3. DATE AND TERM

- 3.1 This Licence shall take effect on the date it is signed by an authorised representative of the Licensee;
- 3.2 Subject to the termination provisions below, this Licence shall last for the term set out in the Licence Particulars;

#### 4. LICENSEE'S GENERAL OBLIGATIONS

- 4.1 The Licensee shall pay the Fee, if any;
- 4.2 The Licensee shall supervise and control use of the Software in accordance with the terms of this Licence;
- 4.3 The Licensee shall not except as expressly permitted by this Licence and save to the extent permitted by law, rent, lease, lend, copy, modify, adapt, merge, translate, reverse engineer, decompile, disassemble or create derivative works based on the whole or any part of the Software or its associated documentation or use, reproduce or deal in the Software or any part of it in any way;
- 4.4 The Licensee shall notify ECMWF immediately if the Licensee becomes aware of any unauthorised use of the whole or any part of the Software by any person;
- 4.5 The Licensee agrees to take all reasonable steps to prevent any damage to or infringement of ECMWF's IPR;

## 5. MODIFICATIONS

- 5.1 The Licensee hereby grants to ECMWF a perpetual nonexclusive royalty-free worldwide transferable and sublicensable licence to make Authorised Use of Modifications;
- 5.2 The Licensee shall retain, in the source code of any Modifications, all attribution notices and IPR notices, which were included in the Software and include further notices, which identify the Licensee as a contributor to or of the Modification and which are compatible with and accurately reflect any license granted in respect of the Modification under this License:

## 6. LIMITS OF LICENCE

- 6.1 The Software is supplied on an "as is" basis and ECMWF gives no representation or warranty as to its accuracy, completeness or fitness for any purpose;
- 6.2 This Licence does not include any software support or maintenance;

- 6.3 ECMWF does not exclude liability for death or personal injury to the extent that the same arises as a result of its negligence or the negligence of its employees, agents or authorized representatives;
- 6.4 Subject to Clause 6.3 above, ECMWF shall not be liable to the Licensee for any loss or damage arising in connection with this Licence, the Software or its use, except to the extent to which it is unlawful to exclude such liability under the applicable law.
- 6.5 All IPR in the Software and any Upgrade shall be owned by ECMWF and its licensor(s). The Software remains the property of ECMWF and, if applicable, its licensor(s) and the Licensee's right to make Permitted Use of the Software and to grant a sub-licence such that the Sub-Licensee can make Permitted Use of the Software will not give the Licensee or the Sub-Licensee any ownership rights or other interest in any of the Software.

#### 7. CONFIDENTIALITY

- 7.1 The Licence Particulars and all information, documentation, source or object code which ECMWF may impart to the Licensee relating to the Software is proprietary and confidential. The Licensee hereby agrees that it shall use the same solely in accordance with the provisions of this Licence and that, except as required for its relationship with a Sub-Licensee, it shall not at any time during or after the expiry or termination of this Licence, disclose the same, whether directly or indirectly, to any third party without ECMWF's prior written consent;
- 7.2 The Licensee shall ensure that any person it permits to use the Software is aware of and complies with the confidentiality provisions of this Licence. If the Licensee becomes aware of any breach of confidentiality by any such person or by any third party, the Licensee shall promptly notify ECMWF and give it reasonable assistance in connection with any enquiries or claims, which ECMWF may make as a result;

# 8. TERMINATION

- 8.1 ECMWF may terminate this Licence with immediate effect by giving notice if the Licensee commits any breach of any term of this Licence and (in the case of a breach capable of being remedied) shall have failed to remedy the breach within thirty (30) days after receiving ECMWF's written request for the breach to be remedied (such request to contain a warning of ECMWF's intention to terminate in the absence of a remedy);
- 8.2 Upon termination of this Licence, the Licensee shall delete all copies of the Software in its possession or control and, if requested by ECMWF, certify in writing to ECMWF that the Software has been deleted;
- 8.3 The termination of this Licence (howsoever occasioned) shall not affect any accrued rights of either party nor shall it affect the coming into force or the continuance in force of any provision which is expressly or by implication intended to come into or continue in force on or after such termination.

### 9. MISCELLANEOUS

- 9.1 Any notice required or permitted by this Licence shall be written and sent by email to the recipient's principal contact, at its principal place of business (as set out in the Licence Particulars);
- 9.2 Neither Party shall be bound by any change to any of the terms of this Licence, unless such change is set out in writing and signed by an authorised representative of both Parties.
- 9.3 The Parties intend that this Licence is the sole and entire agreement between them relating to the Software and they hereby agree that it supersedes all prior agreements or arrangements relating to the same. ECMWF hereby excludes any offers, agreements, warranties, undertakings or other representations made about the Software to the

- Licensee unless they were fraudulently made or they are repeated in the terms of this Licence.
- 9.4 A person who is not a Party to this Licence shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.
- 9.5 This Licence is governed by and shall be interpreted in accordance with the laws of England. The Parties shall attempt to settle any dispute amicably but if it cannot be so settled, it shall be finally settled under the Rules of Conciliation and Arbitration of the International Chamber of Commerce, by three arbitrators, appointed in accordance with the said rules, sitting in London and conducting the proceedings in English. In accordance with Sections 45 and 69 of the Arbitration Act 1996, the parties hereby agree that a right of appeal by either of them, to the High Court, 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 excluded.