



SERVICE LEVEL AGREEMENT

MADE BETWEEN

XXXX
XXX
XXX

AND

XXXX
XXX
XXX

FOR THE FOLLOWING SERVICE(S):

XXX

in the

**GMES Atmosphere Service pre-operational phase
Implemented through the FP7 project
“Monitoring Atmospheric Composition and Climate” (MACC)**

THE AGREEMENT IS MADE BETWEEN

XXX
XXX
XXX

the Provider(s) of the MACC SERVICE(S), hereafter referred to as the SERVICE PROVIDER,

and

XXX
XXX
XXX

the User of the MACC SERVICE(S), hereafter referred to as the USER

XXX and XXX shall hereafter be referred as the "Party" or as the "Parties"

This Service Level Agreement continues the respective SLA of the ESA GSE project PROMOTE Stage II with following amendments (if any):

PREAMBLE

WHEREAS in the framework of the pre-operational GMES Project MACC funded by the European Union (or the "EU") under Grant Agreement No. 218793 (or "Grant Agreement") within the Seventh Framework Program (FP7), the Service Provider shall deliver atmospheric Service(s) to specific User organisations.

WHEREAS the User is interested in receiving Services for the fulfilment of its purposes.

WHEREAS the relationship between the Service Provider and the User shall be governed by this Service Level Agreement (SLA).

WHEREAS both Parties acknowledge that the Service Provider is delivering Service(s) in compliance with the terms and conditions of the Grant Agreement with the Commission of the European Union (or "the Commission").

IT IS HEREBY AGREED AS FOLLOWS:**ARTICLE 1 - OBJECTIVES OF THE SERVICE LEVEL AGREEMENT**

This Service Level Agreement specifies the terms and conditions under which the Service Provider shall deliver the Service(s) to the User and under which the User shall contribute to the definition, evaluation and further improvement of the Service(s).

ARTICLE 2 - GENERAL

- 1) This Service Level Agreement refers only to the Services co-funded by the European Union under Grant Agreement No. 218793. The provision of additional services shall be subject to a separate agreement between the Parties specifying the terms and conditions of such additional services. This Service Level Agreement is not contravening the rules and conditions of the Grant Agreement No. 218793.
- 2) This Service Level Agreement is subject to the approval of the MACC Coordinator.
- 3) No Services shall be delivered before the entry into force of this Service Level Agreement and of the Grant Agreement.
- 4) Both Parties shall comply with all applicable security and data protection laws and regulations and shall commit their employees likewise, as applicable in individual cases.

ARTICLE 3 – SERVICE(S) PROVIDED

- 1) The Service Provider agrees to deliver to the User the following Service(s):
<name of service(s) (as in service portfolio specification)>
- 2) If applicable the required data volume or flow to be provided for each individual service is specified as a service provision target.

Period 1 (6/2009 – 8/2010): XXX
Period 2 (9/2010 – 10/2011): XXX
- 3) The products will be provided in the XXX medium and format.
- 4) The Service Provider shall provide on-line access to all Service(s) via the MACC Project Website. On this website, additional information for the User shall be made available.
- 5) The service specifications and delivery milestones are detailed in Annex 1.

ARTICLE 4 - SERVICE PERIOD

The Service(s) shall be delivered as specified in Article 5 below. The obligation to provide the Service(s) shall be limited to the duration of this Service Level Agreement in accordance with Art. 12 below and to the duration of the co-funding of this Service by the European Commission under Grant Agreement No. 218793 or any successor project.

ARTICLE 5 - SERVICE LEVEL AND DELIVERY SCHEDULE

- 1) The Service(s) shall be delivered with the following frequency:
<e.g. Daily / monthly update, historical archive, on request>
- 2) The Service(s) shall be delivered within the following delivery times:
<e.g. Service is available at any time of the day, NRT delivery after xx hours >

ARTICLE 6 - QUALITY OF SERVICE(S)

- 1) The Service Provider shall deliver the Service(s) in a quality as defined in the Service Portfolio Specification.
- 2) Quality control procedures as defined in the Validation Protocol shall apply to all Service(s) delivered to the User.
- 3) Both Parties shall mutually discuss and agree on any measures to be taken in order to continuously improve the quality of the Service(s) with regard to its fitness for the purposes of the User.

ARTICLE 7 – TERMS AND CONDITIONS OF ACCESS

- 1) <give any restrictions regarding sharing, multiple-use, or onwards distribution of information products>

ARTICLE 8 - SERVICE PROVIDER OBLIGATIONS

- 1) The Service Provider hereby grants to the User the non-exclusive right to use free of charge the information products referred to in Article 3 hereof and all related documentation in accordance with the provisions of this Service Level Agreement.
- 2) The Service Provider shall assess and respond to the requirements of the User with regard to its purposes and to any feedback concerning the quality of the Service(s).
- 3) In any case where the User notifies the Service Provider of a deficiency in service delivery the Service Provider shall then take all reasonable measures to rectify the Service(s) and to improve the overall quality of the Service(s) for the User.

ARTICLE 9 - USER OBLIGATIONS

- 1) The User may use the information products for its own purposes and shall have the right to distribute the information products to any relevant End-User Organisation and to the general public in accordance with its mission and competencies. The User agrees not to use the information products for any commercial purposes and shall not make available the information products to any Third Party for any commercial purposes. The commercial use of the information products shall be subject to a written agreement between the Service Provider and the User, where applicable.
- 2) The User agrees to provide at the end of each period an independent report on the utility and fitness of the Service(s) for its purposes. The Utility Report shall take into account all processes of the User in which the information products provided are used. The Utility Report shall be sufficiently comprehensive and detailed to enable the Service Provider to identify the advantages and shortcomings of the information products and to improve them accordingly. The User shall involve staff at appropriate levels of expertise to ensure that the statements in the Utility Report constitute an authoritative view of the User, based on which the Service Provider is able to derive the requirements for the evolution of the Service(s).
- 3) The User shall notify the Service Provider in any case where the Service(s) are not delivered in the time, frequency, quality or volume specified.
- 4) Any publications by the User regarding the Service(s) and its activities under this SLA shall make adequate reference to the MACC Project and to the Service Provider, including the fact that MACC received funding from the European Union's Seventh Framework Programme.

ARTICLE 10 – NO EXCHANGE OF RESOURCES

- 1) All obligations in this Service Level Agreement are fulfilled at no exchange of resources.

ARTICLE 11 - WARRANTY AND LIABILITY

- 1) The Service Provider shall deliver the Service(s) in accordance with the provisions of this Service Level Agreement and of the Grant Agreement. The Service Provider will deliver the Service(s) with the best available science and technology and will use its reasonable efforts that the Service(s) comply with all requirements regarding the time, frequency, quality and volume of the Service(s). In case the required input data (satellite and/or in-situ) are not available, not available in time or in sufficient quality, the Service Provider will use its best efforts to find appropriate replacement data. The Service Provider will use its best efforts, but can not undertake any guarantee that the Service(s) are fit for the purposes of the User. Both Parties shall continuously discuss and take measures to improve the overall quality of the Service(s).
- 2) The Service Provider will use its best efforts to deliver Service(s) that do not infringe third party property rights. The Service Provider agrees not to use knowingly, as part of any service supplied under this Service Level Agreement, any proprietary rights of a Third Party for which it has not acquired the right to grant licences and / or user rights. Any further liability for such infringements shall be explicitly excluded. The Service Provider shall not be obliged to perform research with respect to third party intellectual property rights.
- 3) The liability of the Service Provider for all cases of damage of the User which are caused by wilfulness or by gross negligence of the Service Provider shall, where not covered by existing insurances, be limited to a maximum amount corresponding to 10.000 EURO.
- 4) Under no circumstances shall the Service Provider be liable for incidental, indirect, special or consequential damage including, but not limited to loss of profit, loss of use, loss of revenues or damages to business or reputation arising from the performance or non-performance of any aspect of the present SLA or from the use of the Service(s) by the User.

ARTICLE 12 – DURATION AND AMENDMENTS

- 1) This Service Level Agreement shall have an initial duration until the end of the MACC project which it is expected to be on 31.10.2011.
- 2) The specific requirements of the User Organisation may evolve with respect to the detailed specifications and service provision targets specified herein. Such evolution will be taken into account during the execution of this Service Level Agreement. The Service Level Agreement shall be subsequently amended for each subsequent period of the MACC contract in line with the changing conditions under which the Service(s) are supplied and used. Such technical amendments shall be negotiated and approved by the contact persons of each party named in article 14.
- 3) The validity period of this Service Level Agreement may be extended by mutual written agreement of all parties if the Service(s) are continued beyond 31. 10. 2011 by a successor project to MACC.

ARTICLE 13 - TERMINATION

- 1) Each Party shall have the right to terminate this Service Level Agreement with good reason. Good reason shall exist in case the cancelling Party can not be reasonably expected to comply with its contractual obligations until the end of this Agreement.
- 2) The Service Provider shall have the right to terminate this Service Level Agreement in case that the Grant Agreement with the Commission is terminated or amended in a way which prevents the further delivery of the Service(s).
- 3) Any termination shall be valid only if made in writing and shall become effective within one month after notification to the other Party.

ARTICLE 14 - NOTICES

- (1) The contact persons of each Party are:

USER:

SERVICE PROVIDER:

- (2) Each Party shall inform the other Party immediately in writing about changes regarding their respective contact persons.

ARTICLE 15 - MISCELLANEOUS

- 1) This Service Level Agreement shall be binding for both Parties and shall constitute the entire agreement between the Service Provider and the User with respect to the subject matter of this Service Level Agreement. Both Parties however acknowledge that the Service Provider is obliged to comply with the provisions of the Grant Agreement with the Commission.
- 2) This Service Level Agreement shall be signed by representatives of both Parties at the level of Chief Executive Officer or Director.
- 3) This Agreement shall come into effect upon its signature by both Parties.
- 4) Any contractual changes or amendments of this Service Level Agreement shall only be valid if agreed in writing and signed by duly authorized representatives of both Parties. This shall also apply to any change of this clause pertaining to the written form. Technical amendments as specified in article 12 (2) shall be approved in writing by the contact person named in article 14.
- 5) Neither Party shall be entitled to transfer its rights and obligations under this Agreement to any Third Party without the prior written consent of the other Party. Such consent shall not be unduly withheld.
- 6) Should a provision contained in this Agreement become invalid due to legal or factual reasons, the other provisions shall remain in effect. The Parties shall without delay and by mutual agreement replace the invalid provision with a new provision that approximates the legal, economic and technical meaning of the original provision as closely as possible.
- 7) This Agreement shall be subject to the laws of xxx. Place of Jurisdiction for all disputes arising under this Agreement shall be xxx, xxx.

SERVICE PROVIDER

USER

Name
Function

Name
Function

On this date _____

On this date _____

Annex 1: Information Service(s) XXX

Purposes of the User which are supported by the Service(s)

User purpose	Support by MACC Service(s)

Service specifications

Criterion	Performance level to be achieved
Information content	<parameters>
Service level	<e.g. NRT delivery time, record length, accuracy, failure rate, etc.>
Delivery formats	<format>
auxiliary variables	<any auxiliary information included in the products>
Geographic coverage, sampling and horizontal resolution	<Specified region, sampling, horizontal resolution>
Vertical coverage, sampling and resolution	<Height range, sampling, resolution>
Time coverage, sampling and resolution	Time period, sampling, resolution
Additional information	<Any additional information>
Known issues	<Any additional information, restriction or caveat of relevance to data quality and fitness for purpose, that the Service Provider mentions and / or that the User accepts>

Delivery milestones

milestone	date	content
(period 1)	xxx	xxx
(period 2)	xxx	xxx