

OPENWEATHER END-USER LICENCE AGREEMENT

between

OpenWeather Limited

and

Customer

Parties

- (1) **OpenWeather Limited** incorporated and registered in England and Wales with company number 11047846 whose registered office is at 30 St. Mary's Axe, The City Of London, London, Greater London, United Kingdom, EC3A 8BF (**Supplier**)
- (2) **Customer** - a Person exercising rights under this License who has not previously violated the terms of this License with respect to the Licensed Content, or who has received express permission from the Licensor to exercise rights under this License despite a previous violation.

BACKGROUND

- (A) The Supplier is the entire legal and beneficial owner and licensor of Licensed Content listed in Annex A and is willing to license the Customer to use these products.

Agreed terms

1. Interpretation

- 1.1 The definitions and rules of interpretation in this clause apply in this licence.

Affiliate: includes, in relation to either party, each and any subsidiary or holding company of that party and each and any subsidiary of a holding company of that party

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Control: a business entity shall be deemed to "control" another business entity if it owns, directly or indirectly, in excess of 50% of the outstanding voting securities or capital stock of such business entity, or any other comparable equity or ownership interest with respect to a business entity other than a corporation OR as defined in section 1124 of the Corporation Tax Act 2010.

Fee: the licence fee payable by the Customer to the Supplier under Clause 3.

Heightened Cybersecurity Requirements: any laws, regulations, codes, guidance (from regulatory and advisory bodies, whether mandatory or not), international and national standards, industry schemes and sanctions, which are applicable to either the Customer or its end users (but not the Supplier) relating to security of network and information systems and security breach and incident reporting requirements, which may include the Network and Information Systems Regulations 2018 (*SI 506/2018*), all as amended or updated from time to time.

Intellectual Property Rights: patents, utility models, rights to inventions, copyright and related rights, trademarks and service marks, trade names and domain names, rights in

get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, including all applications for (and rights to apply for and be granted), renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, in any part of the world.

Maintenance Release: release of the Licensed Content that corrects faults, adds functionality or otherwise amends or upgrades the Licensed Content, but which does not constitute a New Version.

Policies: The Supplier's business policies and codes listed in Schedule 1, as amended by notification to the Customer from time to time.

Licensed Content: Supplier's licenced content - all the content made available by the Supplier to the Customer under this agreement.

Value-added Services (VAS): all services which are derived from Licensed Content and specifically conceived for the needs of users and made available under specific licence conditions.

Non-retrievable Value-added Services (NVAS): Any VAS from which the original Licensed Content cannot be retrieved or reverse engineered.

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

Project: Development or reverse-engineering of any meteorological services or NVAS.

- 1.1 **Holding company** and **subsidiary** mean a "holding company" and "subsidiary" as defined in section 1159 of the Companies Act 2006 and a company shall be treated, for the purposes only of the membership requirement contained in subsections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of (a) another person (or its nominee), whether by way of security or in connection with the taking of security, or (b) its nominee. In the case of a limited liability partnership which is a subsidiary of a company or another limited liability partnership, section 1159 of the Companies Act 2006 shall be amended so that: (a) references in sub sections 1159(1)(a) and (c) to voting rights are to the members' rights to vote on all or substantially all matters which are decided by a vote of the members of the limited liability partnership; and (b) the reference in section 1159(1)(b) to the right to appoint or remove a majority of its board of directors is to the right to appoint or remove members holding a majority of the voting rights.
- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this agreement.
- 1.3 Unless the context otherwise requires:

- (a) words in the singular shall include the plural and in the plural shall include the singular;
 - (b) it is in force as at the date of this agreement;
 - (c) a reference to one gender shall include a reference to the other genders; and
 - (d) any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.4 In the case of conflict or ambiguity between any provision contained in the body of this licence and any provision contained in the schedules or appendices, the provision in the body of this licence shall take precedence.
- 1.5 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns.
- 1.6 References to clauses and Schedules are to the clauses and Schedules of this agreement and references to paragraphs are to paragraphs of the relevant Schedule.
- 1.7 The Schedules and Annexes form part of this licence and shall have effect as if set out in full in the body of this licence. Any reference to this licence includes the Schedules and Annexes.

2. Licence

- 2.1 In consideration of the Fee paid by the Customer to the Supplier, receipt of which the Supplier hereby acknowledges, the Supplier grants to the Customer a non-exclusive, non-transferable licence for its own internal usage and/or to distribute Non-retrievable Value-Added Services:
- (a) for a term of **one (1) month** initially from the date this Licence Agreement has been signed to use the Licensed Content by the Customer only.
 - (b) This Licence Agreement automatically renews for successive **1-month** Renewal Terms unless either party provides written notice of non-renewal at least **7** days before the end of the then-current Renewal Term.
- 2.2 In relation to scope of use, the Customer is permitted to:
- (a) host, store, perform, display, and otherwise use the Licensed Content or any part of it in connection with Customer's internal usage and/or his Distribution of Non-retrievable Value-Added Services. The Customer is obliged to provide reference (attribution) to the Supplier in Customer's products or services.

- (b) enhance, modify, adapt, transform, develop, create derivative and/or new works based on and/or derived from the Licensed Content or any part of it;
- (c) issue copies of and communicate and otherwise make available to the public the Licensed Content or any part of it in connection with Customer products or services;
- (d) use the Licensed Content or any part of it in combination with any other content;
- (e) extract data from and/or reutilise the Licensed Content; and
- (f) the Customer may make as many backup copies of the Licensed Content as may be necessary for its lawful use. The Customer shall record the number and location of all copies of the Licensed Content and take steps to prevent unauthorised copying.
- (g) except as expressly stated in this clause 2, the Customer has no right (and shall not permit any third party) to copy, reverse engineer, decompile, disassemble, modify, adapt or make error corrections to the Licensed Content in whole or in part except to the extent that any reduction of the Licensed Content to human readable form (whether by reverse engineering, decompilation or disassembly) is necessary for the purposes of integrating the operation of the Licensed Content with the operation of other software or systems used by the Customer unless the Supplier is prepared to carry out such action at a reasonable commercial fee or has provided the information necessary to achieve such integration within a reasonable period, and the Customer shall request the Supplier to carry out such action or to provide such information (and shall meet the Supplier's reasonable costs in providing that information) before undertaking any such reduction.
- (h) the Customer shall indemnify and hold the Supplier harmless against any loss or damage which it may suffer or incur as a result of the Customer's breach.

2.3 The Customer may not use any such information provided by the Supplier or obtained by the Customer during any such reduction permitted under this agreement to create any software whose expression is substantially similar to that of the Licensed Content nor use such information in any manner which would be restricted by any copyright subsisting in it.

2.4 The Customer shall not:

- (a) sub-license, assign, distribute or novate the benefit or burden of this licence in whole or in part;
- (b) allow the Licensed Content to become the subject of any charge, lien or encumbrance; and

- (c) deal in any other manner with any or all of its rights and obligations under this agreement,

without the prior written consent of the Supplier, such consent not to be unreasonably withheld or delayed.

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

2.6 The Customer shall:

- (a) notify the Supplier as soon as it becomes aware of any unauthorized use of the Licensed Content by any person or company;

Restrictive Covenants

1. Non-solicitation of employees or contractors

1.1 In order to protect the legitimate business interests of Supplier, Customer covenants with Supplier that it shall not (and shall procure that no member of Customer's Group shall) (except with the prior written consent of Supplier):

(a) attempt to solicit or entice away; or

(b) solicit or entice away,

from the employment or service of Supplier or any Group Company the services of any Restricted Person other than by means of a national advertising campaign open to all-comers and not specifically targeted at such staff of Supplier or any Group Company.

1.2 Customer shall be bound by the covenant set out in clause 1.1 during the term of this agreement, and for a period of 12 months after termination or expiry of this agreement.

1.3 For the purposes of this clause 1, a **Restricted Person** shall mean any firm, company or person employed or engaged by Supplier or any Group Company during the term of this agreement who has been engaged in the provision of the Services or the management of this agreement either as principal, agent, employee, independent contractor or in any other form of employment or engagement and who could materially damage the interests of Supplier or any Group Company if they were involved in any capacity in any business concern which competes with the business of Supplier.

1.4 If Customer commits any breach of this clause 1, Customer shall, on demand, pay to Supplier or relevant Group Company a sum equal to one year's basic salary or the annual fee that was payable by Supplier or relevant Group Company to the Restricted Person plus the recruitment costs incurred by Supplier or relevant Group Company in replacing such person. The parties confirm that these liquidated damages are reasonable and proportionate to protect the legitimate interest of Supplier or relevant Group Company in performance.

2. Non-employment of employees

2.1 In order to protect the legitimate business interests of Supplier and each Group Company, Customer covenants with Supplier for itself and as agent for each Group Company that it shall not (and shall procure that no member of Customer's Group shall) (except with the prior written consent of Supplier) employ or engage or otherwise facilitate the employment or engagement of any Restricted Person.

2.2 Customer shall be bound by the covenant set out in clause 2.1 during the term of this agreement and for a period of 12 months after termination or expiry of this agreement.

2.3 For the purposes of this clause 2, a **Restricted Person** shall mean any firm, company or person employed or engaged by Supplier or any Group Company during the term of this agreement who has been engaged in the provision of the Services or the management of this agreement either as principal, agent, employee, independent contractor or in any other form of employment or engagement and who could materially damage the interests of Supplier or any Group Company if they were involved in any capacity in any business concern which competes with the business of Supplier.

2.4 If Customer commits any breach of this clause 2, Customer shall, on demand, pay to Supplier or relevant Group Company a sum equal to one year's basic salary or the annual fee that was payable by Supplier or relevant Group Company to the Restricted Person plus the recruitment costs incurred by Supplier or relevant Group Company in replacing such person. The parties confirm that these liquidated damages are reasonable and proportionate to protect the legitimate interest of Supplier or relevant Group Company in performance.

3. Non-poaching of customers

3.1 In order to protect the legitimate business interests of Supplier and each Group Company, Customer covenants with Supplier for itself and as agent for each Group Company that it shall not (and shall procure that no member of Customer's Group shall) (except with the prior written consent of Supplier) solicit or entice away (or attempt to solicit or entice away) from Supplier or any Group Company the business or custom of any Restricted Customer.

3.2 Customer shall be bound by the covenant set out in clause 3.1 during the term of this agreement, and for a period of 12 months after termination or expiry of this agreement.

3.3 For the purposes of this clause 3, a **Restricted Customer** shall mean any firm, company or person who is or has been at any time during the immediately preceding 12 months a customer or prospective customer of, or in the habit of dealing with, Supplier or any Group Company.

4. Non-dealing

4.1 In order to protect the legitimate business interests of Supplier and each Group Company, Customer covenants with Supplier for itself and as agent for each Group Company that it shall not (and shall procure that no member of Customer's Group shall) be involved with the provision of goods or services to any Restricted Customer.

4.2 Customer shall be bound by the covenant set out in clause 4.1 during the term of this agreement, and for a period of 12 months after termination or expiry of this agreement.

4.3 For the purposes of this clause 4, a **Restricted Customer** shall mean any firm, company or person who is or has been at any time during the immediately preceding 12 months a customer or prospective customer of, or in the habit of dealing with, Supplier or any Group Company.

5. **Non-solicitation of suppliers**

5.1 In order to protect the legitimate business interests of Supplier and each Group Company, Customer covenants with Supplier for itself and as agent for each Group Company that it shall not (and shall procure that no member of Customer's Group shall) (except with the prior written consent of Supplier) have any business dealings with, or solicit, entice or attempt to entice away, a Restricted Supplier, if such dealing, solicitation or enticement causes or is reasonably likely to cause such supplier to cease supplying, or to reduce its supply of goods or services to, Supplier or any Group Company, or to vary adversely the terms upon which it conducts business with Supplier or any Group Company.

5.2 Customer shall be bound by the covenant set out in clause 5.1 during the term of this agreement, and for a period of 12 months after termination or expiry of this agreement.

5.3 For the purposes of this clause 5, a **Restricted Supplier** shall mean any firm, company or person who is or has been at any time during the immediately preceding 12 months any supplier of goods or services to Supplier or any Group Company.

6. **Non-compete**

6.1 In order to protect the legitimate business interests of Supplier and each Group Company, Customer covenants with Supplier for itself and as agent for each Group Company that it shall not (and shall procure that no member of Customer's Group shall):

- (a) carry on; or
- (b) be engaged, concerned or interested in; or
- (c) assist in any way,

any business concern which is (or intends to be) in competition with the business of Supplier or any Group Company.

6.2 Customer shall be bound by the covenant set out in clause 6.1 during the term of this agreement, and for a period of 12 months after termination or expiry of this agreement.

7. **Non-association**

In order to protect the legitimate business interests of Supplier and each Group Company, Customer covenants with Supplier for itself and as agent for each Group

Company that it shall not at any time after termination or expiry of this agreement, represent itself as connected or associated with Supplier or any Group Company or use any registered names or trading names or domain names, designs or logos associated with Supplier or any Group Company or which, in the reasonable opinion of Supplier, are capable of confusion with such names, designs or logos.

8. Non-disparagement

In order to protect the legitimate business interests of Supplier and each Group Company, Customer covenants with Supplier for itself and as agent for each Group Company that it shall not at any time after termination or expiry of this agreement, say anything which may be harmful to the reputation of the business of Supplier or any Group Company, whether defamatory or otherwise.

9. Non-circumvention

9.1 Customer undertakes that, other than in concert with Supplier or with Supplier's express prior written approval, it shall not, directly or indirectly:

- (a) itself pursue the Project or any Substitute Project;
- (b) induce, solicit, procure or otherwise encourage any third party to pursue the Project or any Substitute Project; or
- (c) seek, encourage or respond to any approach from any third party to pursue the Project or any Substitute Project.

9.2 Customer shall procure that its officers, employees, agents, advisers and other representatives, and each member of its Group and their respective officers, employees, agents, advisers and other representatives, comply with clause 9.1 as if they were Customer.

9.3 For the purposes of this clause 9, **Substitute Project** shall mean any project involving the same customers or partners or the same or substantially similar resources, technology or work product as the Project.

10. Beneficiaries of the covenants

10.1 The covenants in *clauses 1-10* are intended for the benefit of, and shall be enforceable to the fullest extent permitted by law, by each of Supplier and each Group Company and shall apply to actions carried out by Customer (or any member of Customer's Group) in any capacity (including as shareholder, partner, director, principal, consultant, officer, agent or otherwise) and whether directly or indirectly, on its own behalf or on behalf of, or jointly with, any other person.

- 10.2 Except as expressly provided in clause 10.1, a person who is not a party to this agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.
- 10.3 Each of the covenants in this Schedule 2 is intended to be separate and severable. If any of the restrictions are held to be void, but would be valid if part of their wording were deleted, such restriction shall apply with such deletion as may be necessary to make it valid or effective
- 10.4 The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this agreement are not subject to the consent of any other person.