Contract Reference Number;

TECHNOLOGY Collaboration Agreement

**This Agreement is made this [no] Day of [month and year]**

**BETWEEN**

1 [Name1]

2 [Name2]

3 [Name3]

4 [Name4]

Hereinafter referred to as ‘**Technology Partners**’ or ‘**Parties’**.

In relation to the CEOI technology project [name of project] which is the subject of this Technology Collaboration Agreement

Hereinafter referred to as the “**Technology Activity**”.

[Name1] is the lead partner for the Technology Activity.

Hereinafter referred to as the **“Lead Partner”.**

Definitions

In this document the following words and expressions shall have the following meanings:

“**Background IPR**” Any IPR controlled or owned by any Technology Partner prior to the Commencement Date or IPR generated by any of the Technology Partners independently of this Agreement and controlled or owned by that Technology Partner;

“**CEOI**” or “**Centre**” The UK Centre for Earth Observation Instrumentation;

“**CEOI Partners**” The organisations which are responsible for the operation of the CEOI, Airbus DS Ltd (overall lead), University of Leicester and STFC RALSpace;

 “**Commencement Date**” TBA

“**Foreground IPR**” Any IPR arising from Work carried out in the course of this Agreement by any of the Technology Partners;

“**IPR**” Any and all intellectual property rights anywhere in the world whether registered, registerable or otherwise, including but not limited to patents, trade marks, registered designs, semi-conductor topography rights and domain names, applications for any of the foregoing, trade or business names, copyright and rights in the nature of copyright, design rights, rights in databases, moral rights and know-how;

**“Leicester”** University of Leicester

“**UKSA**” UK Space Agency;

“**Work**” Tasks to be performed during the course of this Agreement, defined in Appendix 1;

“**Results**” All information, know-how, results, inventions, software and IPR identified or first reduced to practice or writing in the course of the Work;

**“Technology Work Plan”** The document defining the Work to be carried out for the Technology Activity, attached as Appendix 1.

**Background**

(a) The CEOI Partners have been successful in obtaining funding for the operation of the CEOI through a contract between UKSA and University of Leicester (herein referred to as the “**Contract**”)

(b) A parallel Grant Agreement is in place between UKSA and University of Leicester to allow distribution of grant monies awarded by the Centre. This has resulted in a Grant award by the University of Leicester to the Lead Partner (herein referred to as the “**Grant”**).

(c) The Grant defines that [Name1] will lead the Technology Activity, with defined funding for the Technology Activity from the Centre. The Technology Activity will be carried out together with one or more additional Technology Partners.

(d) This Agreement sets out the terms of a collaboration agreement between Technology Partners to deliver the Technology Activity.

NOW THEREFORE in consideration of each Technology Partners co-operative efforts, the Technology Partners agree to be bound by the following terms and conditions.

# SCOPE OF THE AGREEMENT

## The purpose of this Agreement is to lay down and define the individual and joint responsibilities which the Technology Partners have to each other, and to the Centre in relation to funds provided by the Grant.

# COMMENCEMENT

## This Agreement shall be deemed to have come into force on the Commencement Date.

# roles & RESPONSIBILITIES OF THE TECHNOLOGY PARTNERS

## The Technology Partners will use all reasonable endeavours to achieve the objectives set out in the Grant and this Agreement. The role of each Technology Partner is described in the Technology Work Plan, attached at Appendix 1.

## The Technology Partners will manage the Work using the structure outlined in the Technology Work Plan.

## The Technology Partners agree to use the Contract funding and co-funding to undertake the work as specified in the Contract and Grants.

# CONFIDENTIALITY

## Each Party will provide the other Parties with such information as the disclosing Party reasonably deems is appropriate to conduct the Work. Information provided by one Party to another Party will be deemed confidential if (a) it is marked 'Commercial in Confidence', “Proprietary Information”, or “Confidential Information” or (b) it is stated in writing to be Commercial in Confidence at the time of its delivery to the other Party or (c) it is transmitted orally to the other Party, stated to be confidential at the time of such oral transmission and confirmed in writing as being confidential within 45 (forty five) calendar days of such oral transmission, it being understood that such information shall be protected hereunder for the said 45 (forty five) calendar days period. Such Commercial in Confidence information will only be provided to employees of the other Party as needed for purposes relating to this Agreement. Any pertinent information shall not be unreasonably withheld. The following forms of information will not be considered 'Commercial in Confidence' for the purposes of this Agreement:

* information which was in the recipient’s possession, without restriction on its disclosure or use before it was acquired in connection with this Agreement;
* information which is or becomes public knowledge or is or has ceased to have the necessary quality of confidence (except as a result of a breach of this Agreement);
* Information which was independently generated by the Recipient Party as evidenced by written records
* information which is lawfully obtained from a third party, who lawfully acquired it and who was under no restriction as to its use or disclosure;
* information which the disclosing Party gives written permission to disclose;

* information which is required to be disclosed by law and under the Freedom of Information Act 2000 or Freedom of Information Act (Scotland) 2002.

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## Each Party will:

* keep the other’s Confidential Information confidential;
* not disclose any of the other’s Confidential Information to any third party, except as may be necessary for the performance of this Agreement and then only with the disclosing party’s written agreement and under similar terms of confidentiality or except where permitted by the provisions of this Agreement and not use the other’s Confidential Information except to perform its obligations or to exercise its rights under this Agreement.

## The Technology Partners may disclose the other's Confidential Information to those of its employees, officers, professional advisers and suppliers who need to know the same in order to perform this Agreement or exercise rights under it and who have given an undertaking or are subject to obligations of confidence equivalent to those in Clause 4.2

## Immediately on receipt of a written request from the other party, or on the termination or expiry of this Agreement (however it happens), the Technology Partners will destroy or, at the other's request, deliver to the other, all copies of the other's Confidential Information, and confirm in writing to the other that this has been done.

## UKSA and Leicester are subject to the FOIA and the Environmental Information Regulations and any codes of practice issued under them. The Technology Partners will assist and co-operate to provide Leicester and UKSA with any information reasonably requested by Leicester or UKSA, to allow them to comply with the FOIA, and in particular to allow a response to any request for information within the time limits set out in the FOIA.

## Nothing in this agreement will prevent Leicester or UKSA from disclosing any of the Technology Partners Confidential Information:

for the purpose of the examination and certification of Leicester or UKSA’s accounts or for the purpose of any examination under the National Audit Act;

or

any department, office or agency of the Crown.

## Nothing in this Agreement will prevent any party from disclosing or retaining any other party’s Confidential Information in order to comply with the law or any regulation, or the order of any court or authority of competent jurisdiction, including, the FOIA and the Environmental Information Regulations. Leicester and UKSA will have complete discretion to determine whether any information is exempt from disclosure and what information is to be disclosed in response to any Request for Information. If Leicester or UKSA has requested assistance from the Centre to determine whether any such exemption from disclosure applies to the Technology Partners information, the Centre will immediately pass the request to the Technology Partners and if they have not responded to that request within 5 days, Leicester and UKSA will be entitled to assume that no such exemption applies.

## The Technology Partners will pass any Request for Information that it receives and that relates to Leicester or UKSA or any information held by Leicester or UKSA, to that organisation within 4 days after its receipt, and will not respond directly to that request for information.

# INTELLECTUAL PROPERTY RIGHTS (IPR)

## Each Technology Partner shall allow such of its Background IPR (a preliminary list is included at Appendix 2 hereto) as that Partner deems appropriate to be made available to the other Partners, provided that each Partner acknowledges and agrees:

###  it shall only be entitled to use that Background IPR for evaluation purposes in relation to the purposes of the Contract and the duration of the Contract and for no other purposes whatsoever;

### without prejudice to Clause 5.1.1 above, it shall not use that Background IPR for any commercial purpose whatsoever without entering into a separate licensing contract with the Partner that owns that Background IPR. Any additional party joining this agreement as aforementioned will be eligible to share IPR issues only in respect of the relevant Grant and

### that no Technology Partner makes any representation or warranty as to the accuracy or completeness, merchantability or fitness for a particular purpose of any Background IPR made available by it under this Agreement, and any warranty in relation to these matters that might otherwise be implied by law is excluded insofar as it is possible to do so.

### Notwithstanding the above, each Technology Partner warrants that it has the unrestricted right to disclose, exchange, transmit, publish or otherwise use the Background IPR it makes available to the other Partners. Each Technology Partner shall indemnify and hold harmless the other Technology Partners, including any person who has received Background IPR in accordance with the terms of this Agreement, for any damages, losses or expenses arising from any breach of this warranty or such damages, losses or expenses arising from an action brought by a third party as a result of the use of any of the Background IPR.

## Any licence granted pursuant to Clause 5.1 above does not include the right to use any IPR owned by any third party other than the Technology Partner. If the Technology Partner wishes to use any such IPR it shall be solely responsible for making its own arrangements in such regard. It is however the responsibility of the Technology Partner, who makes the third party’s Background IPR available to the other Technology Partners, to inform clearly the other Technology Partners of this third party ownership and of the fact that they will require a further licence in order to use that Background IPR.

## Each Technology Partner (“the Creating Partner”) shall own the Foreground IPR it independently generates under this Agreement and be entitled to obtain patent or other protection of such Foreground IPR. Applications and patents shall be at the expense of the Creating Partner.

## Foreground IPR developed jointly by two or more Technology Partners (“the Creating Partners”) shall be jointly owned and the Creating Partners are entitled to obtain patent or other protection of such Foreground IPR. If one or more of the Creating Partners does not wish to obtain patent or other protection of the IPR they agree to grant permission to any such applications by the remaining Creating Partners, who in turn will grant them non-exclusive, royalty free, non-transferable, perpetual licences to use said IPR. Applications and patents shall be at the joint expense of the applicants. Any Creating Partner not wishing to obtain a patent or other protection of the IPR will not be required to financially participate to the related expenses.

## A Creating Partner shall grant a non-exclusive, royalty free licence to another Technology Partner to use the Foreground IPR that it develops and is referred to at Clause 5.3 and Clause 5.4, as is necessary to carry out the Work funded by the CEOI Grant.

## Each Technology Partner shall be entitled to be granted non-exclusive, non-transferable licences to use the Background IPR of the other Technology Partners other than for the purposes of carrying out the Project solely to the extent necessary to exploit its Results. Such licences shall be negotiated among the Technology Partners be on fair and reasonable terms and shall be non-discriminatory among the Technology Partners to this Agreement.

# ASSIGNMENT

## This Agreement is personal to the Parties who shall not assign the same in whole or in part without the prior written consent of the other Parties provided that such consent shall not be required in the event of an internal corporate amalgamation, reconstruction or reorganisation, provided that the assignees undertake to perform all the obligations of assignor as though it has been an original Party hereto.

# CONTRACT PRECEDENCE

Each Party undertakes to each other Party to comply with its obligations under the Agreement and if there shall be any conflict between the obligations of any Party under this Agreement and obligations of that Party under its Grant, the Parties hereby agree that the obligations of the Grant shall prevail.

# TERM AND TERMINATION

## This Agreement shall remain in force for a period of time from the Commencement Date until [date tba] and can be mutually extended by the Parties in writing.

## This Agreement may only be terminated by agreement of the Parties.

# Default

## If any Party (hereinafter called the “**Party in Default**”):

### Is in material breach of its obligation under this Agreement which breach is irremediable, or if capable of remedy has not been remedied within 3 (three) months of receipt of written notice from any other Party or Parties requiring that it be remedied; or

### Shall be or become bankrupt or insolvent, or make any composition with its creditors, or have an administrator or administrative receiver appointed in respect of its undertaking or any of its assets, or have an administration order made against it or (otherwise than as a solvent entity for the purpose of and followed by amalgamation or reconstruction) commence to be wound up,

then, and without prejudice to any other rights or remedies of the Parties, any other Party shall have the right to terminate with immediate effect the participation of the Party in Default in the Agreement by serving written notice on the Party in Default.

## For the purposes of this Agreement the wilful or negligent disclosure of the other Party's IPR’s or Commercial in Confidence information to a third party without the written authorisation of the Party that owns such information shall constitute a material breach of this Agreement.

## The obligations listed in Clause 16 SURVIVAL shall survive any expiry or termination of this Agreement.

## Termination of this Agreement with respect to the Party in Default shall only terminate the Agreement as regards the Party in Default’s relationship with the other Parties and the Agreement will continue in force as between the remaining Parties.

# AMENDMENTS

## Any amendment to this Agreement must be in writing and executed by authorised officials of each Party.

# KEY PERSONNEL

## The following personnel are nominated for the purposes of this Agreement to act as the points of contact between the Parties:-

### (Insert Technology Partner1 Name)

### (Insert Technology Partner2 Name)

### (Insert Technology Partner3 Name)

### (Insert Technology Partner4 Name)

Or in the case of any of these ceasing to be employed by the Parties, with such other point of contact to be advised.

# LIABILITY

## Notwithstanding any other provisions of this Agreement, no Party shall be liable, whether in contract, tort (including without limitation negligence), breach of statutory duty or otherwise howsoever arising, for any special, consequential, indirect, exemplary or incidental damage or for any damage arising from or attributable to failure to realise expected savings, loss of business, loss of use, loss of goodwill or loss of anticipated revenue or profit, arising out of, or in connection with this Agreement, even if that Party has been advised of the possibility of such damage.

## In no event shall this Agreement be deemed to give rise to any joint or joint and several liability between the Parties.

## Each Party shall bear its own costs incurred in performing its obligations under this Agreement.

# Force MajeurE

## No Party shall be liable for any delay or for the non-performance of any of its obligations under this Agreement or for any consequence thereof if such delay or non-performance is due to any cause whatsoever beyond its reasonable control provided such Party:

### Shall promptly give notice in writing to the other Parties of the cause of such delay or non-performance; and

### Shall use all reasonable endeavours to avoid, eliminate and overcome such cause and shall resume performance of its obligations as soon as reasonably possible.

## Promptly upon receipt of notice as mentioned in Clause 13.1.1 the Parties shall endeavour to agree upon the measures to be taken and shall take all reasonable steps to mitigate the effect of such cause upon the performance of this Agreement.

# WAIVER

## The failure on the part of any Party to exercise or enforce any rights conferred by this Agreement shall not be deemed to be a waiver of any such rights nor operate so as to bar the exercise of enforcement of such right at any time or times thereafter.

# SEVERABILITY

## If any part of this Agreement shall be held illegal, void or unenforceable by any Court of competent jurisdiction, such determination shall not affect the remaining parts of this Agreement which shall remain in full force as if such part or parts held to be illegal, void or unenforceable had not been included in this Agreement. If any provision of this Agreement is found to be invalid or unenforceable but would cease to be invalid or unenforceable if some part of the provision were deleted, the provision in question shall apply with such modification as may be necessary to make it valid and enforceable

# SURVIVAL

## Termination of this Agreement shall not affect any obligation which due to its nature is designed to survive such termination, including without prejudice the following Clauses which shall continue in full force and effect notwithstanding termination for any reason of this Agreement for a period of five (5) years after the termination of the Agreement:

* CLAUSE 3 ROLES AND RESPONSIBILITIES OF TECHNOLOGY PARTNERS
* CLAUSE 4 CONFIDENTIALITY
* CLAUSE 5 IPR
* CLAUSE 11 KEY PERSONNEL
* CLAUSE 12 LIABILITY
* CLAUSE 14 WAIVER
* CLAUSE 15 SEVERABILITY
* CLAUSE 16 SURVIVAL
* CLAUSE 17 DISPUTE RESOLUTION
* CLAUSE 18 NOTICES
* CLAUSE 20 LAW

# DISPUTE RESOLUTION

## The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Agreement within 30 (thirty) calendar days of either Party notifying the other of the dispute, such efforts shall involve the escalation of the dispute to the finance director or equivalent of each Party.

## Nothing in this dispute resolution procedure shall prevent the Parties from seeking an interim Court order restraining the other Party from doing any act or compelling the other Party to do any act to prevent or stay a breach of this Agreement.

## If the dispute cannot be resolved by the Parties pursuant to Clause 17.1,17.1 the dispute shall be referred to mediation in accordance with the Centre for Dispute Resolution (CEDR) Model Mediation Procedure .

## The Parties will use reasonable effort to ensure that the performance of the Agreement shall not be suspended, cease or be delayed by the reference of a dispute to mediation and to comply fully with the requirements of the Agreement at all times.

## The procedure for mediation and consequential provisions relating to mediation are as follows:

(a) A neutral adviser or mediator (the “**Mediator**”) shall be chosen by agreement between the Parties or, if they are unable to agree upon a Mediator within 14 (fourteen) calendar days or if the Mediator agreed upon is unable or unwilling to act, either Party shall within 14 (fourteen) calendar days from the date of the proposal to appoint a Mediator or within 14 (fourteen) calendar days of notice to either Party that he is unable or unwilling to act, apply to the Centre for Effective Dispute Resolution (“**CEDR**”) to appoint a Mediator.

(b) The Parties shall within 14 (fourteen) calendar days of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. If considered appropriate, the Parties may at any stage seek assistance from CEDR to provide guidance on a suitable procedure.

(c) Unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings.

(d) If the Parties reach agreement on the resolution of the dispute, the agreement shall be produced in writing and shall be binding on the Parties once it is signed by their duly authorised representatives.

(e) Failing agreement, either of the Parties may invite the Mediator to provide a non-binding but informative opinion in writing. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Agreement without the prior written consent of all Parties.

(f) If the Parties fail to reach agreement in the structured negotiations within 60 (sixty) calendar days of the Mediator being appointed, or such longer period as may be agreed by the Parties, then any dispute or difference between them may be referred to Court unless the dispute is referred to arbitration pursuant to the procedures set out in Clause 17.6

 17.6 If mediation fails to resolve the dispute, any of the disputing Parties may serve a notice on the other Party(s) in dispute requiring the dispute to be referred to and resolved by arbitration in accordance with the provisions of Clause 17.7.

## In the event that any arbitration proceedings are commenced pursuant to clause 17.6, the following provisions shall apply:

(a) the arbitration shall be governed by the provisions of the Arbitration Act 1996;

(b) the Parties in dispute shall give a written notice of arbitration to the remaining Parties (the “**Arbitration Notice**”) stating:

(i) that the dispute is referred to arbitration; and

(ii) providing details of the issues to be resolved;

(c) the London Court of International Arbitration (“**LCIA**”) procedural rules in force at the date that the dispute was referred to arbitration in accordance with Clause 17.6 (b) shall be applied and are deemed to be incorporated by reference to this Agreement and the decision of the arbitrator shall be binding on the Parties in the absence of any material failure to comply with such rules;

(d) the tribunal shall consist of a sole arbitrator to be agreed by the Parties;

(e) if the Parties fail to agree the appointment of the arbitrator within 10 (ten) calendar days of the Arbitration Notice being issued by the Parties under Clause 17.7(b) or if the person appointed is unable or unwilling to act, the arbitrator shall be appointed by the LCIA;

(f) the arbitration proceedings shall take place in London and in the English language; and

1. the arbitration proceedings shall be governed by, and interpretations made in accordance with, English law.

17.8 the Parties shall not institute court proceedings until the procedures set out in Clauses 17.1, 17.5 and 17.7 have been completed

(a) if the one of the Parties in dispute intends to commence court proceedings, it shall serve written notice on the Lead Partner of its intentions, who shall send written notice to the remaining Parties.

# NOTICES

## Any notice or other document required to be given under this Agreement shall be provided in writing and signed by or on behalf of a duly authorised officer of the Party. Delivery of the notice may be by registered or recorded post, facsimile transmission or other means of telecommunication in permanent written form to the address of the intended recipient Party at the address given below. The notice will be assumed to have arrived on the next working day, or 2 (two) working days after the date of posting if sent by mail.

The addresses for notification are:

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# NO PARTNERSHIP

The relationship between the Parties in relation to the subject matter of this Agreement is as described in this Agreement and no employment, partnership, joint venture or agency relationship shall be deemed to exist between the Parties and no Party shall have the power to bind or pledge the credit of any other Party.

# LAW

## The construction, validity and performance of this Agreement shall be governed in accordance with the laws of England and the Parties hereby submit to the exclusive jurisdiction of the English Courts.

**IN WITNESS WHEREOF** the Parties have caused this Agreement to be executed by their duly authorised representatives

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| --- |
| By: Signature: -------------------------------------------------------------------------------------------Name:  Title: Date: -------------------------------------------------------------------------------------------  |

**IN WITNESS WHEREOF** the Parties have caused this Agreement to be executed by their duly authorised representatives

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| By: Signature: -------------------------------------------------------------------------------------------Name: -------------------------------------------------------------------------------------------  Title: ------------------------------------------------------------------------------------------- Date: -------------------------------------------------------------------------------------------  |

APPENDIX 1

Workplan for the TECHNOLOGY ACTIVITY

APPENDIX 2

Background IPR