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## Software License Agreement

### 1 General Provisions

1.1 This Software License Agreement (hereinafter referred to as “Agreement”) constitutes an agreement between You and MITSUI E&S Co., Ltd. (hereinafter referred to as “MES”).

1.2 “You” or “Your” shall for the purpose of this Agreement mean the person or legal entity that has purchased, operates and/or utilizes the e-GICS Advance.

### 2 Scope

2.1 This Agreement regulates Your rights to use the following products supplied by MES;

(1) e-GICS Advance

2.2 The Firmware and Applications (hereinafter referred to as collectively “Software”) may consist of;

(1) software developed by or for MES (hereinafter referred to as “Proprietary Software”),

(2) third party software, which is not open source software, licensed to MES with the right to sublicense (hereinafter referred to as “Licensed Software”), and

(3) software which is licensed by MES under an open source license (hereinafter referred to as “Open Source Software”).

2.3 In exchange for being enabled to use any services in connection with the Engine (hereinafter referred to as collectively “Service”), you shall agree to abide by this Agreement. If you do not agree to this Agreement, you do not have the right to use the Engine and any services in connection with the Engine except the applicable reasons of rejection described in Section 2.4.

2.4 The applicable reasons of rejection are as follows;

(1) This Agreement is expressly prohibited by applicable laws of Your country.

(2) You suffer losses or damages caused by intentional disclosure of the data of the Engine to a third party by MES.

(3) This Agreement is held by a court of competent jurisdiction to be contrary to law.

2.5 This Agreement does not include the Software developed by MAN Energy Solutions.

You shall comply with the provisions set forth in the “End-User License Agreement (EULA)” that is issued by MAN Energy Solutions independently from this Agreement.

### **3 Intellectual property rights and License**

3.1 MES (and its group companies) are either the owner or the licensor of all Intellectual Property Rights of the Software.

3.2 For the purpose of this Agreement, “Intellectual Property Rights” shall mean all recognized protectable intellectual property, such as copyrights, patents, utility models, trademarks, industrial design rights and applications as well as any trade names, trade secrets, know-how and any and all other intangible protectable proprietary information.

3.3 MES grant You a non-exclusive limited license to use the Proprietary Software and the Licensed Software in connection with the Engine on the terms and conditions set out in this Agreement (hereinafter referred to as “License”).

3.4 For the Software that is supplied to You, the License gives You right only for the purpose of using the Service.

3.5 The Software may contain Licensed Software which is subject to third party or open source license terms instead of, or in addition to, this Agreement. You are obligated to comply with such third party or open source license terms for Licensed Software in the Software, and MES does not have any liability for Your failure to do so.

3.6 You are permitted to make and use a reasonable number of copies of the accompanying instruction manual (s) and other documentation provided with the Software, whether in writing or electronically; provided that You reproduce all copyright and other proprietary notices that are in the original copies.

3.7 The License does not include any right to receive additional Firmware or Applications, cf. Section 2.1 (3). If and to the extent MES develop any additional Firmware or Applications, for examples updates or new versions of the Software, such Firmware or Applications will be made available to You against separate payment.

#### **4 Prohibited items**

4.1 You are NOT permitted to;

- (1) decompile, decipher, disassemble, reverse engineer or otherwise attempt to access the Software,
- (2) circumvent any technical limitations in the Software that limit or restrict access to or use of the Software,
- (3) distribute, publish, rent, lease, lend or otherwise provide the Proprietary Software or the Licensed Software to any third party,
- (4) modify or create derivative works of the Software, in whole or in part,
- (5) remove any proprietary notices or labels on the Software, or any copy thereof
- (6) make any use of Software in any manner not expressly permitted by this Agreement,
- (7) destroy or interfere with the MES's server or network,
- (8) disrupt the provision of any services in connection with the Engine by MES,
- (9) obtain and/or store privacy information of other users,
- (10) impersonate other users,
- (11) violate the law or public order,
- (12) do criminal activities or similar activities,
- (13) directly or indirectly bring profit to anti-social forces through the user of this Service, or,
- (14) do any other acts that MES deems unacceptable.

#### **5 Technical requirements**

5.1 In order for the Software to work properly, Your system shall comply with the minimum system requirements outlined in the instruction manual provided with the Software.

5.2 Any use of the Software;

- (1) on a system that does not comply with the minimum system requirements

outlined in the instruction manual provided with the Software, or (2) in combination with other products, materials, equipment, parts or apparatus not approved by MES may entail that the Software will not function properly.

5.3 Basically, we provide technical support for training on how to install /how to operate this software according to your request. However, it might be provided under a separate contract, if necessary.

## **6 Defects**

6.1 The Software is provided “as is”, and You shall acknowledge that complex software is never wholly free from errors, defects or bugs.

6.2 MES does not provide any warranty with respect to the functionality or performance of the Software, and does not have any liability for errors, defects or bugs in the Software, unless such error, defect or bug materially affect the performance of the Service, in which case Your sole remedy shall be to require MES to correct the error, defect or bug in the Software.

6.3 Known defects and deficiencies stated in the documentation that you receive together with the Software shall in no event be considered defects that MES has any liability for or obligation to correct pursuant to Section 6.2.

## **7 Compliance**

7.1 Notwithstanding the rights that You are granted in this Agreement, it is Your responsibility and obligation to ensure that Your use of the Software at all time is in compliance with all applicable laws, rules and regulations. For the sake of clarity, Your responsibility and obligation pursuant to this Section 7.1 does not entail an obligation imposed on MES to ensure that the use of the Software in accordance with this Agreement does not infringe any third party’s Intellectual Property Rights.

7.2 You are obligated to indemnify MES against any and all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by MES arising out of or in connection with

a breach of Section 7. 1.

## **8 Term and termination**

8. 1 This Agreement enters into force in respect of a piece of Software upon Your receipt of the Software and shall remain in full force and effect until terminated in accordance with this Section 8.

8. 2 MES reserve the right to terminate the Agreement immediately with written notice, in case that;

(1) You do not remedy Your material breach of Your obligations within thirty (30) days after having been notified of such breach by MES in writing,

(2) You do not pay the fee for the Service.

## **9 No warranties**

9. 1 Except as otherwise expressly set forth in this agreement, MES does not make any representation and extends no warranty of any kind, either express or implied. Especially MES does not provide any expressed or implied warranties with respect to the software's fitness for a particular purpose.

## **10 Changes to the Agreement**

10. 1 MES reserves the right to amend or update this Agreement from time to time. MES will do its utmost to notify You in writing of any material amendments to this Agreement at least twenty one (21) days before such amendments enter into force. We encourage You to monitor for any amendments to this Agreement on a regular basis.

## **11 Limitation of liability**

11. 1 MES shall in no event be liable for any indirect, incidental, special, exemplary, or consequential damages (including, but not limited to, procurement of substitute goods or services; loss of use, data, or profits; or business interruption) however caused and on any theory of liability, whether in contract, strict liability, or tort, arising in any way out of the use of the Software, even if advised of the possibility of such damage.

11. 2 Nothing in this Agreement shall exclude or limit MES's product liability.

## **12 Data**

12. 1 MES shall have the right to use the data, which contains the information from the sensors installed on the Engine, information from the external equipment such as data logger, information by Your manual input and Your personal data, for the purpose of the Service.

12. 2 MES reserve the right to share the data with MAN Energy Solution for the purpose of the promotion, improvement and development of the Engine. \_ If the data is used by a third party, with the exception of MAN Energy Solution, MES shall completely anonymize the data in order not to identify the specific Engine. MES has the right to use the anonymized data for any purpose.

12. 3 Although only MES authorized personnel can access pre-anonymized data, MES shall not be responsible for any data leakage by illegal means.

12. 4 Personal data will be managed in accordance with the Japanese Personal Information Law.

12. 5 If the Data Access / Processing is not already granted at this time, You hereby expressly consent to said Data Access / Processing for data which has already been collected or that will be collected in the future.

12. 6 For the avoidance of doubt this right to Data Access / Processing of this section does not imply any obligation for MES to provide any monitoring of or any maintenance of the Engine for free.

## **13 Severability**

13. 1 In case any provision in this Agreement should be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability.

## **14 Law and venue**

14. 1 This Agreement shall be governed by and construed in accordance with Japanese law. All disputes of any nature arising out of or in connection with this Agreement shall be submitted to the exclusive jurisdiction of the Tokyo District Court for fair resolution and Japanese law shall apply.

As a proof of the conclusion of this contract, we will make two copies of this document, and each party will hold a copy of both of them, with their respective signatures.

改正履歴 / Revision history

改正番号/Rev. No.	日付/Date	承認/ Approved by	照査/ Reviewed by	担当/ Prepared by
A	2023/4/1	Shuhei Ono		Kenji Nagahashi
B				
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