

## INTEGRATED ENVIRONMENTAL SOLUTIONS LIMITED NON-COMMERCIAL LICENCE

**IMPORTANT: The following licence agreement is a legal agreement between IES and you.**

PLEASE READ THE FOLLOWING TERMS AND CONDITIONS CAREFULLY. BY CLICKING “I ACCEPT THE TERMS IN THE LICENSE AGREEMENT” BELOW YOU HAVE INDICATED YOUR ACCEPTANCE OF THESE TERMS AND CONDITIONS WHICH WILL BIND YOU, YOUR EMPLOYEES AND OTHER USERS AS AGREED WITH IES. IF YOU DO NOT AGREE WITH THE TERMS OF THIS LICENCE, WE ARE UNWILLING TO LICENCE THE SOFTWARE TO YOU AND YOU MUST DISCONTINUE INSTALLATION OF THE SOFTWARE NOW BY CLICKING ON THE “CANCEL” BUTTON BELOW. PLEASE NOTE THAT IF YOU DO NOT ACCEPT THE TERMS OF THIS LICENCE THEN YOU ARE NOT ENTITLED TO USE THE SOFTWARE.

IN THE EVENT THAT THE SOFTWARE HAS BEEN PROVIDED TO YOU VIA PHYSICAL MEDIA YOU MUST RETURN THE PHYSICAL MEDIA ON WHICH THE SOFTWARE IS STORED AND ALL ACCOMPANYING DOCUMENTATION TO IES OR THE RESELLER WHERE YOU PURCHASED IT, TOGETHER WITH PROOF OF PAYMENT WITHIN 7 DAYS OF PURCHASE. IF YOU DO THIS YOUR LICENCE FEE FOR THAT SOFTWARE WILL BE REFUNDED.

### TERMS AND CONDITIONS

The software as set out in the Quotation and the Invoice together with any new features including, without limitation, performance components incorporated into such software (and any amendments made thereto) whether by us, you or a third party, Scripts (“**Scripts**”) specifically identified as written and validated by IES, and any other associated physical media, manuals, documentation, printed materials and/or online documentation (“**Documentation**”) (together the (“**Software**”)) is supplied under licence from Integrated Environmental Solutions Limited (“**IES**”). Software specifically excludes the Excluded Scripts (“**Excluded Scripts**”), even where validated by IES and including without limitation all Scripts not specifically identified as written and validated by IES, including all Scripted Profiles, which act to input software code, data source, or co-simulation sources and other such third party information sources into the Software via the Application Programming Interface (“**API**”). Your use is subject to your acceptance of the terms and conditions of this licence (“**Licence**”), the written quotation (“**Quotation**”) and invoice (“**Invoice**”) which you will have received from IES (together this Licence, the Quotation and the Invoice form the “**Agreement**”).

#### 1. GRANT AND SCOPE OF LICENCE

1.1 In consideration of your payment of the charges set out in the Invoice (the “**Charges**”) in accordance with condition 4 and you agreeing to abide by the terms of this Agreement, IES hereby grants to you a non-exclusive, non-transferable licence to use the Software on the terms of this Agreement for the term specified in your Quotation (the “**Term**”).

1.2 You may:

- (a) install and use the Software, install and reference the associated data files which controls the usage of the software (the “**License Key**”), and any results generated by the operation, processing or running of the Software, use of Scripts, and any performance components incorporated by us, you or a third party, (“**Results**”) for your private, academic research purposes or for carrying out an accreditation audit from time to time only, or under the provisions of the R&D Project Consortium Agreement(s) that you are

party to with IES, for the duration of the R&D Project(s) only, and for research purposes of the R&D Project(s) as specified in the Grant Agreement Description of Action only, (the “Purpose”), either

- (i) on one computer if the Licence Type specified in the Quotation is a single user licence or the Software is for single use – which specifically excludes remote desktop, virtual machine or similar applications; or
  - (ii) on a physical network, or as a remote desktop, virtual machine or similar application, only if the Licence Type specified in the Quotation is a multi-user or network licence or remote desktop License or Virtual machine License, for the number of concurrent users set out in the Quotation or Invoice, for the absence of doubt the License is strictly limited to a specific number of office addresses as set out in the Quotation or Invoice even if only a single License Key is located on a Network;
- (b) make one copy of the Software for back up purposes only, provided that it is necessary for the activities permitted at condition 2.1(a) below and that you retain all copyright notices, trademarks, legends and logos on the back up copy.

1.3 **To avoid any doubt you are expressly prohibited from (a) making the Software, any performance components created by you or on your behalf or any Results available to third parties; or (b) commercially exploiting the Software, any Scripts, any performance components created by or on your behalf and/or Results.**

1.4 IES may at its sole discretion provide to you certain additional features, technical support and maintenance relating to the Software. Such additional features, support and maintenance shall be set out in the Quotation and shall be subject to you agreeing to the appropriate terms and conditions.

1.5 You acknowledge that the functionality of the Software may change from time to time throughout the Term at our sole discretion. New or additional features, including, without limitation, performance components or IES supplied, and validated Scripts, may be incorporated into the Software from time to time by IES or a third party. To avoid any doubt, certain functionalities and features may also be removed at IES’s discretion. You may incorporate new or additional performance components, and Scripts into the Software provided you only use them along with the Software for the Purpose and you only use any results generated by operating, processing or running of the performance component for the Purpose (and to avoid any doubt provided such use is in accordance with condition 1.3 above) and otherwise in accordance with the terms of this Licence. The terms of this Licence applicable to the Software shall apply to all such new or additional features, Scripts and performance components

## 2. LICENSEE'S UNDERTAKINGS

2.1 Except as expressly set out in this Agreement or as permitted by any local law, you undertake:

- (a) not to copy the Software except where such copying is incidental to normal use of the Software or where it is necessary for the purpose of back-up or operational security;
- (b) not to rent, lease, sub-license, loan, translate, merge, adapt, vary or modify the Software;

- (c) not to make the Results of the Software available to third parties;
- (d) not use the Results or the Software to provide services to third parties (including without being limited to providing any training services);
- (e) not to use the Software on a computer network, or for an additional number of users than that which is set out in the Quotation;
- (f) not to use the Software and/or Results for any purpose other than the defined Purpose;
- (g) not to make alterations to, or modifications of, the whole or any part of the Software (unless made in accordance with the terms of this Licence) nor permit the Software or any part of it to be combined with, or become incorporated in, any other programs;
- (h) not to disassemble, de-compile, reverse engineer or create derivative works based on the whole or any part of the Software nor attempt to do any such things except to the extent that (by virtue of section 296A of the Copyright, Designs and Patents Act 1988) such actions cannot be prohibited because they are essential for the purpose of achieving inter-operability of the Software with another software program, and provided that the information obtained by you during such activities:
  - (i) is used only for the purpose of achieving inter-operability of the Software with another software program;
  - (ii) is not disclosed or communicated without IES's prior written consent to any third party to whom it is not necessary to disclose or communicate it; and
  - (iii) is not used to create any software which is substantially similar to the Software;
- (i) to keep all copies of the Software and Results secure and to maintain accurate and up-to-date records of the number and locations of all copies of the Software;
- (j) to supervise and control use of the Software and Results and ensure that the Software is used by your employees and representatives in accordance with the terms of this Agreement;
- (k) to include the copyright notice of IES on all entire and partial copies of the Software in any form;
- (l) not to provide, or otherwise make available, the Software and/or any Results generated by the operation thereby, in any form, in whole or in part (including, but not limited to, program listings, object and source program listings, object code and source code) to any person, other than your employees, without prior written consent from IES;
- (m) not to use the Software via any communications network or by means of remote access.
- (n) to accept responsibility to repair any outcome, without recourse to IES Technical Support, caused by Scripts not supplied, or validated by IES;
- (o) to save backups versions of Software projects to mitigate irreparable outcomes caused by Scripts not supplied, or validated by IES;

- (p) not to sell, or freely distribute, Excluded Scripts without validation of such Scripts by IES;
- (q) only to sell, or freely distribute, IES validated Scripts via IES's Content Store;
- (r) to maintain and support your own Excluded Scripts to keep them up to date with the latest Software version; and
- (s) to accept that you will have no access to the underlying source code in IES supplied, or validated encrypted Scripts
- (t) to grant IES a non-exclusive, fully paid, world-wide and irrevocable license to use anonymised Usage Data as required to provide the Software, and to copy, anonymize, aggregate, process and display anonymised Usage Data, to derive anonymous statistical data related to the Software ("Anonymous Data") to compile, combine or incorporate such Anonymous Data with or into other similar data and information available, derived or obtained from other clients, customers, licensees or users of the Software, or otherwise (collectively, Anonymous Data and such compiled, combined or incorporated data and information shall be referred to as "Aggregate Data"), to permit IES to provide data driven enhancements to the Software or additional services to its customers. IES will be the owner of all right, title and interest in and to Anonymous Data and Aggregate Data. Licensee's grant of license to copy, anonymize, aggregate, process, use and display anonymised Usage Data shall survive the expiry or termination of this Agreement.

2.2 You must permit IES and its representatives, at all reasonable times and on reasonable advance notice, to inspect and have access to any premises, and to the computer equipment located there, at which the Software is being kept or used, and any records kept pursuant to this Agreement, for the purpose of ensuring that you are complying with the terms of this Agreement.

### **3. TERM**

3.1 This Agreement becomes effective when you accept the terms and shall continue for the Term when it shall automatically cease unless otherwise agreed by the parties in writing.

3.2 IES reserve the right to amend the terms of this Agreement where there is an automatic right of renewal, by providing reasonable notice to you of any proposed changes prior to the date of renewal. In the event that you do not agree to the amended terms of the Agreement you shall have the right to terminate the Agreement by providing us with one (1) months written notice of your wish to terminate the Agreement.

3.3 Upon termination or expiry of the Agreement, you must uninstall, delete and destroy all physical

media copies of the Software and certify to IES that you have done so.

#### **4. PAYMENT**

- 4.1 In consideration of the rights granted in terms of this Agreement, you shall pay the Charges to us in accordance with the terms set out in the Invoice.
- 4.2 You shall pay the full amount invoiced to you by IES within thirty (30) days of the date on the Invoice.
- 4.3 You shall not be entitled by reason of any set-off, counter-claim, abatement, or other similar deduction to withhold payment of any amount due to IES.
- 4.4 Interest shall be chargeable on any amounts overdue to IES at the rate of 2% per annum over the base rate of the Royal Bank of Scotland as applying from time to time, to run from the due date for payment until receipt by IES of the full amount, without prejudice to any other right or remedy of IES.

#### **5. INTELLECTUAL PROPERTY RIGHTS**

- 5.1 You acknowledge that all intellectual property rights in the Software throughout the world belong to IES, that rights in the Software are licensed (not sold) to you, and that you have no rights in, or to, the Software other than the right to use them in accordance with the terms of this Agreement. Any performance components or Excluded Scripts created by you, or on your behalf, will be owned by IES however you will be able to use them along with the rest of the Software in accordance with the terms of this Licence. IES grant you a royalty free unlimited license to distribute Excluded Scripts created by you for use in the Purpose within your company. We will not sell or otherwise commercialise the performance component or Excluded Script you created to anyone else except where a prior express commercial agreement has been entered into between IES and you. Accordingly, you hereby assign to IES, by way of present assignation of future rights, all intellectual property rights created by you or on your behalf when incorporating new or additional performance components, or Excluded Scripts into the Software. Where the intellectual property rights in such performance components are created by a third party on your behalf, you shall procure that the intellectual property rights created by any third party are assigned to you. You undertake to execute all documents and perform all actions reasonably necessary to give effect to the foregoing.
- 5.2 You acknowledge that you have no right to have access to the Software in source code form or in unlocked coding or with comments.
- 5.3 The integrity of this Software is protected by technical protection measures (**TPM**) so that the intellectual property rights, including copyright, in the Software of IES are not misappropriated. You must not attempt in any way to remove or circumvent any such TPM, nor to apply, manufacture for sale, hire, import, distribute, sell, nor let, offer, advertise or expose for sale or

hire, nor have in your possession for private or commercial purposes, any means whose sole intended purpose is to facilitate the unauthorised removal or circumvention of such TPM.

## 6. WARRANTY

### 6.1 IES warrants that:

- (a) where the Software is supplied by means of a physical, medium, that the medium is and will for the period of 90 days after that time (**Warranty Period**), be free from defects in design, material and workmanship under normal use. If a defect in the medium occurs during the Warranty Period, IES will replace it free of charge if you return it to IES with proof of purchase and (so far as you are able) a documented example of such defect or error;
- (b) during the Warranty Period, the Software will, when properly used, perform substantially in accordance with the functions described in the Documentation, and the Documentation correctly describes the operation of the Software in all material respects;

For the avoidance of doubt, the foregoing warranties shall not apply to any new or additional performance components or other user-created material incorporated in to the Software by you or on your behalf.

6.2 You acknowledge that the Software has not been developed to meet your individual requirements and that it is therefore your responsibility to ensure that the facilities and functions of the Software as described in the Documentation meet your requirements.

6.3 You acknowledge that the Software may not be free of bugs or errors and you agree that the existence of any minor errors shall not constitute a breach of this Agreement.

6.4 If, within the Warranty Period, you notify IES in writing of any defect or fault in the Software in consequence of which it fails to perform substantially in accordance with the Documentation, and such defect or fault does not result from you having amended the Software or used it in contravention of the terms of this Agreement, IES will, at its sole option, repair or replace the Software, provided that you make available all information that may be necessary to assist IES in resolving the defect or fault, including sufficient information to enable IES to recreate the defect or fault.

6.5 You warrant that, so far as you are aware, the intellectual property rights of a third party shall not be infringed by IES's, your or any third party's use of any new or additional performance components incorporated in to the Software by you or any third party on your behalf or as a result of the incorporation of such new or additional performance components into the Software by you

or any third party on your behalf.

## **7. LICENSOR'S LIABILITY**

7.1 Nothing in this Agreement shall exclude or in any way limit IES's liability for fraud, or for death and personal injury caused by its negligence, or any other liability to the extent that it cannot be excluded or limited as a matter of law.

7.2 Subject to condition 7.1, IES shall not be liable under or in connection with this Agreement or any collateral contract for:

- (a) loss of income;
- (b) loss of business profits or contracts;
- (c) business interruption;
- (d) loss of the use of money or anticipated savings;
- (e) loss of information;
- (f) loss of opportunity, goodwill or reputation;
- (g) loss of, damage to or corruption of data;
- (h) any indirect or consequential loss or damage of any kind howsoever arising from the use of Scripts not supplied, or validated by IES; or
- (i) any indirect or consequential loss or damage of any kind howsoever arising and whether caused by tort (including negligence), breach of contract or otherwise;

provided that this condition 7.2 shall not prevent claims for loss of or damage to your tangible property that fall within the terms of condition 6 or any other claims for direct financial loss that are not excluded by any of categories (a) to (i) inclusive of this condition 7.2.

7.3 Subject to condition 7.1 and condition 7.2, IES's maximum aggregate liability under or in connection with this Agreement, or any collateral contract, whether in contract, delict, tort (including negligence) or otherwise, shall be limited to a sum equal to the Charges as set out in the first Invoice.

7.4 Subject to condition 7.1, condition 7.2 and condition 7.3, IES's liability for infringement of third party intellectual property rights shall be limited to breaches of rights subsisting in the UK.

7.5 This Agreement sets out the full extent of IES's obligations and liabilities in respect of the supply of the Software and Documentation. In particular, there are no conditions, warranties, representations or other terms, express or implied, that are binding on IES except as specifically stated in this Agreement. Any condition, warranty, representation or other term concerning the supply of the Software and Documentation which might otherwise be implied into, or incorporated in, this Agreement, or any collateral contract, whether by statute, common law or otherwise, is hereby excluded to the fullest extent permitted by law.

## **8. TERMINATION**

8.1 IES may terminate this Agreement immediately by written notice to you if:

- (a) you commit a material or persistent breach of this Agreement which you fail to remedy (if remediable) within 14 days after the service on you of written notice requiring you to do so; or
- (b) the Licensee (where it is a company) becomes insolvent or unable to pay its debts (within the meaning of section 123 of the Insolvency Act 1986), enters into liquidation, whether voluntary or compulsory (other than for reasons of bona fide amalgamation or reconstruction), passes a resolution for its winding-up, has a receiver or administrator manager, trustee, liquidator or similar officer appointed over the whole or any part of its assets, makes any composition or arrangement with its creditors or takes or suffers any similar action in consequence of its debt, or becomes unable to pay its debts (within the meaning of section 123 of the Insolvency Act 1986).

8.2 Upon expiry or termination for any reason:

- (a) all rights granted to you under this Agreement shall cease;
- (b) you must cease all activities authorised by this Agreement;
- (c) you must immediately pay to IES any sums due to IES under this Agreement;
- (d) you must immediately uninstall, delete or remove the Software from all computer equipment in your possession; and
- (e) where the Software has been provided via physical media, destroy all physical media copies of the Software and certify to IES that you have done so.

## **9. TRANSFER OF RIGHTS AND OBLIGATIONS**

9.1 This Agreement is binding on you and us and on our respective successors and assigns.

9.2 You may not transfer, assign, charge or otherwise dispose of this Agreement, or any of your rights or obligations arising under it, without our prior written consent.

9.3 IES may transfer, assign, charge, sub-contract or otherwise dispose of this Agreement, or any of his rights or obligations arising under it, at any time during the Term.

## **10. NOTICES**

All notices given by you to IES must be given in writing to Integrated Environmental Solutions Limited at Helix Building, Kelvin Campus, West of Scotland Science Park, Glasgow, G20 0SP.



IES may give notice to you at either the e-mail or postal address you provided to it or its representative when purchasing the Software. Notice will be deemed received and properly served 24 hours after an e-mail is sent, or three days after the date of posting of any letter. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an e-mail that such e-mail was sent to the specified e-mail address of the addressee.

## **11. EVENTS OUTSIDE IES'S CONTROL**

11.1 IES will not be liable or responsible for any failure to perform, or delay in performance of, any of his obligations under this Agreement that is caused by an event outside his reasonable control (“**Force Majeure Event**”).

11.2 A Force Majeure Event includes any act, event, non-happening, omission or accident beyond our reasonable control and includes in particular (without limitation) the following:

- (a) strikes, lock-outs or other industrial action;
- (b) civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war;
- (c) fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster;
- (d) impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport;
- (e) impossibility of the use of public or private telecommunications networks;
- (f) the acts, decrees, legislation, regulations or restrictions of any government.

11.3 IES's performance under this Agreement is deemed to be suspended for the period that the Force Majeure Event continues, and he will have an extension of time for performance for the duration of that period. We will use our reasonable endeavours to bring the Force Majeure Event to a close or to find a solution by which our obligations under this Agreement may be performed despite the Force Majeure Event.

## **12. WAIVER**

12.1 If IES fails, at any time during the Term, to insist on strict performance of any of your obligations under this Agreement, or if IES fails to exercise any of the rights or remedies to which IES is entitled under this Agreement, this shall not constitute a waiver of such rights or remedies and shall not relieve you from compliance with such obligations.

12.2 A waiver by IES of any default shall not constitute a waiver of any subsequent default.

- 12.3 No waiver by IES of any of these terms and conditions shall be effective unless it is expressly stated to be a waiver and is communicated to you in writing.

### **13. SEVERABILITY**

If any of the terms of this Agreement are determined by any competent authority to be invalid, unlawful or unenforceable to any extent, such term, condition or provision will to that extent be severed from the remaining terms, conditions and provisions which will continue to be valid to the fullest extent permitted by law.

### **14. ENTIRE AGREEMENT**

- 14.1 This Agreement and any document expressly referred to in it represents the entire agreement between us in relation to the licensing of the Software and Documentation and supersedes any prior agreement, understanding or arrangement between us, whether oral or in writing. To avoid any doubt, the terms of this Agreement shall govern the use of any pre-existing modules or components of the Software as well as new modules or components of the Software.

- 14.2 In the event that the terms of this Licence contradict that of a Quotation or any Invoice provided by IES, the terms of the Licence shall supersede that of the Invoice and the Quotation. In the event that the terms of any Invoice issued by IES contradict the terms of the Quotation, the terms of the Invoice shall supersede that of the Quotation.

- 14.3 We each acknowledge that, in entering into this Agreement, neither of us has relied on any representation, undertaking or promise given by the other or implied from anything said or written in negotiations between us before entering into this Agreement except as expressly stated in this Agreement.

- 14.4 Neither of us shall have any remedy in respect of any untrue statement made by the other, whether orally or in writing, prior to the date we entered into this Agreement (unless such untrue statement was made fraudulently) and the other party's only remedy shall be for breach of contract as provided in this Agreement.

### **15. LAW AND JURISDICTION**

This Agreement is governed by Scots law. Any dispute (including non-contractual claims) arising from, or related to, any term of this Agreement shall be subject to the non-exclusive jurisdiction of the Scottish Courts.