2011 - 0057

# *AGREEMENT*

# *BETWEEN*

# *THE UNITED STATES NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (NOAA)*

# *AND*

# *THE EUROPEAN ORGANISATION FOR THE EXPLOITATION OF METEOROLOGICAL SATELLITES (EUMETSAT)*

# *ON*

# *ACCESS TO IMAGES AND METEOROLOGICAL DATA DISTRIBUTION MATERIAL FROM THE EUMETSAT METEOSAT SATELLITES*

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## Preamble

**The United States National Oceanic and Atmospheric Administration** (hereinafter referred to as "NOAA"),

and

**The European Organisation for the Exploitation of Meteorological Satellites**, established by the Convention opened for signature in Geneva on 24 May 1983 and entered info force on 19 June 1986, as amended by the Amending Protocol attached to Council Resolution EUM/C/Res. XXXVI, which entered into force on 19 November 2000 (hereinafter referred to as "EUMETSAT");

**RECALLING** that NOAA is responsible for the United States National Weather Service (NWS) and the United States National Environmental Satellite, Data and Information Service (NESDIS);

**RECALLING** that NOAA and EUMETSAT have enjoyed long-standing and fruitful cooperation in the field of Earth observation for meteorological purposes, witnessed by their cooperation in the development and operation of geostationary meteorological satellites;

**RECALLING** that NOAA has provided data from the United States geostationary and polar-orbiting operational meteorological and environmental satellites for use by EUMETSAT and its Member States for more than thirty years, and that this provision will continue in the future;

**RECALLING** that EUMETSAT holds full ownership and all utilisation rights of the EUMETSAT meteorological satellites and their data;

**RECALLING** that NOAA and EUMETSAT signed on 20 August 1993, a Cooperation Agreement on Backup of Operational Geostationary Meteorological Satellite Systems;

**RECOGNISING** the essential role meteorological and environmental satellite data have in operational meteorological applications, including global weather forecasting and their contribution to research;

**TAKING INTO ACCOUNT** that EUMETSAT has successfully operated the Meteosat series of operational geostationary meteorological satellites since 1989, and that the launch of the first and second satellites of the EUMETSAT Meteosat Second Generation (MSG) satellite series took place in August 2002 and December 2005;

**BEARING IN MIND** that the EUMETSAT Council has adopted EUMETSAT Principles on Data Policy in Council Resolution EUM/C/98/Res. IV;

**RECALLING** that NOAA and EUMETSAT, since 1995, have been parties to separate agreements on access to images from the EUMETSAT first and second generation geostationary Meteosat satellites, that the current Agreement on access to images and meteorological data distribution material from the first generation of Meteosat satellites will expire at the end of operations of this series of satellites, and that the other current Agreement on access to images

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and meteorological data distribution material from the second generation of Meteosat satellites will expire on 23 June 2008;

**WISHING** to address access by NOAA to data and material from all EUMETSAT geostationary satellites in one single Agreement that will replace the above referenced Agreements;

**NOTING** that NOAA has expressed interest in receiving real-time access to EUMETSAT Meteosat Data and Meteorological Data Distribution (MDD) material;

**HAVE AGREED AS FOLLOWS**

## Article 1
## Purpose

The purpose of this Agreement is to grant NOAA access to all Image Data from the EUMETSAT geostationary Meteosat satellites and to MDD Material, while setting forth terms and conditions for the use and redistribution of these data and material.

## Article 2
## Scope

This Agreement applies to all EUMETSAT Image Data from the EUMETSAT geostationary Meteosat satellites and MDD Material, except where such satellites are providing emergency backup support in accordance with the agreement between NOAA and EUMETSAT of 20 August 1993.

## Article 3
## Definitions

1. "Meteosat Image Data" means all image data generated by EUMETSAT's geostationary Meteosat satellites

2. "MDD Material" means meteorological information and charts disseminated by EUMETSAT to the National Meteorological Services of WMO Member States.

3. "NOAA Official Duty Use" means use by NOAA itself and/or by its Affiliates in fulfilment of a public mandate, including research but excluding any commercial activity.

4. "NOAA Affiliate" means any US Federal, state or local governmental agency, or any organisation formally associated with these government units in carrying out their programmes.

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5. "Use" means reception and/or processing and/or transformation and/or dissemination in recognisable form of data covered by this Agreement.

6. The "Territory, Territorial Sea and the Exclusive Economic Zone" shall mean the territory of the United States of America and its Exclusive Economic Zone as defined in the Convention on the Law of the Sea.

7. "Territory of the United States of America" shall mean the 50 States of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of Northern Mariana Islands, American Samoa, and the other territories and possessions under the sovereignty of the United States of America.

**Article 4**
**Data Policy**

1. All six-hourly EUMETSAT Meteosat Image Data (collected at main synoptic hours) shall be broadcasted unencrypted and shall be available without fee for any use.

2. All three-hourly EUMETSAT Meteosat Image Data (collected at synoptic hours) shall be available, through NOAA, without fee for any use within the Territory and the Exclusive Economic Zone.

3. The full set of EUMETSAT Meteosat Image Data shall be available without fee to NOAA and its Affiliates for Official Duty Use without territorial restriction.

4. EUMETSAT shall grant non-discriminatory access to EUMETSAT Meteosat Image Data for uses and users other than specified above in accordance with its Data Policy.

5. The MDD Material shall be available without fee to NOAA for use in accordance with WMO Resolution 40 (Cg-XII).

6. EUMETSAT shall ensure the availability of the required decryption key units at cost.

7. Any EUMETSAT Meteosat Image Data older than 24 hours are not subject to the limitations in this Article.

**Article 5**
**Fees**

The rights set out in Article 4 are granted free of charge in recognition of NOAA's contributions to the global satellite observing system and in recognition of the meteorological satellite data provided by NOAA to EUMETSAT and its Member States.

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## Article 6
## Funding

There shall be no exchange of funds between NOAA and EUMETSAT unless otherwise agreed. Any financial obligations of NOAA and EUMETSAT under this Agreement are subject to the availability of funds and the funding procedures of the respective Parties.

## Article 7
## Data Ownership and Protection

1. EUMETSAT shall retain ownership of all EUMETSAT Meteosat Image Data provided under this Agreement and shall be entitled to protect these data from unauthorised use by third parties through applicable intellectual property and unfair competition laws.

2. NOAA shall retain the marking "© [year] EUMETSAT" when transmitted as part of the EUMETSAT Meteosat Image Data stream.

3. NOAA shall endeavour to ensure that whenever public use is made of the EUMETSAT Meteosat Image Data, EUMETSAT shall be mentioned as the source.

4. Ownership and Intellectual Property Rights to the MDD Material shall remain with the operator providing them to EUMETSAT for transmission.

## Article 8
## Availability of Data

1. Nothing in this Agreement shall be deemed to be any representation or warranty on the part of EUMETSAT relating to the properties, quality or fitness for use of the Meteosat Data. EUMETSAT shall bear no liability for any consequences, whether direct or indirect, arising from any use of the Meteosat Data.

2. EUMETSAT shall not be liable if the provision of the Meteosat Data provided under this Agreement should deteriorate, be reduced or discontinued at any time for any reason.

## Article 9
## NOAA Affiliates and Third Parties

1. NOAA shall inform its distributees of any limitations contained in Article 4 on their use and/or redistribution of the EUMETSAT Meteosat Image Data.

2. On the request of EUMETSAT, NOAA shall immediately terminate the distribution of EUMETSAT Meteosat Image Data to any Affiliate or third party which violates the use restrictions in Article 4 of this Agreement. If EUMETSAT independently takes legal action

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against such third parties, NOAA shall assist EUMETSAT to the extent possible by providing any supporting documentation in NOAA's possession.

3. NOAA shall annually submit to EUMETSAT a list of the NOAA Affiliates and third parties to whom it provides access to EUMETSAT Meteosat Image Data.

**Article 10**
**Settlement of Disputes**

1. Any dispute in the interpretation or implementation of the terms of this Agreement shall be referred to the Director-General of EUMETSAT and the Assistant Administrator for Satellite and Information Services of NOAA.

2. Any dispute that cannot be settled by the Parties may, upon written agreement of the Parties, be submitted to conciliation, mediation, arbitration or other form of dispute resolution.

3. In the event that a dispute concerning the continuing use of EUMETSAT Meteosat Image Data in violation of the use restrictions of Article 4 of this Agreement cannot be settled by the Parties in accordance with paragraph 1 of this Article, EUMETSAT shall be entitled to deny NOAA access to any data provided under this Agreement without further notice.

**Article 11**
**Entry into Force, Amendments, Termination, Duration**

1. This Agreement shall enter into force upon signature of both Parties and shall supersede the "Agreement between EUMETSAT and NOAA on Access to Images from the EUMETSAT Geostationary Meteorological Satellites" (1995) and the "Agreement between NOAA and EUMETSAT on Access to Images and Meteorological Data Distribution Material from the EUMETSAT Geostationary METEOSAT 2nd Generation Satellites" (2003).

2. The Agreement may be amended by written agreement of the Parties.

3. This Agreement may be terminated by either Party by giving at least 60 days written notice.

4. This Agreement shall automatically renew for additional five year periods unless either Party objects by providing 60 days written notice to terminate to the other Party.

5. Termination of this Agreement shall not affect a Party's continuing obligations under Articles 7 and 8 unless otherwise agreed by the Parties.

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IN WITNESS WHEREOF, the undersigned, being duly authorized, have signed this Agreement.

DONE in two originals in the English language.

FOR THE
UNITED STATES NATIONAL
OCEANIC AND ATMOSPHERIC
ADMINISTRATION:

Mary E. Kicza

Dr. Mary E. Kicza
Assistant Administrator for
Satellite and Information Services

1 July 2008, Darmstadt
Date and Place

FOR THE
EUROPEAN ORGANISATION
FOR THE EXPLOITATION OF
METEOROLOGICAL SATELLITES:

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Dr. Lars Prahm
Director-General

1 July 2008, Darmstadt
Date and Place

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