

INVITATION TO TENDER

ECMWF/ITT/2020/310

FOR THE

PROCUREMENT OF IT END USER DEVICES

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1 INSTRUCTIONS FOR TENDERERS

1.1 Definitions

Definitions used in this Invitation to Tender (ITT) are listed here:

“ECMWF”	means European Centre for Medium-Range Weather Forecasts;
“Centre”	means ECMWF;
“EUD”	End User Devices;
“Initial Purchase”	the first delivery of equipment for each Lot under a Purchase Order issued by ECMWF;
“ITT”	means this Invitation to Tender;
“Lot”	means one of a number of categories of goods or services which a single procurement process has been divided into;
“Tender”	means a response to this ITT;
“Tenderer”	means an organisation bidding for this ITT;
“You”	the recipient of this ITT, a prospective “Tenderer”.

1.2 Introduction

This ITT has been prepared by the European Centre for Medium-Range Weather Forecasts, (governed by its Convention and associated Protocol on Privileges and Immunities which came into force on 1 November 1975, and was amended on 6 June 2010) ("ECMWF") for the purposes of obtaining proposals from suppliers for the procurement of IT End User Devices. This ITT will result in the setting up of a framework contract with up to four suppliers under each Lot, which will be invited to compete for future purchases of similar types of equipment to those specified in Annex 1. The initial framework will be for three years with the possibility of extension for a further two years. ECMWF may reopen the competition at a later date to add additional suppliers to the framework on the same conditions.

This ITT covers the procurement of two Lots, as follows:

- Lot 1: Windows OS Devices and Peripherals
- Lot 2: iOS and macOS Devices

Tenderers may elect to tender for Lot 1, Lot 2 or for both Lots. For the avoidance of doubt, ECMWF shall be permitted to award a contract for one or for both Lots on the basis of the Tenders submitted.

ECMWF is an independent intergovernmental organisation supported by 34 States. Information on ECMWF's activities can be found at <http://www.ecmwf.int/en/about>. ECMWF has two sites, one in Reading, UK, and another one in Bologna, Italy. From mid-2021, ECMWF will also have established a third facility in Bonn, Germany.

1.3 Important aspects of this ITT

- Tenders are welcomed from both non-UK and UK based suppliers (subject to supply and support requirements).
- Whilst the Initial Purchase under Lot 1 comprises non-specified branded equipment, subsequent orders may be for specific brands to meet ECMWF requirements.
- For future purchases all suppliers on the framework accepted under each Lot will generally be invited to tender via a mini competition for the respective Lot.
- Suppliers on the framework who are invited to participate in a mini competition for future purchases are not obliged to tender.
- Each future mini competition will have its own evaluation criteria, although the main criterion is likely to be price.
- All equipment shall conform to UK and/or EU specifications, depending on the location of delivery.
- Equipment originally delivered to one of the ECMWF sites may be moved to any other site at a future date and warranty / maintenance commitments will remain the responsibility of the supplier following the move (the actual movement of the equipment is outside the scope of this ITT).

1.4 Structure of this ITT

The ITT is structured in several parts, described below, all of which form the ITT:

- This ITT document: contains an introduction to the ECMWF and background to the service, provides instructions on how to respond and what information is required, provides a listing of the events and their dates for this ITT and provides detailed specifications for the requirements of this ITT in Annex 1 - Specification of Requirements (SoR) together with Annex 2 - the Terms and Conditions applicable to the contract resulting from this ITT.
- Tender Submission Form: the form to be used by Tenderers to complete their response to the ITT.
- Contract Notice: this is the document published in the Supplement to the Official Journal of the European Union describing the ITT and containing important information related to the ITT.

1.5 Timetable for this ITT

ECMWF envisages the following timetable for this procurement exercise (all times are UK local unless otherwise stated):

Publication of ITT	18 December 2020
Last date for submission of clarification questions	14 January 2021
Closing date/time	14:00 UK local time on 28 January 2021
Evaluation by ECMWF and negotiation with preferred bidder(s)	By 26 February 2021
Sign contracts by	1 March 2021

Table 1: Timetable

ECMWF reserves the right to postpone the dates from those published in this document.

1.6 Enquiries and contact procedure

Any enquiries or requests for clarification of any matters arising from this ITT should be sought from the Joint Secretaries to ITT310 at ECMWF and must be made in writing by e-mail as follows:

E-mail: sec310@ecmwf.int

The subject of the e-mail must be: **Clarification to ITT/2020/310**

Where ECMWF supplies further information, it will make this information available via its website and to all recipients of this ITT who have indicated their intention to submit a response and provided ECMWF with an e-mail address for communication of additional information unless the information is specific to a proprietary product of a potential bidder.

1.7 Submission of Tenders

The invitee is requested to confirm to the email address shown in section 1.6 above whether or not it will be submitting a response and must provide a contact point and contact details to which all further information will be sent.

The respondent must submit their response to itt310@ecmwf.int as an email with attachments containing its complete response to this ITT including its response to Annexes 1 and 2. The attachments must contain a printable version of the response in Microsoft Word format, Rich Text Format (RTF) or Adobe Portable Document Format (PDF) and in Microsoft Excel format for any spreadsheets. The email should confirm that the response has been submitted by a duly authorised director or senior officer of the respondent.

The subject of the email must be: **Response to ITT/2020/310**

You will receive an automated receipt confirmation upon submission of your response. If you do not receive one, you should contact sec310@ecmwf.int immediately. You must NOT send or copy your response to the contact email address in 1.6 above.

Please note that ECMWF reserves the right to contact bidders during the evaluation process in order to clarify points in their response, therefore the contact point should be monitored during this period.

1.8 Timeliness of response

ECMWF will not consider any late or partial responses to this ITT nor will it consider requests for extension of the time or date fixed for the submission of tenders. It may, however, at its own absolute discretion extend the time or date fixed for submission and in such an event ECMWF will notify all Tenderers who have provided ECMWF with an e-mail address for communication of additional information.

Technical failure, including of a computer, browser, e-mail system or internet connection, is not a valid reason for late or failed submission of a response, unless as a result of a failure of the ECMWF's IT systems, and in the case that there was no reasonable course of action the Tenderer could have taken to submit the response on time. **It is important that you do not leave the submission of your response to the last minute.**

1.9 Evaluation method and selection criteria

For each Lot, tenders will be evaluated in accordance with the following high-level evaluation criteria and weighting factors:

Evaluation criteria	Weighting
Tenderer's credentials (incl. track record and financial status)	10%
Quality of proposal <ul style="list-style-type: none"> • Compliance with technical specifications • Convenience of ordering EUDs & related equipment • Availability of catalogue of products and/or online services (web-shop, B2B functions etc.) • Availability of dedicated account manager • Appropriateness of support/maintenance service and warranty conditions • Management, Implementation and Quality of resources to be deployed 	30%
Price of equipment specified in the Initial Purchase	60%

Table 2: Evaluation criteria

It is envisaged that this evaluation will determine a maximum of four Tenderers under each Lot, with whom ECMWF will enter into contracts as part of the framework.

Following notification of the result of your tender you may request feedback on the evaluation from ECMWF.

1.10 Future purchases process

During the lifetime of the framework arrangement ECMWF will make further purchases of equipment. Each future purchase will specify EUD required, but could differ from the initial one in type, quantities, technical specifications, type and support requirements of requested equipment. Items described in each future purchase may be specified to a varying degree of detail depending on the particular requirement to be met.

Any future purchases through this framework, after the Initial Purchase, will be subject to further competitive quoting via mini competitions between the suppliers who have been selected for the framework agreement as a result of this ITT. ECMWF reserves the right to negotiate directly with one or more of those suppliers, depending on the particular requirements to be met (i.e. specific brand, urgent need etc.). The most appropriate method for any future purchase will be selected to meet deadlines whilst still adhering to ECMWF's tendering requirements.

It is anticipated that the expenditure over the first three years of the framework will be of the order of £1M. Note that whilst it is envisaged that all suppliers who have been selected for the framework agreement as a result of this ITT will have the opportunity to quote for future purchases during the lifetime of this arrangement, there is no guarantee as to the volume of purchases to be offered.

Responses to mini competitions for future purchases under this framework will generally be evaluated based on price.

2 CONDITIONS OF TENDER

2.1 Procedures

The procurement for the contract will be conducted in accordance with ECMWF's procedures as set out in ECMWF's ITT documents and no other procedures will apply.

The submission of a response to this ITT shall constitute an offer that may be accepted by ECMWF so as to become a binding contract. However, ECMWF is not bound to accept any quotes. If ECMWF elects to accept a quote, subject to contract, the parties shall execute a formal contract incorporating the terms and conditions contained in the ITT and any other agreed terms. ECMWF reserves the right to contract with more than one supplier in awarding work under this ITT.

2.2 Tenders are subject to these Conditions

2.2.1 The Tenderer shall not:

- Consult, communicate or agree with any other Tenderer on any matter whatsoever related to the ITT;
- Disclose its proposed price for the ITT, whether directly or indirectly, to any other Tenderer but this shall not preclude the Tenderer from publishing its standard list prices;
- Make any attempt to induce any other person or organisation to submit or not to submit a tender.

2.2.2 Validity

The tender shall remain valid for a minimum of six months after the closing date for this ITT.

2.2.3 Guarantees

In the case of a tender received from an organisation which is a subsidiary of another organisation, ECMWF may require the execution of a guarantee by the Tenderer's parent organisation for the execution of the Tenderer's obligations.

2.2.4 Expenses

ECMWF will not reimburse expenses incurred in connection with the preparation and submission of the tender. ECMWF accepts no liability whatsoever, whether in contract, tort or otherwise in relation to the ITT or in respect of any costs, damages or expenses incurred by Tenderers or any third party.

2.2.5 Language for tenders

All tender documentation, manuals and diagram labelling shall be written in English.

2.2.6 Confidentiality

Except where ECMWF has made its documents publicly available, the contents of this ITT together with all other information, materials, specifications or other documents provided by ECMWF, or prepared by Tenderers specifically for ECMWF, shall be treated at all times as confidential by the recipients. Tenderers shall not disclose any such information, materials, specifications or other documents to any third parties or to any other part of the Tenderer's group or use them for any purpose other than for the preparation and submission of a response to this ITT nor shall Tenderers publicise ECMWF's name or the project without the prior written consent of ECMWF.

Tenderers shall ensure that all third parties to whom disclosure is made shall keep any such information, materials, specifications or other documents confidential and not disclose them to any other third party except as set out above.

ECMWF reserves the right to retain all documents submitted by Tenderer in response to the ITT. Any information in such documents that is proprietary and confidential to the Tenderer will be handled

confidentially by ECMWF provided it is clearly and specifically identified as such. Such obligation shall not apply if such information is or was obtained from other sources that do not bind ECMWF as to confidentiality or if the information is in the public domain. ECMWF may make Tenderers' tenders available for evaluation purposes to authorised people including its governing body, committees, and professional advisers in addition to ECMWF's own personnel under the same conditions of confidentiality.

Please also note that all personally identifiable information (PII) requested by ECMWF or provided by the invitee will be treated in accordance with the ECMWF Policy on Personally Identifiable Information Protection (PIIP). It is available on www.ecmwf.int. ECMWF shall process all PII submitted by your response for the sole purposes of assessing your response. In doing so, ECMWF may share such PII with consultants or external advisors.

2.3 Warnings/disclaimers

Nothing contained in this ITT or any other communication made between the respondent and ECMWF or its representatives shall constitute an agreement, contract or representation between ECMWF and any other party (except for a formal award of contract made in writing by ECMWF). Receipt by a respondent of this ITT does not imply the existence of a contract or commitment by or with ECMWF for any purpose.

ECMWF reserves the right to change any aspect of, or cease, the ITT at any time.

While ECMWF has taken all reasonable steps to ensure, as at the date of this document, that the facts which are contained in this ITT are true and accurate in all material respects, ECMWF does not make any representation or warranty as to the accuracy or completeness or otherwise of this ITT, or the reasonableness of any assumptions on which this document may be based. ECMWF accepts no liability to respondents whatsoever and however arising and whether resulting from the use of this ITT, or any omissions from or deficiencies in this document.

ECMWF may use the information included in a tender for any reasonable purpose connected with this ITT.

3 TENDER FORMAT AND CONTENT

Tenderers shall submit their responses to this ITT by using the Tender Submission Form, attached as a separate file to this ITT document. Any instructions, conditions or requirements specified in the Tender Submission Form are an integral part of the ITT. Any attachments which are part of the Tenderer's response shall be clearly referenced in the respective section of the Tender Submission Form.

Annex 1 SPECIFICATION OF REQUIREMENTS

1 BACKGROUND

ECMWF is an organisation of about 400 staff that functions much like any other business of a similar size. The centre provides its staff with End User Devices (hereafter EUD) to carry out their daily work.

For the purpose of this ITT we refer to End User Devices (EUD) as IT and IT-related equipment like Personal Computers, laptops, tablets, USB attached devices, monitors, keyboards, cables, graphics cards, etc.

During the lifetime of the framework arrangement ECMWF will make further purchases of equipment. Each future purchase will specify EUD required, but could differ from the initial one in type, quantities, technical specifications, type and support requirements of requested equipment. Items described in each future purchase may be specified to a varying degree of detail depending on the particular requirement to be met. Any future purchases through this framework, after the Initial Purchase, will be subject to further competitive quoting via mini competitions between the suppliers who have been selected for the framework agreement as a result of this ITT.

2 OBJECTIVE

The ultimate purpose of this ITT is to secure the best value for money in the provision of EUD and more specifically:

- The ITT will result in the establishment of a framework arrangement for the purchase of EUD and associated equipment in the future. The framework arrangement will select a restricted pool of suppliers for an initial duration of 3 years, with the possibility of one extension for two years.
- In addition, this ITT intends to secure an Initial Purchase comprising equipment from the supplier providing best value responding to this ITT. Tenderers may elect to submit prices for either one or both of the Initial Purchase Lots. The two Initial Purchase Lots may be awarded to different Tenderers, depending on the result of the evaluation of responses under each Lot.

3 SCOPE OF REQUIREMENTS

3.1 General Requirements

Tenderers must explain and provide the procedure to request quotations and place orders for future purchases, and the possibility to browse their catalogue and prices. Future purchases will be not solely limited to the items described in this document; it is expected during the duration of the contract that new brands, product types and other type of equipment could be requested.

For this purpose, the catalogue of products available from each Tenderer is part of the evaluation criteria.

ECMWF requires the Tenderers to offer an account manager responsible for the contract and for any other matters related with the service.

ECMWF considers it an advantage to be provided with services to support the discussion of configuration options, alternative products and to guide ECMWF staff members in the selection of the most suitable product. This is not a mandatory requirement.

For Lot 2 the Tenderers have to be members of the Apple Device Enrolment Programme (DEP).

The Tenderers must explain how warranty and hardware support services are fulfilled in the three ECMWF locations.

4 TECHNICAL SPECIFICATIONS FOR THE INITIAL PURCHASE

4.1 Lot 1

Item 1 – Windows Laptop

Description	Windows Laptop
Screen size (minimum)	13"
Screen resolution	HD (1920 x 1080)
Security feature	TPM 2
CPU	Core i7 (or equivalent)
RAM	16GB
Storage(SSD/NVMe)	512GB
OS	Windows 10 pre-installed
Thunderbolt3 ports	Quantity: 2
Warranty	3 years

Item 2 – LCD Monitor

Description	LCD Monitor
Screen size	24"
Screen resolution	HD+ (1920 x 1200)
Interfaces (minimum)	1 x HDMI, 1 x DisplayPort
Adjustments	vertical position (height) & screen rotation (landscape/portrait)
Audio	Stereo speakers
Brightness (minimum)	300 cd/m2

Item 3 – Hard Disk

Description	Hard Disk
Manufacturer	Western Digital
Interface	SATA 6GB
Capacity	8TB
Model type	RED NAS

4.2 Lot 2

Item 1 – MacBook Pro Laptop

Description	MacBook Pro Laptop
Screen size	13"
CPU	M1
RAM	16GB
Storage	512GB
AppleCare+	3 years

FRAMEWORK CONTRACT

ECMWF/ITT/2020/310

for the

PROCUREMENT OF IT END USER DEVICES

The entire agreement between the Parties relating to the acquisition of Goods ("Contract") consists of:
ANNEX 1: ECMWF's Terms and Conditions of Contract - Goods
ANNEX 2: The Contractor's Proposal and
ANNEX 3: ECMWF/ITT/ xxx for [brief description of services]
[ANNEX 4: ECMWF's Acceptance Letter - if applicable]

In the event of any conflict between these Annexes the order of precedence shall be:

- 1) ANNEX 1: ECMWF's Terms and Conditions of Contract - Goods
- 2) ANNEX 3: ECMWF/ITT/ xxx for [brief description of services]
- 3) [ANNEX 4: ECMWF's Acceptance Letter - if applicable]
- 4) ANNEX 2: The Contractor's Proposal

Under this Contract made and entered into on _____

by and between

the European Centre for Medium-Range Weather Forecasts (ECMWF), governed by its Convention and associated Protocol on Privileges and Immunities which came into force on 1 November 1975 and was amended on 6 June 2010,

and

[Contractor, Contractor's address], registered in [State; City; Institution] no. [registration number], (the Contractor),

ECMWF agrees to acquire and the Contractor agrees to supply the goods and services described in this Contract on the terms and conditions provided herein and for the price(s) set out in Annex 2.

Unless terminated in advance or extended by way of an agreed variation, this contract shall expire and cease to have effect on _____.

IN WITNESS WHEREOF this Contract has been duly executed as of the date set forth above.

Signed for and on behalf of ECMWF

Signed for and on behalf of the Contractor

YOU ARE NOT REQUIRED TO SIGN THIS AS PART OF YOUR RESPONSE

However, you should confirm your agreement to the Terms and Conditions in accordance with provisions of the Invitation to Tender

By XXXXX

by (name): _____

Its Director of XXXXXXXXX

Its: _____

Addresses for contract notices:

For ECMWF

For the Contractor

Director of XXXXXXXX

ECMWF

Shinfield Park

READING, Berkshire

RG2 9AX

United Kingdom

ANNEX 1: TERMS AND CONDITIONS OF CONTRACT - GOODS

1 INTRODUCTION, DEFINITIONS AND TERM

- 1.1 These Terms and Conditions (“T&C”) apply to the procurement by ECMWF of any tangible products or other equipment, software or firmware, including all ancillary services such as installation and training (“Goods”).
- 1.2 ECMWF and the person or entity whose offer is accepted by ECMWF (“Contractor”) are “Parties” to these T&C. No third party is entitled to claim any rights under these T&C.
- 1.3 These T&C shall apply for the period of time between the date of the Framework Contract, shown above, and the date of its termination or expiry.
- 1.4 No variation of these T&C shall be valid unless it is confirmed in writing by authorised signatories of both Parties.

2 PRICE, CURRENCY, AND VAT

- 2.1 Unless otherwise agreed the price(s) payable by ECMWF shall remain fixed for three months from the date of the quotation supplied in response to a Request, not be subject to any adjustment on the basis of the Contractor’s cost experience in performing the contract, and must contain all charges, disbursements, ancillary costs and fees e.g. for accompanying licences or in relation to the acquisition of ownership of Goods by ECMWF.
- 2.2 The currency of the Request shall be in Pound Sterling (£) / Euro (€). The Contractor’s prices shall be quoted in Pound Sterling (£) / Euro (€). The Contractor’s invoices shall be submitted in Pound Sterling (£) / Euro (€). Payments by ECMWF to the Contractor shall be made in Pound Sterling (£) / Euro (€).
- 2.3 The Contractor shall take all necessary steps to facilitate ECMWF's exemption resulting from its Protocol on Privileges and Immunities from taxes, including VAT, and customs duties which might otherwise be payable in relation to the Goods. It will do so by carrying out the necessary formalities so as to bring about the exemption from taxes and duties which might otherwise be levied on the expenses it will incur, before it submits the invoice to ECMWF; and by complying with all necessary formalities so that ECMWF itself may be exempt from paying such taxes and duties. For these purposes, it shall request the necessary instructions from ECMWF and provide in due time the information which ECMWF requires.
- 2.4 ECMWF will not pay any other taxes or duties relating to the Goods. The Contractor shall be liable for all other taxes, assessments, fees, licences, administrative customs charges or other governmental assessments or charges that are applicable to the performance of this Contract. It is each Party’s responsibility to inform itself of its liabilities in each country where such liabilities may arise.

3 INVOICING AND PAYMENT

Save where different payment terms are specified in the Request, ECMWF shall pay all invoices within 30 days of receipt provided the Contractor has complied with its obligations under the Contract and the invoice is correct, stating the applicable Goods, the price, the Contractor’s VAT number, any Order number and has been issued to Finance Section at ECMWF, Shinfield Park, Reading, RG2 9AX, United Kingdom, and sent thereto or to finance@ecmwf.int. The Contractor shall supply ECMWF with all necessary information as advised by ECMWF regarding the Goods, in good time before Delivery into the UK, to enable ECMWF to avail itself of its exemption from customs duties and taxes.

4 INSPECTION, ACCEPTANCE AND DELIVERY

- 4.1 Before delivering Goods, the Contractor shall inspect and test them for compliance with the Contract and shall provide ECMWF with such test sheets and certificates as ECMWF may require.
- 4.2 The Contractor shall deliver the Goods on the delivery date to the place specified by ECMWF or, if the Contractor is installing and/or commissioning Goods, the Contractor shall install and/or commission the Goods by or before the installation date. Each delivery of Goods shall be accompanied by appropriate supporting documentation such as user manuals and an advice note which identifies the items e.g. part

number and description and identifies any applicable Order number. ECMWF may require the Contractor for any reason to postpone delivery of any Goods and the Contractor shall store and/or delay the delivery of such Goods at its risk and expense for up to a maximum period of two months from the delivery date.

- 4.3 Unless otherwise agreed the Contractor shall deliver during ECMWF's normal working hours, shall notify ECMWF of the date anticipated for delivery especially for bulky items and shall also notify ECMWF in advance of all proposed site visits. The Contractor shall remove packing materials and cases if the Contractor is installing Goods but otherwise ECMWF shall dispose of packing materials and cases as it sees fit. Shipments must be packaged as specified in the Request or, if not so specified, to provide adequate protection for safe carriage.
- 4.4 If the Contractor does not deliver or install the Goods by the agreed delivery or installation date or within a reasonable period thereafter, ECMWF reserves the right to invoke any one or more of the remedies specified in Clause 8.3. The Contractor shall notify ECMWF immediately if it anticipates any delay in meeting any delivery or installation date
- 4.5 ECMWF reserves the right to inspect or test any supplies that have been delivered. ECMWF's acceptance of Goods will take place in accordance with the procedure specified in the Request. If no such procedure is specified, ECMWF will be deemed to have accepted the Goods without prejudice to any other remedies when and as soon as any of the following events have occurred: (a) ECMWF has taken Goods into use; (b) ECMWF has not exercised the right of rejection within any period specified in the Request or within any reasonable time that has elapsed since delivery, taking into account all circumstances of the Contract.

5 RISK AND TITLE

Risk of loss or of damage in the Goods shall pass to ECMWF upon acceptance at the place of delivery. Unless otherwise agreed, title to the Goods (excluding any software) shall pass to ECMWF fully and irrevocably under the Contract upon receipt by the Contractor of the price or any instalment thereof from ECMWF. Payment by ECMWF shall be deemed to constitute an effective assignment of ownership to ECMWF.

6 FRAMEWORK AND MULTIPLE ORDERS

- 6.1 Meeting ECMWF's Requests over the Term may require more than one order. The award of an order based upon one such Request does in no way limit ECMWF's right to invite other bidders on the Framework Contract to accept or bid for future orders under the same or a similar Request.
- 6.2 In such cases, the Contractor agrees that ECMWF may order additional Goods at any time during the Term under these T&Cs and at the Price(s) provided in the quotation as a result of ECMWF's Request.
- 6.3 ECMWF has no obligation to place orders under this Framework Contract.

7 WARRANTIES

- 7.1 The Contractor warrants that: a) it is entitled to supply the Goods; b) the Goods shall comply with the Request or, if there is no further Specification contained therein, shall meet ECMWF's specified and/or reasonable requirements; c) the Goods shall be free of defects in design, materials and workmanship; d) the Goods shall be new, of satisfactory quality and fit for ECMWF's purpose; e) the Goods shall be supplied in compliance with the latest applicable British or ISO or equivalent standards and regulations as well as ECMWF's quality assurance requirements; if the Contractor is accredited to an ISO 9001 or comparable standard by an authorised certification body, the Contractor shall comply with such quality system; f) the Goods shall at all times comply with all legislation and relevant regulations applicable to the Contractor including, but not limited to, health and safety, the environment and product liability and the Contractor shall provide all necessary information reasonably requested by ECMWF.
- 7.2 The Contractor shall also provide spare parts for the Goods at a reasonable price within two years after expiration of the warranty period.

8 WARRANTY PERIOD; REMEDIES; TERMINATION FOR CAUSE

- 8.1 The warranty period shall be the longer of (a) any specific warranty period requested in the Request; (b) the manufacturer's warranty period; or (c) two years. The warranty period starts from the date of ECMWF's acceptance of delivery, unless otherwise stipulated in the Request.
- 8.2 Throughout the warranty period the Contractor shall correct, without any cost to ECMWF and within 30 working days of notification, any breach of any express or implied warranty applicable to the Goods.
- 8.3 If the Contractor fails to correct a breach in due time, ECMWF shall be entitled to avail itself of any one or more of the following remedies at its discretion: (a) to rescind or suspend the Contract with immediate effect; (b) to reject the Goods (in whole or in part) and return any or all of them to the Contractor at the risk and cost of the Contractor on the basis that a full refund for the Goods so returned shall be paid forthwith by the Contractor; (c) to refuse to accept any further deliveries of the Goods (d) to carry out at the Contractor's expense any work necessary to make the Goods comply with the Contract; and e) to claim such damages as may have been sustained in consequence of the Contractor's breach of Contract.
- 8.4 ECMWF may resort to any one or more of the remedies stipulated in Clause 8.3, *mutatis mutandis* and with immediate effect upon written notification, if it comes to the conclusion:
- That the Contractor has committed errors, irregularities, fraud or breaches of other obligations under the Contract; or
 - That the Contractor is involved in any legal proceedings concerning its solvency, or ceases trading, or commits an act of bankruptcy or is adjudicated bankrupt, or enters into liquidation whether compulsory or voluntary (other than for the purposes of an amalgamation or reconstruction) or makes an arrangement with its creditors or the Contractor is placed into administration or has an administrator, receiver or manager appointed over all or any part of its assets or generally becomes unable to pay its debts; or is acquired by or merged with any third party.

It is left to the Contractor to provide evidence to rebut ECMWF's conclusions. ECMWF may take timely rebuttals into account, reconsider the remedies, or enter into negotiations with the Contractor.

9 TERMINATION WITHOUT CAUSE; FORCE MAJEURE

- 9.1 ECMWF reserves the right to terminate any Contract, for any reason at thirty (30) days' notice.
- 9.2 In such case the extent of ECMWF's liability shall be (a) for bespoke Goods only, to pay the portion of the price as the work completed at termination bears to the rest of the work anticipated for the specific order, or (b) for standard equipment to pay the cost of the existing finished goods inventory, but no more than required up to the end of the notice period, except that there shall be no liability for payment in either category for any Goods which are stock items or which are otherwise readily usable or re-saleable.
- 9.3 In the event of a termination of a Contract by ECMWF pursuant to Clause 9.1, ECMWF shall have no liability to the Contractor as a result of such termination beyond the limits of Clause 9.2.
- 9.4 Neither party shall be liable to the other party for any delay in or failure to perform its obligations as a result of any cause beyond its reasonable control ("Force Majeure") provided the affected party notifies the other party as soon as reasonably practicable. If any Force Majeure event continues for at least 90 days, either party shall be entitled to terminate the Contract with immediate effect by notice in writing to the other party.

10 INTELLECTUAL PROPERTY RIGHTS

- 10.1 ECMWF shall be entitled to all intellectual property rights including, but not limited to, patents, copyrights and trademarks with regard to any products, processes, inventions, ideas, know-how, or documents and other material which the Contractor has developed for ECMWF, and which bear a direct relation to or are produced or prepared or collected in consequence of, or during the course of, the performance of the Contract.
- 10.2 Clause 10.1 does not apply to the Contractor's pre-existing intellectual property rights or rights that the Contractor may have developed or acquired independently of the performance of its obligations under these T&C. In such cases, the Contractor grants ECMWF a free, non-exclusive, irrevocable, worldwide,

transferable, sub-licensable and time unlimited license to use all pre-existing and integrated technology contained in the Goods, including for their repair, modification, and replacement by or on behalf of ECMWF within the scope of ECMWF's activities.

11 INDEMNITY

The Contractor shall keep ECMWF indemnified against all liabilities, costs, expenses, damages and losses suffered or incurred by ECMWF or any of its Member States as a result or in connection with any claim, including but not limited to claims for actual or alleged infringement of a third party's intellectual property rights, brought against ECMWF arising out of, or in connection with ECMWF's receipt or use of the Goods to the extent that the claim is attributable to the acts or omissions of the Contractor, its employees, agents, or subcontractors. This Clause 11 shall survive termination of the Contract.

12 PUBLICITY & CONFIDENTIALITY

12.1 The Contractor may not use ECMWF's name for advertisement, reference or publicity purposes without ECMWF's prior written consent.

12.2 If either party learns of confidential or proprietary information of the other party, it may not disclose such information without prior written consent of the other party. This obligation will survive the expiry or termination of the Contract for a period of five (5) years or until such earlier time as the confidential information concerned reaches the public domain other than through the receiving party's own default.

13 INSURANCE

The Contractor shall carry public liability and product liability insurance (or equivalent cover or contingency arrangements) for at least 2 million Pound Sterling (£2,000,000) for all liabilities that may arise out of the Contractor's performance or non-performance of its obligations under the Contract. Upon request, the Contractor shall provide evidence of such insurances or such other cover or contingency arrangements as the Contractor maintains, to the satisfaction of ECMWF.

14 PERSONAL DATA

14.1 Where the processing of personal data by the Contractor is required under this Contract, the Contractor shall process personal data in accordance with the General Data Protection Regulation 2016/679/EU, as amended, and any other data protection law applicable to the Contractor ("Data Protection Law") during the term of this Contract. If the Contractor processes personal data outside the European Economic Area ("EEA"), or allows such personal data to be accessed from outside the EEA, it shall do so in a manner which satisfies applicable Data Protection Law for the implementation of adequate safeguards for transfers of personal data to third countries not subject to an adequacy decision of the European Commission (e.g. under an agreement between the Contractor and the third-country recipient organisation using European Commission approved Model Contract Clauses or, in the case of the United States of America, covered by the Commission approved "Privacy Shield" or any subsequent similar arrangement).

14.2 The Contractor shall implement appropriate technical and organisational measures to ensure the security of personal data processed pursuant to this Contract. Upon termination or expiry of this Contract or upon ECMWF's request, the Contractor shall either delete or return to ECMWF all personal data processed under this Contract, unless Data Protection Law requires otherwise.

14.3 If so required under applicable Data Protection Law, the Contractor shall designate a Data Protection Officer ("DPO") and supply appropriate contact details of its DPO to ECMWF and the data subjects. ECMWF may publish that information through its websites for use by the data subjects, whose personal data is processed by the Contractor. The Contractor shall promptly report to ECMWF any change to the identity of the Contractor's DPO.

14.4 The Contractor shall, without delay, pass on to the DPO of ECMWF any requests or complaints made by data subjects relating to the processing of their personal data in the exercise of their rights under

applicable Data Protection Law. The Contractor shall provide, free of charge, all support necessary for ECMWF to respond to and/ or fulfil all such requests and complaints.

14.5 The Contractor shall notify ECMWF of any security incidents, events or weaknesses (e.g. data breaches or suspected data breaches) impacting or capable of impacting the security of personal data processed under this Contract.

14.6 The Contractor shall process, or permit to be processed, personal data only for the purposes of performing its obligations under this Contract and shall ensure that personnel of the Contractor is subject to an obligation of confidentiality in respect of the processing of personal data under this Contract.

14.7 ECMWF, an 'international organization' under Chapter V of the GDPR, shall comply with its own policies and procedures in respect of the protection of personally identifiable information, notably the Policy for Personally Identifiable Information Protection, as amended. ECMWF's DPO can be reached as follows: pji-protection-officer@ecmwf.int or ECMWF PII Protection Officer; ECMWF, Shinfield Park, Reading, RG2 9AX, United Kingdom.

15 RECOVERY

ECMWF reserves a right to recover from the Contractor any amounts that have been paid to the Contractor but which are not due. When ECMWF identifies such amounts and notifies the Contractor of its intention to recover such amounts, they shall be treated by both parties as debts and shall be payable by the Contractor immediately. If applicable, ECMWF may choose to set off such amounts in full against any outstanding claim the Contractor may have against ECMWF.

16 GOVERNING LAW AND DISPUTE RESOLUTION

16.1 The parties shall attempt to settle any dispute between them in an amicable manner and, if unsuccessful, first refer the dispute to proceedings under the International Chamber of Commerce's (ICC) Mediation Rules. If the dispute has not been settled pursuant to the said Rules within 45 days following the filing of a request for mediation or within such other period as the Parties may agree in writing, such dispute shall thereafter be finally settled under the ICC Rules of Arbitration by one (1) arbitrator appointed in accordance with the said Rules of Arbitration. The Place of Mediation and Arbitration shall be London, England. The proceedings shall be in the English language.

16.2 Nothing in the Contract is meant to be construed as a waiver of any of the privileges and immunities conferred upon ECMWF by virtue of its Convention and Protocol.

16.3 Recourse to regular courts of law, also in cases of injunctive relief, is excluded.

16.4 It is the intention of the Parties that these T&C shall comprehensively govern the legal relations between the Parties, without interference or contradiction by any unspecified law. Without prejudice to ECMWF's status as an Intergovernmental Organization, reference shall be made to the substantive Laws of England and Wales where:

- A matter is not specifically covered by these T&C; or
- A provision of these T&C is ambiguous or unclear.

16.5 The United Nations Conventions on Contracts for the International Sale of Goods shall not apply.

17 MISCELLANEOUS

17.1 The Contractor may not sub-contract or assign any of its obligations under the Contract except with ECMWF's express written permission and upon the basis of specific terms, provided by ECMWF, to apply as between the Contractor and its sub-Contractor or assignee.

17.2 No forbearance or delay by either party in enforcing its rights shall prejudice or restrict the rights of that party, and no waiver of any such rights or of any breach of any contractual terms shall be deemed to be a waiver of any other right or of any later breach.

17.3 In the event of any inconsistency between any terms of these T&C, or a contract incorporating the former, and any translation thereof into another language, the English language meaning shall prevail.

17.4 If any provisions of these T&C are or subsequently become invalid for any reason, the remaining provisions shall remain in full force and effect.