

NDA for ERA4CS monitoring tool users

READ THIS NON-DISCLOSURE AGREEMENT ("AGREEMENT") CAREFULLY. BY USING ERA4CS MONITORING TOOL'S INTERNET ACCESS SYSTEM, YOU AGREE TO BECOME A PARTY TO, AND TO BE BOUND BY, THE TERMS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, AND YOU WILL NOT BE ABLE TO USE ERA4CS MONITORING TOOL'S INTERNET ACCESS SYSTEM.

THIS NON-DISCLOSURE AGREEMENT is made between Barcelona Supercomputing Center - Centro Nacional de Supercomputación, a Spanish institution, having its registered office in C/Jordi Girona, 31, 08034 Barcelona, as ERA4CS WP5 Lead Partner, and administrator of the MONITORING TOOL , and you, a user of ERA4CS MONITORING TOOL'S INTERNET ACCESS SYSTEM ("").

WHEREAS, ERA4CS MONITORING TOOL AND/OR ERA4CS MONITORING TOOL'S INTERNET ACCESS SYSTEM possess valuable information of a proprietary, secret and/or confidential nature defined and described below (hereinafter referred to as "CONFIDENTIAL INFORMATION").

WHEREAS, USER wishes to obtain certain CONFIDENTIAL INFORMATION from ERA4CS MONITORING TOOL under the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, the parties hereto agree as follows:

The CONFIDENTIAL INFORMATION is a scientific asset of considerable value to ERA4CS MONITORING TOOL. ERA4CS MONITORING TOOL is willing to disclose and permit the use of CONFIDENTIAL INFORMATION to USER only on the condition that USER will not disclose or permit the disclosure of, or use or permit the use of, the CONFIDENTIAL INFORMATION in any manner except under the conditions set forth hereinafter. CONFIDENTIAL INFORMATION shall include, by way of example but without limitation, data, know-how, formulae, processes, designs, sketches, photographs, plans, drawings, specifications, samples, reports, USER lists, pricing information, studies, findings, inventions, and ideas and any and all written or oral descriptions, advertisements, operating manuals, applications, Internet applications, software, and literature relating to: **ERA4CS monitoring tool.**

Information shall be CONFIDENTIAL INFORMATION for purposes of this AGREEMENT unless it is marked "NON-CONFIDENTIAL" at or prior to the time of transmittal to USER, and, in the case of information transmitted orally, if it is orally identified as "NON-CONFIDENTIAL" at the time of transmittal and within ten (10) days is identified as such in a writing delivered to USER.

USER agrees to hold the CONFIDENTIAL INFORMATION in strict confidence, to use the CONFIDENTIAL INFORMATION only for he purpose of helping the ERA4CS project, determining the interest of USER in negotiating a future agreement between ERA4CS MONITORING TOOL and USER regarding CONFIDENTIAL INFORMATION, or to obtain access to ERA4CS MONITORING TOOL'S INTERNET ACCESS SYSTEM and/or website for USER'S purposes, and not to disclose any CONFIDENTIAL INFORMATION, in whole or in part, to any third party, except USER may disclose CONFIDENTIAL INFORMATION in confidence to employees and independent contractors of USER who would require knowledge of such CONFIDENTIAL INFORMATION for performance of their regular duties, and then only pursuant to a written agreement with such employees and independent contractors which binds such employees to maintain the CONFIDENTIAL INFORMATION in strict confidence to the same extent as USER has agreed to in this AGREEMENT.

USER shall use at least the same degree of care to avoid disclosure and/or use of CONFIDENTIAL INFORMATION as it employs with respect to its own proprietary or confidential information of like importance as the CONFIDENTIAL INFORMATION.

The obligations of USER contained herein shall continue for a period of five (5) years from receipt of the particular CONFIDENTIAL INFORMATION, regardless of termination of this AGREEMENT, unless or until:

the CONFIDENTIAL INFORMATION hereafter becomes available to the public, except as the result of unauthorized disclosure by USER;

the CONFIDENTIAL INFORMATION was in USER's possession prior to disclosure hereunder as evidenced by bona fide written, dated documents, and was not acquired, directly or indirectly, from ERA4CS MONITORING TOOL;

the CONFIDENTIAL INFORMATION is received by USER from a third party without restriction and without breach of this AGREEMENT or any other agreement of which USER knows; and/or

the CONFIDENTIAL INFORMATION is at the time of disclosure in the public domain as evidenced by printed publications.

If USER is requested or required to disclose CONFIDENTIAL INFORMATION pursuant to a subpoena or an order of a court or governmental agency, USER shall:

Promptly notify ERA4CS MONITORING TOOL of the existence, terms, and circumstances surrounding the court or governmental agency request or requirement;

Consult with ERA4CS MONITORING TOOL on the advisability of taking steps to resist or narrow the request;

If disclosure of CONFIDENTIAL INFORMATION is required, furnish only such portion of the CONFIDENTIAL INFORMATION as USER is advised by counsel is legally required to be disclosed; and

All CONFIDENTIAL INFORMATION shall be and remain the property of ERA4CS MONITORING TOOL owners, and all such CONFIDENTIAL INFORMATION received from ERA4CS MONITORING TOOL, including any product samples, shall be promptly returned to ERA4CS MONITORING TOOL upon request (but no later than 30 days after such a request), or destroyed at the option of ERA4CS MONITORING TOOL, except that one copy of the disclosed CONFIDENTIAL INFORMATION may be retained for archival purposes, and shall remain subject to the nondisclosure terms of this AGREEMENT.

In the event of a breach or threatened breach, irrespective of materiality, by USER of the terms or conditions of this AGREEMENT, ERA4CS MONITORING TOOL would suffer irreparable harm, and USER hereby consents (without in any way limiting any rights or remedies of or available to ERA4CS MONITORING TOOL) to the entry by a court of competent jurisdiction of a temporary injunction without notice, and/or a preliminary injunction, enjoining USER from disclosing, or using, in whole or in part, any of the CONFIDENTIAL INFORMATION, whether referred to or not specifically in this AGREEMENT or elsewhere.

This AGREEMENT shall be construed in accordance with the laws of Spain. Any dispute, controversy or claim arising under, out of or relating to this contract and any subsequent amendments of this contract, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims, the courts of Barcelona shall have exclusive jurisdiction.