

Contract

between

Bundesrepublik Deutschland
-Deutscher Wetterdienst (DWD)-
Frankfurter Strasse 135, 63067 Offenbach, Germany

and

Max Planck Institute for Meteorology (MPI-M)
Bundesstrasse 53, 20146 Hamburg, Germany

represented by

Deutscher Wetterdienst (DWD)
Head of Business Area 'Research and Development'
Member of the Executive Board
Prof. Dr. Sarah Jones

- (hereinafter referred to as „the Licensors“)

and

The Research Institute

(Name, Address, represented by the Director)

- (hereinafter referred to as „the Research Institute“)

concerning

Licensing of the ICON-Software for non-commercial research purposes

1. Preamble

- 1 In recent years the Deutscher Wetterdienst (DWD) and the Max Planck Institute for Meteorology (MPI-M) have jointly developed the comprehensive modelling framework ICON (ICOsahedral Nonhydrostatic) for numerical weather prediction, climate simulation and process studies.
In the project HD(CP)², funded by the Federal Ministry of Education and Research (BMBF), the ICON-Software has been extended to allow LES (Large Eddy Simulation) type applications.
The special development partner Karlsruhe Institute for Technology (KIT) added to ICON the ART (aerosols and reactive trace gases) modules for environmental applications.
- 2 DWD and MPI-M – the “Licensors” in the following - are willing to make available and share the ICON-Software within the scientific community for non-commercial research purposes under this ICON License Contract.
In the framework of this development cooperation DWD is responsible for all contractual procedures while MPI-M takes care of the ICON-Software distribution.
The access and non-commercial research use of the ART modules developed by KIT requires an additional licensing contract with KIT.

2. Object of the contract

- 3 Subject to the provisions of this contract, the Licensors grant to the Research Institute the right to use the following copyright-protected software referred to hereinafter as the "ICON-Software". This model software package includes the source code, executable programs, documentation, run scripts and data files.

Name: ICON modelling framework

Short description: Non-hydrostatic numerical model for the simulation of the atmosphere, the ocean and the surface/soil.

Access: The ICON-Software is accessible to the Research Institute via a password protected server at MPI-M.

3. Licensing conditions

- 4 In accordance with n. 3 above, the ICON-Software is licensed for local use by the Research Institute solely and exclusively for non-commercial research purposes.
- 5 Notice of copyright, serial numbers or any other means used for the identification of the ICON-Software may not under any circumstances be removed or altered.
- 6 The licensing or any other transfer of the ICON-Software to a third party is not permitted. Each and any use of the ICON-Software beyond the above stipulated rights of use by the Research Institute is not permissible and is regarded as a breach of this contract.

- 7 Products (e.g. model forecasts/simulations) obtained from the use of the ICON-Software may be used only and exclusively for non-commercial research purposes.
- 8 Any transfer and/or commercial exploitation of the products going beyond this is not permitted.
- 9 The Research Institute is itself responsible for the installation of the ICON-Software.
- 10 The Licensors must ensure that the ICON-Software is protected from misuse and false statements about its characteristics and performance. Therefore, all alterations to the ICON-Software by the Research Institute have to be marked clearly and publications of results obtained with modified versions of the ICON-Software must contain a description of the changes made.
- 11 The Research Institute is obliged to release to the Licensors in an appropriate form the outcomes and products of any work for which the supplied ICON-Software was used and, if applicable, to discuss with the Licensors on the occasion of work-related meetings any developments to the ICON-Software produced by the Research Institute and to release to the Licensors the outcomes resp. the further-developed ICON-Software in a suitable form.

4. Intellectual property rights of the ICON-Software

- 12 The intellectual property rights of the ICON-Software belong to the Licensors and other third parties (the "IP-Rights Beneficiaries"). The Research Institute acknowledges and agrees that all intellectual property rights of the ICON-Software shall fully remain with the IP-Rights Beneficiaries.
- 13 The ICON-Software is protected by the laws covering intellectual property rights, by international contracts and other national legal regulations prohibiting unauthorized copying.
- 14 The rights to all intangibles are retained by the Licensors.

5. Intellectual property rights of the outcomes and further development of the ICON-Software

- 15 The intellectual property rights to the outcomes (i.e. all knowledge that could be derived from the usage of the ICON-Software, in particular through the scientific analysis of the products generated) and the further development of the software belong to the contributing party of this contract. The Licensors have the non-exclusive, free of charge and unlimited in time right to use the outcomes and further developments of the ICON-Software.
- 16 The Research Institute has the right to use all outcomes and further developments of the ICON-Software free of charge for non-commercial research and teaching purposes, also within the framework of research collaboration of the Research Institute with third parties, in all fields of application. Any direct transfer of the ICON source code is not permitted unless authorized by the Licensors.

6. Obligation of protection

- 17 The Research Institute ensures that no other use of the ICON-Software takes place other than those contractually stipulated.
- 18 The Research Institute organizes the appropriate instruction of staff, puts in place security measures customary in the industry and carries out regular inspections to rule out any application which contravenes the terms of the contract.
- 19 Should any application of the ICON-Software occur which is in contravention of the contract, the Licensors reserve the right to withdraw completely from the contract without any further notice and at any time.

7. Charges and payment modalities

- 20 The licensing of the ICON-Software is free of charge for non-commercial research purposes.

8. Warranty, liability, software support and further development

- 21 The Licensors exclude any warranty for the ICON-Software.
- 22 The Licensors do their utmost to guard against any faults or defects in the ICON-software provided. However, the Licensors cannot guarantee the freedom from error of the content of the ICON-software.
- 23 Under no circumstances, including negligence, shall the Licensors be liable for any incidental, special, indirect or consequential damages arising out of or relating to this licence.
- 24 The Licensors do not provide any support for the ICON-Software.
- 25 New reference versions resulting from the further development of the ICON-Software may be made available to the Research Institute upon request.
- 26 The Research Institute is obliged to inform the Licensors about any errors detected in the released ICON-Software and/or about any further developments which have been carried out and to make the latter available free of charge and unlimited in time to the Licensors for its unrestricted use and transfer.

9. Duration/right of termination/contract termination

- 27 This contract is valid for a period of three years. It comes into effect on the first day of the month following the last signature to the contract.
- 28 It will be extended tacitly, automatically and repeatedly for a further year should neither of the contract parties duly give 3 months' in advance a written notice of termination of the contract to the end of a contract year.

- 29 The right to termination due to a contravention of the contract is thereby not affected.
- 30 Upon termination of the contract all versions of the ICON-Software in the possession of the Research Institute, including the source code and all documentation it might have, are to be destroyed within 30 days. The Research Institute is obliged to confirm to the Licensors such destruction.

10. Ancillary agreements/changes to the contract

- 31 Ancillary and all agreements which contain a change, addition or particularization of the contract have to be in written form.

11. Severability clause

- 32 Should any of the provisions of this contract be invalid or not enforceable, the validity of the remaining contents of the contract remains thereby unaffected.
- 33 In such case, the Parties shall reach an agreement on the necessity of filling the regulatory gap arising therefrom. Any replacement provision shall have to comply with the purpose, the intended balance and the spirit of the contract.

12. Transfer and assignment

- 34 Neither this contract nor any individual rights and obligations under this contract may be transferred or assigned to any third party who is not a signatory of the contract.

13. Scope of the contract

- 35 This contract contains the contractual conditions in their entirety. It replaces completely any pre-contractual, verbal or written agreements.

14. Dispute settlement, applicable law and jurisdiction

- 36 The Contracting Parties shall settle any dispute under this Contract in advance by negotiation. Legal proceedings shall only be taken into consideration in the case that negotiations fail.
- 37 The applicable law shall be that of Germany.
- 38 For all controversies out of the present contract the place of jurisdiction shall be Offenbach (Germany).

15. Copies and signatures

- 39 This contract is issued in two identically-worded originals. Each Party of the contract receives an original.

Deutscher Wetterdienst (DWD, Germany)

Place, date,

Name, function

The Research Institute

Place, date:

Name, function