



DRAFT PARTNERSHIP AGREEMENT

The Living Planet Fellowship

[enter name of project]

Between:

The EUROPEAN SPACE AGENCY
(hereafter called “**the Agency**” or “**ESA**”),

with its headquarters at:

8-10 rue Mario-Nikis
75015 Paris
France,

represented by Mr Jean-Jacques Dordain, its Director General,

acting through its establishment

ESRIN,

located at: Via Galileo Galilei
00044 Frascati
Italy

of the one part,

and:

[full legal name of the Institute to be inserted]

(hereafter called “**the Institute**”),

whose Registered Office is at:

[to be inserted]

represented by [**name to be inserted**], its [**job title within the Institute to be inserted**],

of the other part,

the following has been agreed:

PREAMBLE

WHEREAS:

- The Agency has an interest in supporting young scientists in ESA Member States to undertake leading edge research activities contributing to the achievement of the Living Planet Programme by maximising the use of ESA data and Earth Observation (**EO**) assets;
- Equally, the Institute has an interest in carrying out research work leading to the achievement of the Living Planet Programme by maximising the use of ESA data and EO assets;
- The Agency and the Institute wish to cooperate in regard to the abovementioned activities and to put their respective competence and/or facilities at each other's disposal for this purpose;
- The Institute has internally secured partial funding for the abovementioned research work;
- In order actively to support the abovementioned research work, the Agency agrees to co-fund a Post-Doctoral research project regarding [*title to be inserted*], to be carried out by staff of the Institute in the frame of the present cooperation as specified hereafter.

NOW, THEREFORE, IN CONSIDERATION OF THE ABOVE, THE PARTIES AGREE TO THE FOLLOWING:

ARTICLE 1: SUBJECT OF THE PARTNERSHIP AGREEMENT: GENERAL TERMS OF EXECUTION

- 1.1 In the frame of the cooperation with the Agency covering leading edge research activities contributing to the achievement of the Living Planet Programme by maximising the use of ESA data and EO assets, the Institute undertakes to carry out research work regarding [*title to be inserted*], through a post-doctoral project, to be carried out by a researcher employed by the Institute. The researcher selected for the implementing the project shall be referred to throughout this Partnership Agreement as "**the Post-doctoral Scholar**".
- 1.2 The Institute also undertakes to deliver the documentation (including a Final Report) and other deliverables as described in Article 2.2 below and to make an oral presentation of the results, at the end of the project.
- 1.3 The work shall be performed in accordance with the provisions stated in the following documents, listed in order of precedence in case of conflict:
 - a) The specific Articles of this Partnership Agreement;
 - b) The Institute's Proposal '*to be inserted*', ref. [*to be inserted*], issue [*to be inserted*] rev [*to be inserted*] dated [*to be inserted*] (**the Proposal**).
 The Proposal is not attached to the Partnership Agreement but is known to both parties.
 Any amendments which the Institute has proposed in the Proposal which could impact these contractual provisions do not apply to the Partnership Agreement, unless they have been reproduced directly in the text of the Partnership Agreement below.
- 1.4 General Terms of Execution
 - 1.4.1 The Partnership Agreement shall enter into force on the signature of the duly authorised representatives of both parties, and shall cover all activities from the date of the kick-off meeting, i.e. [*date to be inserted*].

 The project shall be completed no later than **24 months** from the date of the kick-off meeting. The Partnership Agreement may, however, be extended, on the written agreement of both parties, if such an extension is necessary in order to enable the Post-doctoral Scholar to complete the project.
 - 1.4.2 The language of this Partnership Agreement and of all communications made during the course of the Partnership Agreement shall be English. The substantive law according to which this Partnership Agreement shall be construed is [*to be inserted – the country shall be the country in which the Institute's legal seat is registered*].
 - 1.4.3 This Partnership Agreement does not foresee any changes increasing the scope or price of the work.
 - 1.4.4 Any modification to this Partnership Agreement shall, in all circumstances, require the Agency's prior written approval and shall be formalised in writing by means of a Contract Change Notice, which shall be signed by an authorised representative from both parties.

- 1.4.5 The Institute shall be fully responsible towards the Agency for the proper execution of the work.
- 1.4.6 The Institute guarantees that the research project will be performed fully in accordance with the requirements of this Partnership Agreement and that the Institute's performance will meet the highest standards of the profession.
- 1.4.7 The Agency may provide direction to the Post-Doctoral Scholar in respect of technical matters concerning the research project.
- 1.4.8 This Partnership Agreement shall not affect the legal relationship between the Institute and its staff. The Agency's relationship with the Institute's staff shall be material only, and there shall be no contractual relationship between the two.
- 1.4.9 Any publicity material prepared by the Institute related to an activity performed by the Institute in the context of this Partnership Agreement shall acknowledge that the activity is/was carried out "under a programme of, and funded by, the European Space Agency". It shall display the ESA logo, if the Agency so requires. It shall also carry a disclaimer stating that the view expressed in such publications can in no way be taken to reflect the official opinion of the European Space Agency.
- 1.4.10 The Parties shall use their best endeavours amicably to settle any dispute arising out of the Partnership Agreement.

Failing an attempt towards an amicable settlement, all disputes shall be finally settled in accordance with the Rules of Arbitration of the International Chamber of Commerce by one or three arbitrators designated in conformity with such Rules. The Arbitration Tribunal shall sit in [*to be inserted – the city shall be the city in which the Institute's legal seat is registered*]. The Tribunal's award shall be final, binding on the Parties and no appeal shall lie against it. The enforcement of the award shall be governed by the rules of procedure in force in the state/country in which the award is to be executed.

ARTICLE 2: DELIVERY REQUIREMENTS AND MEETINGS

2.1 General

- 2.1.1 Delivery shall be considered as effected only when the relevant deliverable items are in the Agency's possession.
- 2.1.2 Should it seem likely that, owing to a change of circumstances, the originally specified delivery date(s) may be exceeded, the Institute shall immediately notify the Agency in writing.
- 2.1.3 No price adjustment in favour of the Institute will be applicable for the period of delay in delivery. No penalty to be deducted from the Partnership Agreement price shall apply in case of late delivery: however, should the Agency conclude that the delays in delivery have impaired the intended objectives of the project, the provisions of paragraph 5.4 below shall apply.
- 2.1.4 The Institute shall be responsible for the appropriate marking, packing, package labelling, insurance, freight, carriage and delivery relative to all deliverable items due hereunder and shall bear any cost relative to all of the above. Deliverable items shall furthermore be packed to guard against loss, damage or deterioration during transport and delivery. If found damaged or defective upon delivery, the Agency reserves the right to return the affected items at the Institute's expense.
- 2.1.5 The acceptance by the Agency of the deliverables shall be declared upon verification, by the Agency, that the work has been performed in compliance with the Agency's requirements and that the required results have been achieved. A deliverable shall be considered as accepted in the absence of an explicit reaction by the Agency within one calendar month from the date the Agency receives the deliverable for acceptance. The provisions of paragraph 5.4 below shall apply in this respect.

2.2 Deliverables

- 2.2.1 The Institute undertakes to deliver to the Agency all results achieved in the frame of the post-doctoral research work and to make all results publicly available through the Living Planet Fellowship website.
- 2.2.2 The Institute shall deliver the following documents and reports to the Agency's Technical Officer:

- **Bi-monthly Progress Reports:** Management document describing the main progresses, problem areas and proposed solutions;
 - **Technical Notes 1 and 2** (to be delivered at KO+6 and KO+18, respectively): Scientific documents summarising the main technical developments and results related to the corresponding time periods.
 - **Mid-term Report:** Scientific document to be made publicly available and to describe in detail the work carried out and scientific results obtained during the first year of activity.
 - **Final Report:** Scientific document to be made publicly available and to describe in detail the overall activity, problems faced, methods developed and final scientific results obtained throughout the project. This should include a list of publications produced.
 - **Executive Final Paper:** Scientific summary of the project for peer review, in the form of a scientific publication, to be used by ESA in a monographic series collecting the results of the initiative.
- 2.2.3 In addition, the Institute shall send one (1) paper copy of the Final Report and one (1) copy on CD-ROM to: ESA Information and Documentation Centre – ESTEC Library, Postbus 299, 2200 AG Noordwijk, The Netherlands.
- 2.3 Meetings and Reviews
- 2.3.1 The Institute shall be responsible for organising:
- a First Collocation Meeting at KO+4;
 - a Mid-Term Review at the end of the first year of the project; and
 - a Final Review at the end of the project.
- These periodic reviews shall be an opportunity to discuss with the Agency's Technical Officer all matters related to the execution of the Agreement. The Institute shall also arrange ad-hoc meetings, if so required.
- 2.3.2 The Institute shall be responsible for drafting, circulating and finalising the agenda for and the minutes from all meetings between the Institute and the Agency. Minutes from all meetings must be signed by a minimum of one representative from each party to the Partnership Agreement. If one party has not signed the minutes within 30 working days of the date of the meeting, the minutes shall nevertheless become binding.
- 2.3.3 The Institute shall make a final presentation at the end of the work, at a location to be agreed by the parties.

ARTICLE 3: PRICE

- 3.1 The total amount which the Agency will contribute to the post-doctoral research work described in Article 1 above is:
- EUR**
(..... Euro)
- This contribution is broken down as follows:
- Period 1 (from KO to KO+12): EURO
- Period 2: (from KO+13 to KO+24): EURO
- 3.2 This contribution is hereby defined as a Firm Fixed Price (**FFP**) and, as such, it shall not be subject to any adjustment or revision by reason of the actual costs incurred by the Institute in the performance of this Partnership Agreement.
- 3.3 It is understood that the FFP allocated by ESA only partially covers the total cost of the post-doctoral research work, the total cost for which is EURO [**to be inserted**].
- 3.4 The Institute shall provide the remainder, amounting to EURO [**to be inserted**], and shall ensure that the Post-doctoral Scholar shall be provided with adequate office space and equipment for the complete duration of his/her research work under the Partnership Agreement.
- 3.5 Licence Costs
- The FFP includes, and the Institute shall pay all costs associated with the purchase of all of the licences which the Institute has indicated in the Proposal will be purchased under the Partnership Agreement, or which become necessary to be purchased during the Partnership Agreement. Each licence shall indicate the Agency as the intended end-user.
- The FFP also includes, and the Institute shall pay all other costs associated with use of licensed software for the purposes of the Partnership Agreement.

- 3.6 The FFP does not include any added value taxes or import duties in the Member States of the Agency.
- 3.7 The FFP is stated as being “Delivery Duty Paid” (DDP) for all deliverables, exclusive of import duties and VAT in accordance with the Incoterms 2010, to the addressee(s) mentioned, or referred to, in Article 5 of this Partnership Agreement. Reference to the INCOTERMS in this provision is exclusively for the purpose of price definition. The price furthermore includes all costs relative to the Institute’s obligations under 2.1.4 above.
- 3.8 *[Option to include if a research stage at the Agency’s premises is proposed]: The travel cost (air travel in economy class and one night stay in a hotel selected by the Agency) of the Post-doctoral Scholar carrying out a research stage at the Agency’s premises shall be covered by the Agency. The Institute shall be directly responsible, vis-à-vis the Post-doctoral Scholar, for any other cost incurred in relation to the Post-doctoral Scholar being based at the Agency’s premises.*

ARTICLE 4: PAYMENTS AND INVOICING

4.1 Milestone Payment Plan (MPP)

The Agency shall pay the FFP in accordance with the schedule below, on achievement of the following milestones:

Milestone (MS) Description	Schedule Date	Payments from ESA to Institute
Progress Payment (MS 1): Upon the Agency’s acceptance of Technical Note 1 and the first three bi-monthly progress reports	(KO+6)	
Progress Payment (MS 2): Upon the Agency’s acceptance of the Mid-Term Report and confirmation of a successful Mid-Term Review	(KO+12)	
Progress Payment (MS 3): Upon the Agency’s acceptance of Technical Note 2 and the 9 th bi-monthly progress report	(KO+18)	
Final Settlement (MS 4): Upon the Agency’s acceptance of the Final Report, the Executive Final Paper, and all other deliverables (including the ‘Standard Cover Page for ESA Study Contract Reports’) due under the Partnership Agreement, together with the Agency’s confirmation of a successful Final Review	(KO+24)	
TOTAL		

- 4.2 Payments shall be made within thirty (30) calendar days of receipt at ESA-ESRIN Finance Payment Office both of the documents listed in Paragraphs 4.3 – 4.4 below and of evidence that the Institute has fulfilled the requirements specified at Paragraphs 4.3 – 4.4 below. Only upon fulfilment of these requirements shall the invoice become due.
- 4.3 Progress Payment:
- Milestone Achievement Confirmation (MAC) with supporting documentation as necessary;
 - Invoice(s);
 - Actual achievement of the milestones as defined in the Payment Plan specified above.
- 4.4 Final Settlement:
- MAC;
 - Invoice(s);
 - Receipt and/or final acceptance, by the Agency, of all deliverable items and obligations to be fulfilled in accordance with the terms of this Partnership Agreement;
 - The ‘Standard Cover Page for ESA Study Contract Reports’, using the template provided in Appendix 1 below
- 4.5 The Agency shall be afforded all the necessary visibility, whether remotely or by means of inspection of the Institute’s premises, in order to ascertain the progress of the work prior to authorising the relevant payment.
- 4.6 In the event that the achievement of a milestone is delayed but the milestone is partially met at the milestone date foreseen, the Agency may exceptionally effect a payment against an approved MAC of the partially achieved

milestone, provided the payment does not exceed the value of the work performed at the date of payment.

- 4.7 a) The Institute shall ensure that all invoices and MACs are submitted for payment exclusively through the Agency's esa-p system. If the Institute has no access to the Agency's esa-p system at the time of signature of this Partnership Agreement, an immediate request for an esa-p user account shall be made by the Institute to the ESA Helpdesk (mail to: IDHelp@esa.int), specifying a contact name, the company name, and the ESA contract number.
- b) (i) Should the Institute find the Agency's esa-p system technically inoperative at the moment of submission of an invoice, the Institute may submit the invoice in paper format, in five (5) copies to the ESA-ESRIN Finance Payment Office, together with justifying documentation as required by the Partnership Agreement.
- (ii) In cases where the Agency's esa-p system is inoperative at the moment of submission of the MAC, the Institute may submit the MAC in paper format in three (3) copies to the Agency's Technical Officer. A template MAC form can be obtained upon request to IDHelp@esa.int.
- c) The Institute undertakes to submit complete invoices and MACs, and to adhere strictly to the instructions (including those for billing taxes and duties, where applicable) contained in esa-p.
- 4.8 Invoices shall clearly and separately show any applicable taxes or duties which are included in the invoice.
- 4.9 In the case of invoices submitted by the Institute which are free of VAT, reference shall be made to Law Nr. 358 of 9/6/1977 – Gazzetta Ufficiale Numero 184 of 7/7/1977 and shall indicate the serial number indicated on the VAT Exemption Form which the Agency provided to the Institute when forwarding two (2) originals of the present Partnership Agreement for signature. On all invoices/Advance Payment Requests submitted, the number shall be put in the respective field 'VAT Exemption Number'.
- 4.10 Payments shall be made by the Agency in EURO to the account specified by the Institute. Such information shall clearly indicate the IBAN (International Bank Account Number) and BIC/SWIFT (Bank Identification Code). The parties agree that payments shall be considered as effected by the Agency on time if the Agency's orders of payment reach the Agency's bank within the payment period stipulated in Article 3.2.2 above.
- 4.11 Any special charges related to the execution of payments shall be borne by the Institute.
- 4.12 **Any questions concerning the operation of esa-p shall be addressed to the ESA Helpdesk (mailto: idhelp@esa.int).**
- 4.13 **Any questions concerning the latest status of due invoices can be addressed to the ESA Payment Officer (mailto: esa.payment.officer@esa.int).**

ARTICLE 5: SPECIFIC PROVISIONS

5.1 Approval / Representatives of the Parties during Partnership Agreement Execution

5.1.1 For the purpose of this Partnership Agreement, the authorised representative of the Agency's Director General:

Mr Maurice BORGEAUD,

Head of the EO Science, Applications & Future Technologies Department (EOP-S)
 Directorate of Earth Observation Programmes.

5.1.2 The Agency Representatives are:

- a) [ESA to insert the name and contact details] (EOP-xx), for technical matters or a person duly authorised by her (**the Agency's Technical Officer**).

All correspondence for technical matters will be addressed to:

	To:	With copy to:
Name	xx (EOP-xx)	Miss A Madden (ESRIN - IPL-POE)
Address	ESRIN Via Galileo Galilei Casella Postale 64 00044 Frascati Italy	
Phone		
Fax		
e-mail		

- b) [ESA to insert the name and contact details] (IPL-POE), for contractual and administrative matters, or a person duly authorised by her (**the Agency's Partnership Agreement Officer**).

All correspondence for contractual and administrative matters (with exception of invoices, for which all queries shall be sent to IDHelp@esa.int) shall be addressed to:

	To:	With copy to:
Name		xx (ESRIN – EOP-xxx)
Address	ESRIN - IPL-POE Via Galileo Galilei Casella Postale 64 00044 Frascati Italy	
Phone	00 39 06 941 80 xxx	
Fax	00 39 06 941 80 xxx	
e-mail	@esa.int	

Communications concerning the Project, which are not signed by the Agency's Technical Officer (or duly appointed representative), and for contractual matters by the Agency's Contracts Officer (or duly appointed representative), shall not be binding on the Agency.

5.1.3 Institute's Representatives:

- a) [**to be inserted**], for technical matters or a person duly authorised by him/her (**the Institute's Technical Officer**).

All correspondence for technical matters will be addressed to:

	To:	With copy to:
Name		
Address		
Phone		
Fax		
e-mail		

- b) [**to be inserted**], for contractual and administrative matters or a person duly authorised by him/her (**the Institute's Contract Officer**).

All correspondence for contractual and administrative matters will be addressed to:

	To:	With copy to:
Name		
Address		
Phone		
Fax		
e-mail		

5.2 Infringement of the Law – Infringement of Third Party Rights

- 5.2.1 The Agency shall not be responsible if the Institute infringes the laws or statutes of its country or of any other country whatsoever.
- 5.2.2 The Institute shall indemnify the Agency from and against all claims, proceedings, damages, costs and expenses arising from infringement or alleged infringement of any patent rights and other Intellectual Property Rights of third parties with respect to the work the Institute carries out under this Partnership Agreement. This obligation does not extend to infringements resulting from the use of documents, patterns, drawings or items supplied by the Agency or from a modification or combination of the deliverables due hereunder made by the Agency after their acceptance.

5.3 Liabilities

- 5.3.1 Claims between the contracting parties in respect of damages to staff and goods occurring during the execution of the Partnership Agreement shall be settled in the following manner:
- 5.3.1.1 Claims for injuries, including death, sustained by the contracting parties' representatives or employees (staff) by virtue of their involvement in the Partnership Agreement shall be settled in accordance with the law governing the Partnership Agreement.
- 5.3.1.2 Claims for damage caused by one of the contracting parties to goods owned by the other contracting party shall be settled in accordance with the law governing the Partnership Agreement. The liability of either party for damage to goods owned by the other party, except in cases of gross negligence or wilful misconduct, shall however not exceed the amount which is quoted in the Partnership Agreement as the total Partnership Agreement price.
- 5.3.2 Except in case of gross negligence and wilful misconduct, the contracting parties shall not be liable towards each other for consequential damages sustained by the parties, arising from and during the execution of the Partnership Agreement. For the sake of clarity and as an example, consequential damages include, but are not limited to: loss of Partnership Agreement, income or revenue; loss of profit or interests; loss of financing; loss of customer; loss of availability and use of facilities; loss of availability and use of employees' productivity or loss of services of such persons; loss of opportunity; loss of rental expenses.

5.4 Agency's Rights in Case of Institute's Under-Performance

Should the work which the Institute carries out under the Partnership Agreement fail to meet the agreed requirements and/or specifications to such an extent as seriously to jeopardise the performance of this Partnership Agreement, the Agency reserves the right to reject such work and/or to terminate this Partnership Agreement without any compensation due to the Institute other than a fair and reasonable price for the work carried out prior to the serving of the termination notice. The price agreed in this respect may never exceed the amounts scheduled in this Partnership Agreement to be paid by the date of the termination notice. The Agency reserves the right to seek refund of any amounts paid in excess.

5.5 Termination by the Institute

Should the work of the Post-doctoral Scholar be cancelled upon the Institute's or at the Institute's staff request, the Institute shall give the Agency prior written notice of three (3) months and the Partnership Agreement shall be deemed terminated on the expiry of that 3 month notice period, subject to fulfilment of all outstanding obligations stemming from this Partnership Agreement. During the notice period, work shall continue normally. One week before the end of the notice period, the Institute shall produce and deliver to the Agency a report summarising all work done up to that date.

In case of termination of the Partnership Agreement under this Article, any payments made by the Agency to

the Institute covering working periods not fully completed by the Post-doctoral Scholar shall be reimbursed to the Agency pro-rata.

ARTICLE 6: INTELLECTUAL PROPERTY RIGHTS

6.1 Information to be provided by the Institute

- 6.1.1 All information, data and results arising from work performed under this Partnership Agreement shall be delivered to the Agency. The Agency shall have the right to make such information, data and results available to States participating in [*the 4th period of the Agency's Earth Observation Envelope Programme (EOEP-4)/the European Earth Watch Programme (EarthWatch)*], and to the persons and bodies under the jurisdiction of those States.
- 6.1.2 The Institute shall not mark any documents as "Proprietary Information" unless agreed in advance with the Agency. Any request from the Institute shall be submitted accompanied by an appropriate justification.

6.2 Ownership and Use of Intellectual Property Rights

[OPTION 1 – Institute to own IPR]

- 6.2.1 *The Institute shall own all intellectual property rights (IPR) generated by the Post-doctoral Scholar in the frame of this Partnership Agreement.*
- 6.2.2 *The Institute has the right to apply for, and to own, any registered IPR arising from work performed under the Partnership Agreement. The Institute shall, as soon as possible, report to the Agency any results arising from such a work which may, in the Institute's opinion, be protected as registered IPR. The Institute shall state whether it intends to apply for such protection. At the Institute's specific request, in order to allow for filing of patent applications, the Agency shall not disclose any relevant information and results for a period of 12 months from the date it was reported to the Agency.*

The Institute shall subsequently inform the Agency of any application to register such results arising from work performed under the Partnership Agreement and within 2 months of the date of filing, provide the Agency with all details on that application. The Agency shall have an irrevocable right to use the information used in that application, for its own requirements, on the terms set out in Sub-Clause 6.2.2 below but, unless agreed otherwise with the Institute, the Agency shall not disclose such information until publication of the registration application.

- 6.2.3 *The Institute hereby grants and shall ensure throughout the Partnership Agreement that it remains entitled to grant the Agency and States participating in [EOEP-4/Earth Watch], without the need to implement a separate licence agreement, a free, unlimited, irreversible, non-exclusive, worldwide licence, with the right to grant sub-licences on the same terms, to use, copy, and distribute publicly (including by means of a publicly accessible website) all deliverables submitted to the Agency under the Partnership Agreement.*

Any person which copies, reproduces or publishes any or any part of a project deliverable shall, however, clearly acknowledge the Institute's rights over the products by duly citing the Institute as the creator of the material, together with any other acknowledgements which are required by the Institute or third party data suppliers.

[OPTION 2 – Post-doctoral Scholar to own IPR]

- 6.2.4 *The Post-doctoral Scholar shall own all intellectual property rights (IPR) generated in the frame of this Partnership Agreement.*
- 6.2.5 *Prior to the completion of the project, the Institute shall ensure that the Post-doctoral Scholar grants the Agency and States participating in [EOEP-4/Earth Watch] a free, unlimited, irreversible, non-exclusive, worldwide licence, with the right to grant sub-licences on the same terms, to use, copy, and distribute publicly (including by means of a publicly accessible website) all deliverables submitted to the Agency under the Partnership Agreement.*
- 6.2.6 *The Institute specifically represents and guarantees that the Post-doctoral Scholar has unrestricted entitlement to granting the rights required in Article 6.2.2 above, regardless of any other legal agreement which the Institute or the Post-doctoral Scholar may have concluded with any third party relating to the research work covered by the Partnership Agreement.*

6.3 Background Intellectual Property Rights

Background Intellectual Property (**BIP**) means any intellectual property which already exists at the date this Partnership Agreement enters into force and which has not been developed under a contract with the Agency.

The Agency authorises the Institute to use the following BIP for the purposes of carrying out the research project and both parties shall comply with the following conditions of use:

Description of BIP	Owner of BIP	Conditions on which BIP can be used during the project and after the project's conclusion
<i>table to be completed</i>		

The use of this BIP for the purposes of this Partnership Agreement is included in the price agreed for the Partnership Agreement.

The Background Intellectual Property Rights owned by the Institute, the Agency or a Third Party shall remain the sole property of the owner.

6.4 Transfer outside the ESA Member States

6.4.1 The Institute shall inform the Agency in writing prior to any intended transfer to any entity in a non-ESA Member State or any international organisation of Intellectual Property Rights or any product, process, application or result arising from work performed under the Partnership Agreement.

6.4.2 The notification shall include the following information:

- the proposed transferee or licensee outside the ESA Member States;
 - the terms of the intended transfer or licence (together with all countries of destination) and the intended use of the subject matter to be transferred or licensed;
 - all relevant national approval procedures which need to be obtained to comply with national legislation, including a statement concerning approvals applied for or granted.
- The Agency shall only disclose the information on a need to know basis to its staff and the members of the Agency's Technology and Product Transfer Board.

6.4.3 In order to allow the Agency to formulate an explicit recommendation, the Institute, before entering into any unconditional commitment relative to the transfer, shall wait 5 weeks from submission of the written notification, following which term a favourable recommendation may be assumed.

ARTICLE 7: KEY PERSONNEL

7.1 The project shall be implemented by the Post-doctoral scholar nominated by the Institute, namely Ms/Mr [*to be inserted*] (**the Post-doctoral Scholar**).

7.2 Any replacement of the Post-doctoral Scholar or part-time assignment to other tasks, which has the effect that the Post-doctoral Scholar is not available as foreseen in the Proposal, requires the prior written approval of the Agency's Representatives. Appropriate requests shall be accompanied by a justification for the proposed change and, where a replacement is proposed, by a comprehensive CV of the new Post-doctoral Scholar proposed. Except for exceptional cases, the replacement shall only be permitted if justified by reasons outside the Institute's control.

7.3 The Agency may for justified reasons ask for a replacement of the Post-doctoral Scholar. Such a request must be in writing and signed by the Agency's Representatives. Within one month of receiving the request, the Institute shall propose a suitably qualified replacement post-doctoral scholar.

7.4 The Institute commits to provide the Post-doctoral Scholar with a 2 years standard post-doctoral contract to perform the work.

Evidence of the contract shall be provided to the Agency's Representatives nominated at Article 5.1.2 above, within one (1) month from the date the contract has been signed by both parties. The Agency reserves the right to terminate this Partnership Agreement if this evidence has not been provided by that time.

- 7.5 The Institute has nominated the following representative, who is a [role of the representative within the Institute] at the Institute, to serve as the principal interface between the Agency and the Post-doctoral Scholar:
 -[**to insert name and job title of representative**].

ARTICLE 8: CONDITIONS APPLICABLE IN THE EVENT A POST-DOCTORAL SCHOLAR IS LOCATED ON THE AGENCY'S PREMISES

The following provisions shall apply in the event the Post-doctoral Scholar performs a research stage on ESA premises for a duration of more than 3 months.

- 8.1 The research stage at [**name of ESA premises**] shall have a total duration of [**to be inserted**] months, starting on [**date to be inserted**].
- 8.2 Following consultation with the Agency, the Institute shall be responsible for the management and scheduling of the Post-doctoral Scholar's leave, travel arrangements, etc. The Institute shall also manage and keep a proper record of the Post-doctoral Scholar with regards to sick leave, travels, etc.
- 8.3 The Post-doctoral Scholar shall not have the authority to sign documents on behalf of the Agency, unless explicitly authorised in writing by the Agency.
- 8.4 The Agency shall provide direction to the Post-doctoral Scholar in respect only of matters concerning the research project the Post-doctoral Scholar shall carry out under this Partnership Agreement.
- 8.5 For the duration of the research stage, the Post-doctoral Scholar shall perform the required work at [**insert name of ESA premises**] during normal working hours and days. A listing of the relevant official ESA holidays shall be provided to the Institute at the beginning of the research stage.
- 8.6 The Agency shall provide the following to the Post-doctoral Scholar, upon confirmation that their presence on the Agency's premises has been authorised:
- Access to the [**name of ESA site**] site;
 - Office accommodation and office facilities;
 - Access to the usual office software, such as but not limited to MS Office;
 - Use of facilities on-site, such as restaurant, recreational facilities, travel agency and bank;
 - Proper registration of the Post-doctoral Scholar on the [**name of ESA site**] site.

8.7 LEGAL COMPLIANCE

The Institute undertakes to comply with all relevant laws, decrees, rules and regulations related to its staff working on the Agency's premises under the Agreement (such as, but not limited to: safety, insurance and health). In cases where the said laws, decrees, rules and regulations imply an obligation to be fulfilled directly by the Institute's staff (such as, but not limited to, medical insurance, etc.), the Institute undertakes to enforce such laws, decrees, rules and regulations towards its staff.

8.8 HEALTH AND SAFETY AND SECURITY REGULATIONS

- 8.8.1 The Institute and the Post-doctoral Scholar shall strictly adhere to the following ESA Health and Safety and Security rules:
- The Institute and the Post-doctoral Scholar shall adhere to the ESA Health and Safety and Security Regulations applicable at each ESA establishment (**the Regulations**). They shall be made available to the Institute by the Agency.
 - The Post-doctoral Scholar who needs to enter the Agency's premises in order to render the services under this Agreement, shall be issued with an identity card by the Agency. This card must be visibly carried by the Post-doctoral Scholar concerned on entering and leaving the Agency's site and at all times when the Post-doctoral Scholar is present on the site. The Institute shall supply to the Agency all relevant information to enable the Agency to identify the Post-doctoral Scholar concerned. This information shall be countersigned by the Agency's Technical Officer and any changes should be notified by the Institute in writing five (5) working days before the change takes place. Identity cards must be immediately returned to the Agency if the Post-doctoral Scholar is replaced and on the final day of the research stage described at Article 8.1.1 above.
 - The Post-doctoral Scholar working on-site shall be entitled to use social facilities on-site, such as the [**name of ESA premises**] canteen, restaurant, recreational facilities, travel agency and bank.
 - All visitors to the Post-doctoral Scholar on an Agency site, including any member of the Institute's staff, shall complete the formal visitor procedure at each site.

- Infringements of the Regulations by the Institute, the Post-Doctoral Scholar or his/her visitors will be notified in writing to the Institute which shall take appropriate measures to ensure future compliance. In the event of serious infringements of the Regulations, and in consultation with the Institute, the Agency may prohibit the entry onto Agency premises of the person or persons concerned. The consequences of such prohibition shall be borne by the Institute.
- 8.8.2 The Institute shall ensure that the Post-doctoral Scholar working on ESA premises under this Partnership Agreement:
- has read and understood the terms of this Partnership Agreement and the Regulations and the ESA policies on the use of ESA Communication Facilities (Appendix 2 below),
and
 - has signed the Declaration of Compliance, attached hereto as Annex 1 to Appendix 2 below,
- before the Post-doctoral Scholar starts working at the Agency's premises.
- 8.8.3 The Institute shall keep all signed declarations in its files and shall present them to the Agency's Contracts Officer upon request.
- 8.8.4 The provisions made by the Agency for the security and safety of its staff and its premises cannot be construed as specific protection of the Institute's offices, its personnel or activities, or an acceptance of any responsibility with regard the safety and security of the Institute's staff.
- 8.8.5 The Institute undertakes to take appropriate insurance coverage for itself and specifically for the Post-doctoral Scholar working on the Agency's premises. Any such insurance shall include a provision of non-recourse against the Agency or its agents, with the exception of gross negligence or a wilful act or omission by the Agency or a member of the Agency's staff. The Institute shall indemnify the Agency against any failure to include such a provision.
- 8.8.6 In the event the Post-doctoral Scholar raises a claim for compensation of damages incurred in the course of her/his work under this Partnership Agreement, be it personal injuries or damages to her/his property, the Institute undertakes to assist the Agency, if so requested, in the handling of such claim and the Institute shall indemnify and hold harmless the Agency from any such claim, unless such claim was caused by a gross negligent or intentional act by the Agency or the Agency's staff.
- 8.9 VERIFICATION SHEET
- 8.9.1 The Institute undertakes to keep for the duration of the Partnership Agreement a verification sheet for the Post-doctoral Scholar.
- 8.9.2 The verification sheet (basic security screening) shall consist of at least the following verifications:
- Identity verification: copy of ID card or passport of concerned individual.
 - Verification of diploma or degree:
 - Make a copy of the relevant diploma or degree
 - Contact the relevant university or school to verify that the concerned person obtained his/her degree there.
 - Request the individual concerned to produce a formal statement of good conduct, issued by an official government instance, or – should local law not permit this – to have the candidate sign a statement of non-conviction (example in Appendix 3 below).
 - Contact at least 3 reference persons (see questionnaire to be used in Appendix 3 below) and/or previous employers.
- The verification sheet shall list all of the verifications made, the date of verification and the person having made the verification.
- 8.9.3 The verification sheet shall be made available to the Agency upon request.



Done in two (2) originals, one for each Party to this Partnership Agreement,

On behalf of the Agency, in Frascati,

On behalf of the Institute, in

on this day,

on this day,

.....

.....

[insert name and job title of authorised signatory]

Mr Maurice BORGEAUD,
Head of the EO Sciences, Applications & Future
Technologies Department
Directorate of Earth Observation Programmes.

[OPTION FOR PARTNERSHIP AGREEMENTS PLACED UNDER ITALIAN LAW ONLY]
SPECIFIC APPROVAL

The Institute certifies that he specifically approves the following conditions expressed herein:

Article 5: Special Conditions

On behalf of the Institute,

on this day

.....
Name and title [END OPTION]



APPENDIX 1

STANDARD COVER PAGE FOR ESA STUDY CONTRACT REPORTS

ESA STUDY CONTRACT REPORT – SPECIMEN		
No ESA Study Contract Report will be accepted unless this sheet is inserted at the beginning of each volume of the Report.		
ESA Contract No:	SUBJECT:	CONTRACTOR:
* ESA CR()No:	No. of Volumes:.... This is Volume No:....	CONTRACTOR'S REFERENCE:
ABSTRACT:		
The work described in this report was done under ESA Contract. Responsibility for the contents resides in the author or organisation that prepared it.		
Names of authors:		
** NAME OF ESA STUDY MANAGER:	** ESA BUDGET HEADING:	
DIV: DIRECTORATE:		

* Sections to be completed by ESA
 ** Information to be provided by ESA Study Manager

APPENDIX 2: ESA POLICY ON THE USE OF ESA COMMUNICATION FACILITIES

The Post-Doctoral Scholar shall use the ESA Communication Facilities (e.g. telephone, fax, email etc.) exclusively for purposes covered under this Partnership Agreement.

The Institute agrees to comply with and shall ensure that the Post-doctoral Scholar complies with all restrictions, regulations, policies and requirements designed to protect the Agency’s information, its computing resources and its reputation. In particular the Institute shall adhere to the instruction “Acceptable use of corporate IT infrastructure services” which is an integral part of the present document and can be found under the following link:

http://ursa.esa.int/index.php?option=com_content&task=view&id=61&Itemid=34.

The Institute shall ensure that the Post-doctoral Scholar using ESA Communication Facilities appends the following signature profile to any written communication:

Institute Name

Agreement Title, ESA Address Code

ESA Establishment address

ESA/ESRIN

Via Galileo Galilei

Casella Postale 64

00044 Frascati (RM)

Italy

Tel:

Fax:

1 Responsibilities

1.1 The Post-doctoral Scholar using ESA Communication Facilities **shall** in particular:

- Ensure that their use of the service is wholly consistent with the purpose of the Partnership Agreement.
- Ensure that all communications are clearly marked with the name of the Institute using them, **appending to each communication the signature profile indicated above.**
- Ensure that their use of the service does not bring the Agency into disrepute.
- Comply with the Agency’s Information Security rules and procedures (for example, by scanning all files copied from the Internet for viruses using tools provided by the Agency for this purpose).
- Notify immediately the Agency’s Information Security Officer, at the appropriate site, of any actual or suspected security threat to the Agency’s automation resources.

1.2 The Post-doctoral Scholar using ESA Communication Facilities **shall not**:

- Attempt to bypass any of the Agency’s security mechanism either from within or outside the Agency’s premises.
- Violate any national law by using the service. These laws generally prohibit the unauthorised alteration, modification, damage, destruction, or access to software or information, and also theft of services, fraud and embezzlement by using automated systems.
- Make copies of copyrighted material, store such copies on Agency systems, place copies on the

Internet or transmit them over the Agency's Networks.

- Use the service for financial gain or private purposes (for example, conduct private business).
- Use the service to conduct company business other than that covered by the Agreement.
- Use the service to intentionally copy computer programs from the Internet.
- Use the service in any way that would expose the Agency to claims of civil liability, for instance, by:
 - transmitting defamatory (libellous or scandalous) statements
 - transmitting, receiving or copying obscene material
 - using offensive language, etc...

2. **Access to a disclosure of stored electronic mail communications**

The Agency's System Administrator may access and view a communication if this is necessary when investigating or correcting an operational problem.

3. **Yearly verification**

Verification may be made each year by the Agency by carrying out a random check in order to verify the correct use of access to the Internet.

4. **Privacy**

The Agency will not guarantee the privacy or confidentiality of the Post-doctoral Scholar's correspondence using the Internet access service.

5. **Declaration of Compliance**

The Institute shall ensure that the Post-doctoral Scholar working on ESA premises under this Partnership Agreement:

- has read and understood the ESA Health, Safety and Security Regulations and the ESA policies on the use of ESA Communication Facilities

and

- has signed the Declaration of Compliance, attached as Annex 1 below.

before the Post-doctoral Scholar starts performing a stage at ESA premises under this Partnership Agreement.

The Institute shall keep all signed declarations in his files and shall present them to the Agency's Contracts Officer upon request.



Annex 1

Template individual declaration of compliance

[University/Institute's LETTERHEAD]

ESA AGREEMENT NO. XXXXX/XX/XX/XX

DECLARATION OF COMPLIANCE

WITH

- ESA Health, Safety and Security Regulations;
- ESA Policies on the use of ESA Communication Facilities

I,[Name] hereby declare that I have read and understood the above-mentioned Regulations, and Policies and that I will comply with them.

(Name)

(Place and Date)



APPENDIX 3: SECURITY SCREENING DOCUMENTS

STATEMENT OF NON-CONVICTION AND GOOD CONDUCT

The undersigned
(name, first name)

born in
(place + country)

on
(date)

herewith officially declares that he/she has never been convicted by a court of his/her nation nor to have been convicted by a court of any other nation.

In addition to this, the undersigned states that he/she has no criminal record.

Date: Place:

Signature:



REFERENCE STATEMENT

Name of candidate:

1. Please indicate the name of your organisation and the dates when the candidate worked for the organisation.

Name of the organisation:
From: To:

2. Which position was held by the person?

- At the beginning of employment
- At the end of employment

3. Were you the candidate's immediate supervisor?

- Yes
- No if no, please state your working relationship:

4. Would you readily re-employ the candidate?

- Yes
- No if no, why?

5. Please comment on the candidate's sense of responsibility towards works as well as towards other obligations and commitments.

.....
.....
.....
.....

6. Kindly provide a short description of the candidate, including your evaluation of his ability for the post mentioned above, his steadiness of temperament, discretion, attitude towards colleagues and ability to work harmoniously in a team.

.....
.....
.....
.....

7. Given the European Space Agency's multinational environment, please indicate whether you consider the candidate free from prejudice or intolerance with regard to race, sex, religion, or ethnical background; whether there are any factors, which would especially qualify the candidate for work in this international organisation or other factors which may hinder a smooth working relationship.

.....
.....
.....
.....

8. Based on your knowledge of the candidate, the goals and functions of the European Space Agency, and the specific post, how would you rate this person as a candidate for the post?

- Outstanding
- Very good
- Good
- Passable
- Doubtful

Your name and current position:

Signature

Date: