



(1) UK CENTRE FOR ECOLOGY & HYDROLOGY ENTERPRISE LIMITED

(2) THE ENVIRONMENT AGENCY

LICENCE AGREEMENT

THIS AGREEMENT is made on

BETWEEN

- (1) **UK CENTRE FOR ECOLOGY & HYDROLOGY ENTERPRISE LIMITED** (Company number 12251749), whose registered office is at Maclean Building, Benson Lane, Crowmarsh Gifford, Wallingford, Oxfordshire, OX10 8BB ("**the Licensor**" or "**UKCEH Enterprise**"); and
- (2) **THE ENVIRONMENT AGENCY** whose headquarters are at Horizon House, Deanery Road, Bristol, BS1 5AH ("**the Agency**").

BACKGROUND

- A. The Agency has a suite of products (the Products), which makes use of data owned by UKCEH or used by UKCEH under licence from third parties.
- B. The Agency has the benefit of certain licences from UKCEH Enterprise for limited use of the UKCEH data, which do not extend to the licensing activities contemplated by this Agreement.
- C. This Agreement establishes the Agency as a Value Added Reseller (VAR) and sets out a framework for the licensing of the Products by the Agency to third parties.
- D. The Agency are responsible for creation and management of the Products.

IT IS AGREED AS FOLLOWS:-

1. Definitions

In this Agreement, the following terms have the following meanings:

Agency Product	A Product created by the Agency
Data	the UKCEH datasets identified in Schedule 1;
Effective Date	1 April 2023;
Licence	the licence granted to the Agency in clause 2;
Licence Period	the period from the Effective Date to that stated in any applicable Licence Schedule(s);
Licensed Purpose	the purpose set out in clause 2.1 and any applicable Licence Schedule(s);
Licence Schedule	terms agreed by the parties extending the Licence to permit licensing to third parties in the form set out in Schedule 2;
Open Government Licence (OGL)	A licence permitting the use and re-use of a wide range of government and other public sector information.
Product	any product, work or materials in whatever form (including any data, software or report) created or developed by or licensed by the Agency (a) which incorporates a substantial part of the Data, or (b) the creation or development of which involved the use of a substantial part of the Data; which is licensed in a Licence Schedule and cannot be used as a substitute for the Data or be reverse

Sell

engineered to produce the Data or a substitute for the Data;

Includes sale both directly to customers and selling through an agent or intermediary of any kind

Sub-Licensee

the recipient of a licence from the Agency under this Agreement;

2. The Licence

- 2.1. In consideration of the Agency's obligations under this Agreement, and during the Licence Period, UKCEH Enterprise grants the Agency a non-exclusive licence to use Data in order to supply copies of Agency Products and to license their use, in accordance with the terms of the applicable Licence Schedule:

The Agency may only license or allow third party use of Agency Products as set out in this clause 2.1 and may not transfer the benefit of the Licence except on assignment of this Agreement in accordance with clause 9.3.

- 2.2. The Agency is only permitted to license and supply the Products in accordance with the terms of, and subject to entering into, a Licence Schedule for the Products and use concerned.
- 2.3. The Licence is for the Data in the form in which it exists as at the date of this Agreement. UKCEH Enterprise is not under any obligation to supply the Agency with any updates of the Data.
- 2.4. The Agency may store and process the Data in other formats, as necessary for the Licensed Purpose.
- 2.5. The Agency must ensure that all copies of Products include or are accompanied by the appropriate acknowledgement and additional terms pertaining to third party data as stated by UKCEH Enterprise in the appropriate Licence Schedule(s).
- 2.6. The Agency will not refer to UKCEH Enterprise any third party enquiry concerning the Products, whether from a member of the public, an end-user, a Sub-Licensee or prospective Sub-Licensee or otherwise. UKCEH Enterprise will provide reasonable assistance to the Agency to enable the Agency to respond to such queries and will provide the Agency with contact details of the appropriate UKCEH personnel who will assist.
- 2.7. The Agency shall take all reasonable technological and security measures to ensure that all Data and Products are demonstrably secure from external access other than that permitted by the Licensed Purpose.
- 2.8. The Agency shall not conduct its business in a manner which would reflect unfavourably on the Data or on the good name and reputation of UKCEH Enterprise or its licensors.
- 2.9. The Agency must not use the Data or Products for any illegal, deceptive, misleading or unethical purpose or otherwise in any manner which may be detrimental to the reputation of the Data, the Agency or any person.

3. Payment and Additional Permissions

- 3.1. The Agency will pay the sum due to UKCEH Enterprise under this Agreement within 30 days of date of signature of this agreement.
- 3.2. Any amounts payable to UKCEH Enterprise under this Agreement are exclusive of VAT which will be paid by the Agency at the rate and in the manner from time to time prescribed by law.
- 3.3. If the Agency fails to make any payment due to UKCEH Enterprise under this Agreement then, without prejudice to UKCEH Enterprise's other rights and remedies, UKCEH Enterprise may charge interest (both before and after any judgment) on the amount outstanding, on a daily basis at the rate of four per cent per annum above the base rate of Barclays Bank plc (or any other London clearing bank which UKCEH Enterprise may nominate) from time to time in force. That interest will be calculated from the date or last date for payment to the actual date of payment, both dates inclusive, and will be compounded quarterly. The Agency will pay that interest to UKCEH Enterprise on demand.
- 3.4. The permitted uses as set out in the Licence Schedules will be reviewed as required in order for the appropriate Up-Front Fee to be calculated. The Up-Front Fee will be reviewed before the end of the Licence Period in order to take account of any change in requirements and activities for the subsequent Licence Period. Note that additional activities, such as releasing new Products or making existing Products available for previously unavailable uses, not known or stated at the beginning of any Licence Period will be permitted during that period, but will be taken into account for the subsequent annual fee calculation.

4. Confidentiality

- 4.1. Each party ("the Receiving Party") agrees that it will not use or disclose to any person (other than as permitted by this Agreement or with the written permission of the other party), any of the other party's ("the Disclosing Party's") Confidential Information as defined by clause 4.2 or 4.3 (as the case may be).
- 4.2. UKCEH Enterprise's Confidential Information is defined as: the terms of this Agreement; the Data (except to the extent that it is contained in a Product) and any other data or information provided to the Agency for use in the exercise of the Licence and which is marked or identified as confidential at the time of disclosure, and any information about UKCEH Enterprise's current or proposed commercial activities provided to the Agency in the course of the negotiations leading to this Agreement.
- 4.3. The Agency's Confidential Information is defined as the terms of this Agreement and any information about the Agency's current or proposed commercial activities provided to UKCEH Enterprise in the course of the negotiations leading to this Agreement.
- 4.4. If the Receiving Party receives a request for Confidential Information of the Disclosing Party under the Freedom of Information Act 2000, the Environmental Information Regulations 2004 or any other legislation promoting the public disclosure of information by the Receiving Party ("the Act"), it will notify the Disclosing Party, giving the Disclosing Party an opportunity to consult with the Receiving Party. If that notice requests the Disclosing Party to provide information to assist the Receiving Party in determining whether or not the Confidential Information is exempt information under the Act, then the Disclosing Party will respond to the Receiving Party within 7 days after receiving the Receiving Party's notice.

4.5. The provisions of this clause will survive termination of this Agreement but:

4.5.1. the restrictions contained in this clause will cease to apply to any information which may come into the public domain other than through the unauthorised disclosure by the Receiving Party, its licensees or employees, or which is received by the Receiving Party other than from a third party who does not breach a duty of confidence in disclosing it; and

4.5.2. a disclosure of Confidential Information required by law, any court of competent jurisdiction or any administrative or regulatory authority, and notified to the Disclosing Party, will not breach this clause.

5. Intellectual Property Rights

5.1. Any copyrights, database rights and any other intellectual property rights in the Data and all other data and materials provided to the Agency by UKCEH Enterprise pursuant to this Agreement (in whatever form they may exist) remain in the ownership of UKCEH Enterprise or its licensors. The Agency acquires no ownership rights in the Data or any other data and materials provided to the Agency under this Agreement.

5.2. The Agency will use the Data solely for the Licensed Purpose, except to the extent permitted in terms of any other agreement with UKCEH Enterprise.

5.3. Except as is necessary for the Licensed Purpose or to the extent permitted in terms of any other agreement with UKCEH Enterprise, the Agency will not:

5.3.1. copy the Data (or any part of it) except for internal back-up purposes;

5.3.2. distribute, transfer, transmit, extract, publish, license, sell or broadcast the Data (or any part of it) in any form (including without limitation in any electronic, digital or hard copy form) or grant any third party any rights in the Data (or any part of it); include the Data (or any part of it) in any product or in any on-line or other service including (without limitation) in any product or service which is distributed, transferred, transmitted, extracted, published, licensed, sold or broadcast in electronic, digital, hard copy or any other form;

5.3.3. print or reprint the Data (or any part of it) in hard copy form; or

5.3.4. use the Data (or any part of it) in the development of other data-related products or services,

in each case without first obtaining the written permission of the UKCEH Enterprise representative as stated in clause 9.1.

5.4. The Agency shall enforce the terms of this Agreement and any Licence Schedule with its Sub-Licensees with at least the same diligence that it uses to enforce similar arrangements for products and services not involving the use of the Data. The Agency shall act as a reasonably prudent commercial organisation, enforcing such agreements up to and including obtaining judgements in court and acting at the specific request of UKCEH Enterprise. The Agency shall give all reasonable assistance in the event that UKCEH Enterprise wish to pursue any third party for breach of UKCEH Enterprise's Intellectual Property Rights which might have occurred as a result of the Agency providing or giving access to such Intellectual Property Rights to such third parties. The Agency shall immediately notify UKCEH Enterprise if the Agency becomes aware of any breach of such agreement.

6. Liability

- 6.1. Nothing in this Agreement is intended to exclude or restrict the liability of either party for death or personal injury caused by its negligence or its liability in respect of any fraudulent misrepresentation or fraudulent concealment.
- 6.2. The Data has been collected, developed and/or created by UKCEH from a variety of sources and may not be complete, up to date, or accurate. UKCEH Enterprise will not be liable for any inaccuracies or omissions in the Data. Without limiting the effect of the previous sentence, the Agency acknowledges, and will bring to the attention of each Sub-Licensee the list of limitations affecting the derivation and application of the Data set out in Schedule 1.
- 6.3. Without limiting the scope of clause 6.2, UKCEH Enterprise will not be liable for any inaccuracies or omissions in the Data to the extent that the error results from any alteration made by the Agency (or its Sub-Licensees).
- 6.4. The Agency agrees to indemnify UKCEH Enterprise, and every employee, student, visiting researcher and agent of UKCEH Enterprise ("the Indemnified Parties"), and keep them fully and effectively indemnified, against any claim made against any of the Indemnified Parties as a result of the use of the Data by the Agency, its Sub-Licensees or anyone deriving their right to use the Data or Products under this Agreement, as the case may be), provided that it does not cover actions resulting from the negligence or deliberate acts of UKCEH Enterprise and provided that the Indemnified Party in question must promptly notify the Agency of full details of the claim.
- 6.5. All implied warranties, terms, representations and conditions, including (by way of example only) the implied conditions of satisfactory quality and fitness for any purpose of the Data, are excluded to the fullest extent permitted by law.
- 6.6. Subject to clause 6.1, the liability of UKCEH Enterprise for any breach of this Agreement, or arising in any other way out of the subject-matter of this Agreement, will not extend to any incidental or consequential damages or losses or any loss of profits, loss of data, loss of contracts or opportunity, even if UKCEH Enterprise has been advised of the possibility of those losses or if they were within its contemplation.
- 6.7. Subject to clause 6.1, UKCEH Enterprise's liability to the Agency for any breach of this Agreement or otherwise in connection with its subject-matter will not exceed £50,000 in aggregate. The Agency accepts that this limit is reasonable and that a higher limit is available to it if UKCEH Enterprise is able to buy insurance to cover its liabilities under this Agreement and if the Agency meets the cost of any additional premium payable to UKCEH Enterprise's insurer.

7. Termination

- 7.1. This Agreement will come into force on the Effective Date for the duration of the Licence Period, unless and until it is terminated by either party pursuant to this clause 7.
- 7.2. Either party may suspend performance of or terminate this Agreement at any time by giving the other party prior written notice if the other party commits a material breach of this Agreement and, where such a breach is capable of remedy, fails to remedy the breach within 90 days after the date of the notice of the terminating party.
- 7.3. Either party may terminate this Agreement at any time if the other passes a resolution for its winding up, or a court of competent jurisdiction makes an order to that effect (other than a voluntary winding up for the purpose of and followed by amalgamation or reconstruction), becomes subject to an administration order or has a receiver, administrator, administrative receiver or other similar officer

appointed over the whole or a substantial part of its assets or compounds or enters into any arrangement with its creditors generally or ceases or threatens to cease business or stops or threatens to stop payment.

- 7.4. UKCEH Enterprise may terminate this Agreement by written notice to the Agency if UKCEH Enterprise’s right to license the use of the Data or the use or supply of Products is terminated as a result of the termination of any licence granted to UKCEH Enterprise. UKCEH Enterprise will give the Agency the maximum notice of termination reasonably practicable given the notice it receives from its licensor, and will only terminate this Agreement and the licences granted under it to the extent that it is obliged to under its agreement with its relevant licensor.

8. Effects of Termination or Expiry of this Agreement

- 8.1. Termination or expiry of this Agreement will automatically bring to an end the Licence and, except as stated in this clause, all Licence Schedules. Termination of this Agreement by UKCEH Enterprise pursuant to clause 7.2 will not bring to an end any of the Licence Schedules not referred to in UKCEH Enterprise’s notice of termination, and the Agency’s obligations under this Agreement in respect of any such Licence Schedules will continue in force.
- 8.2. On termination or expiry of this Agreement the Agency will destroy all copies of all versions of the Data and the Products in its possession, custody and control and if required by UKCEH Enterprise will provide a statement signed by an authorised representative of the Agency that all copies have been destroyed, except and to the extent that the Agency is permitted to make use of the Data and Products under the terms of any other agreement with UKCEH Enterprise.
- 8.3. Any termination or expiry of this Agreement will not affect:
- 8.3.1. any other rights, liabilities or remedies of either party;
- 8.3.2. the coming into force or the continuance in force of any provision of this Agreement which is, expressly or by implication, intended to come into or to continue in force on or after expiry or termination.

9. General

- 9.1. **Notices.** Any notice to be given under this Agreement must be in writing, may be delivered to the other party or parties by any of the methods set out in the left hand column below and will be deemed to be received on the corresponding day set out in the right hand column.

Method of service	Deemed day of receipt (Business Days means Mondays to Fridays inclusive excluding English and Northern Ireland Bank and public holidays)
By hand	The day of delivery
By pre-paid national business post	The second Business Day after posting

The parties’ representatives for the receipt of notices are as follows (until altered by notice given in accordance with this clause):

For UKCEH Enterprise:

For the Agency:

- 9.8. **Existing Agreements** – For the avoidance of doubt this Agreement is not intended to replace or to terminate any existing licences granted by UKCEH Enterprise to the Agency, which continue in force in accordance with their terms.
- 9.9. **Formalities** – Each party must take any action and execute any document reasonably required by any other party to give effect to any of its rights under this Agreement, or to enable their registration in any relevant territory provided the requesting party pays the other party's reasonable expenses.
- 9.10. **Variations** – No variation of this Agreement will be effective unless it is made in writing and signed by each party or its authorised representative.
- 9.11. **Third parties** – A person who is not party to this Agreement has no rights under the Contracts (Rights of Third Parties) Act 1999 to prevent the variation or cancellation of any provision of this Agreement or its termination, and no person who is not a party to this Agreement may enforce any benefit conferred upon them by this Agreement, unless this Agreement expressly provides otherwise.
- 9.12. **Governing law** – This Agreement will be governed by and construed in accordance with English law and, subject to clause 9.13, the English Courts will have exclusive jurisdiction to deal with any dispute which has arisen or may arise out of or in connection with this Agreement.

9.13. Dispute resolution

- 9.13.1. All disputes under or in connection with this agreement that cannot be otherwise resolved between the parties, shall be referred first to negotiators nominated at a suitable and appropriate working level by the Agency and UKCEH Enterprise.
- 9.13.2. If the parties' negotiators are unable to resolve the dispute within a period of forty-five days from its being referred to them, the dispute shall be referred at the instance of either party to the parties' respective senior managers or directors (supported as necessary by their advisers).
- 9.13.3. If the parties' respective senior managers or directors are unable to resolve the dispute within forty-five days, the dispute shall be referred to the Centre for Dispute Resolution (CEDR-Solve) in London who shall appoint a mediator and the parties shall then submit to the mediator's supervision of the resolution of the dispute.
- 9.13.4. Recourse to this dispute resolution procedure shall be binding on the parties as to submission to the medium but not as to its outcome. Accordingly all negotiations connected with the dispute shall be conducted in strict confidence and without prejudice to the rights of the parties in any future legal proceedings. Except for any party's right to seek interlocutory relief in the courts, no party may commence other legal proceedings under the jurisdiction of the courts, or any form of arbitration, until forty-five days after the appointment of the mediator.
- 9.13.5. If, with the assistance of the mediator, the parties reach a settlement, such settlement shall be put in writing and, once signed by a duly authorised representative of each of the parties, shall remain binding on the parties.
- 9.13.6. The parties shall bear their own legal costs of this dispute resolution procedure, but the costs and expenses of mediation shall be borne by the parties equally.

9.13.7. Any of the time limits in clause 9.13 may be extended by mutual agreement. Such agreed extension shall not prejudice the right of either party to proceed to the next stage of resolution.

SIGNED by the authorised representatives of the parties

SIGNED for and on behalf of the
UK CENTRE FOR ECOLOGY & HYDROLOGY ENTERPRISE LIMITED

Name Oliver Robertson

Signature

Date:

SIGNED by)
for and on behalf of)
THE ENVIRONMENT AGENCY)

Name

Signature

Date: |

[REDACTED]

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