Software Company will grant to Energy Co, LLC (“Customer”) a license to use the Software described in the Quotation and provide Maintenance and Support thereon, subject to full compliance with the following terms and conditions. Each of Software Company and Customer may be referred to individually as a "Party," and collectively as the "Parties."

1. **DEFINITIONS**.
   1. "**Customer**" means the Party listed on the Energy Co, LLC.
   2. "**Maintenance Services**" means those services which include the delivery of updates, upgrades and standard enhancements to the Software normally provided to Software Company's customers under its standard maintenance program.
   3. "**Quotation**" means the schedule of Software Products covered under this Agreement.
   4. "**Support Services**" will include telephonic and other forms of support which require one-to-one interaction with any of Software Company's support personnel.
   5. "**Services**" means Maintenance Services and Support Services, collectively.
   6. "**Software**" means software and documentation listed on the Quotation, including any replacements, modifications, updates or enhancements thereto, plus system and/or utility software not specifically identified. Whenever a single, specific type of Software is referenced, the term "Software Product" will apply.
   7. **“Term”** means the length of this Agreement.
   8. **“Updated Software”** shall mean a version of the Software which may contain standard releases, patches, bug fixes, error corrections, modifications, alterations or deletions and therefore differs from the version in Customer’s possession. Updated Software does not include any replacement software products separately priced, any new software products separately priced, any additional options separately priced, or any software having substantially new or different functions.
   9. "**Software Company**" means Software Company, a [scrubbed].
2. **DELIVERY AND PAYMENT**.
   1. Software Company shall deliver to Customer, at Customer’s address specified in the Quotation, the electronic media containing the current version of the Software. User manuals and documentation are provided in electronic format only. Delivery shall be Free Carrier (F.C.A) Software Company’s facility as per Incoterms 2011. Customer is responsible for all transportation, insurance and similar charges.
   2. Risk of loss of the Software passes to Customer upon delivery of the Software to the first carrier. Title to Software remains with Software Company at all times.
   3. Unless Software Company requires special credit terms, Customer must pay for the Software within thirty (30) days after the date of invoice. Software Company may require Customer to provide irrevocable letters of credit, cash in advance or other forms of security. Customer may not withhold nor delay payment because of Software Company's failure to timely ship Software items not essential to the function of Customer's system
   4. If Customer becomes more than thirty (30) days delinquent in paying Software Company any sum due under this Agreement, Software Company may suspend the license granted hereunder after ten (10) days from the date of written notice of the proposed suspension to the Customer. In the event Customer remains delinquent for more than thirty (30) days after notice of the proposed suspension, this Agreement will automatically terminate.
   5. The term of this Agreement for Maintenance and Support Services shall begin upon execution or when Software Company issues the Software license keys to the Customer,and shall continue for an initial term of this Agreement, unless terminated earlier pursuant to Section 6 of this Agreement (the “Initial Term”). This Agreement shall automatically renew for successive periods, provided that Customer (i) promptly returns a duly executed renewal Quotation, and (ii) pays the then current Fee for renewal (each a “Renewal Term”). If Customer allows maintenance to lapse on a Software Product, and desires to resume maintenance at a later date, Customer will be charged for the lapsed period of time and the future period at the then current list price for the Software Maintenance and Support Services.
3. **WARRANTY**.
   1. Software warranty period is ninety (90) days from the date of installation.
   2. Software Company warrants that the Software was developed with reasonable diligence and skill, and that it substantially conforms to published documentation and source files. If Customer notifies Software Company in writing during the Software warranty period of a defect, Software Company will repair or replace any defective Software. Except as expressly provided above, the Software is deemed accepted AS-IS without any further warranty.
   3. These warranties do not cover any defects or resulting damage caused by installation or use of hardware or software not furnished by Software Company, accident (including damage during shipment), neglect, misuse or abuse, or exposure to conditions beyond the environmental, power and/or operating constraints specified by Software Company. Furthermore, these warranties do not cover defects or failure resulting from modification or installation by any person or entity other than Software Company or its authorised representative.
   4. Software Company warrants to Customer that Software Company will perform the Services described herein in accordance with the terms of this Agreement
4. **PATENTS AND COPYRIGHTS**.
   1. Software Company will defend Customer, at Software Company's expense, against any claim or suit alleging that any Software Product infringes upon a patent or copyright granted by the United States of America. Provided, however:
      1. Software Company is not liable if the alleged infringement is based on modifications to the Software or the use of such Software in combination with products not furnished by Software Company.
      2. Software Company will pay all costs and any damages finally awarded, provided Customer gives Software Company prompt written notice of such claim, reasonable information and assistance, and sole authority to defend or settle the claim.
      3. In the defense or settlement, Software Company may obtain for Customer the right to continue using the Software Product, or replace or modify it (without substantially changing its original functions) so that it becomes non-infringing.
      4. If such remedies are not reasonably available, and if Customer returns the Software Product, Software Company will give Customer a refund of the price paid for such Software Product (net of reasonable depreciation).
5. **LIMITATIONS OF LIABILTY**.
   1. Under no circumstances will Software Company or its suppliers be liable for damages exceeding amounts Customer paid for the Software Product giving rise to the claim. Any action against Software Company for claims under this Agreement must be brought within eighteen (18) months after the cause of action accrues.
   2. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE ARE NO REPRESENTATIONS OR WARRANTIES BY SOFTWARE COMPANY, EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT WILL SOFTWARE COMPANY OR ITS SUPPLIERS BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF DATA, PROFITS OR USE OF HARDWARE OR SOFTWARE).
6. **Software.** 
   1. Customer accepts full responsibility for any investment made based on results from the Software. Any interpretations or analyses of Customer data, and any recommendation description based upon such interpretations or analyses are opinions based upon inferences from measurements and empirical relationships and assumptions, which inferences and assumptions are not infallible, and with respect to which professional advice may differ. Accordingly, Software Company cannot and does not warrant the accuracy, correctness or completeness of any such interpretation or recommendation.
7. **Maintenance and Support Services.** Software Company's liability with respect to, arising from, or in connection with this Agreement, or from maintenance and support or use of the Software, whether in contract or tort or otherwise, will be limited to an amount equal to that paid by Customer in such Term for the Services applicable to the Software Product within such Term that is the basis for any such liability. IN NO EVENT WILL SOFTWARE COMPANY OR ITS AFFILIATES BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE OR EXEMPLARY DAMAGES, OR LOST PROFITS TO CUSTOMER OR ANY OTHER PARTY AS A RESULT OF THE PERFORMANCE OR NON-PERFORMANCE BY SOFTWARE COMPANY OF THE MAINTENANCE AND SUPPORT SERVICES DESCRIBED HEREIN.
8. **SOFTWARE LICENSE**.
   1. In consideration of payment of the license fee stated in the Quotation, Software Company will provide Customer with a security device or password(s) corresponding to the Software Products and number of licenses listed on the Quotation.
   2. Software Company grants to Customer a single-copy, perpetual, and nonexclusive, non-transferable license to use the object version of the Software solely for Customer's own internal use during the term of this Agreement. Customer may:
      1. Hosted Option. Access the Software, from an internet location hosted or contracted by Software Company. If this internet hosted option is used by the Customer, the license shall allow data to be streamed from one Rig described in the Quotation. For each license granted, the Customer may have up to the number of twenty (20) concurrent users, computers or workstations access or otherwise utilise the datastream from the designated Rig over Customer's internal network. The Rig designation may be changed with the written notification to Software Company but in no event may Customer exceed the number of concurrent users specified in this section;
      2. Customer Hosted Option. Install and use the Software, on a site hosted behind the Customer’s firewall, at a location determined by the Customer. If the Customer Hosted Option is selected, the license shall allow data to be streamed from one Rig described in the Quotation. Under this Customer Hosted Option, the Customer may allow, up to the number of twenty (20) concurrent users, computers or workstations to access or otherwise utilise the Software over Customer's internal network. The Rig designation may be changed with the written notification to Software Company but in no event may Customer exceed the number of concurrent users specified in this Section;
      3. copy the Software into machine-readable or printed form for backup or testing, provided that all copies and partial copies include Software Company's copyright notices;
      4. modify or merge the Software into other software, provided that such merged or modified Software will be subject to this Agreement; except, however, that such modification may result in termination of the warranty or maintenance and support of such modified Software; and
      5. except for training books and materials, copy the documentation as required for Customer 's internal use only, provided that all copies will include Software Company's copyright notices.
   3. Except as otherwise provided in this agreement, Customer may not:
      1. modify, merge, reverse engineer, reverse assemble, decompile or disassemble the Software;
      2. distribute, publish, transfer, sublicense or make the Software or documentation available to other organisations or person;
      3. transfer the Software to another site or any of Customer 's successors-in-interest without approval of Software Company, destruction of the transferred Software from the original installation location, and payment of the applicable fee.
   4. If Customer is located in a country requiring registration of software licenses with government authorities, Customer is responsible for meeting all such requirements.
   5. Customer agrees that its breach of any provision of this Section 6 will cause Software Company immediate and irreparable harm. In the event of such breach, Customer agrees that Software Company will have, in addition to any and all remedies at law, the right to an injunction, specific performance or other appropriate equitable relief.
9. **DESCRIPTION OF SERVICES**.
   1. **Scope of Maintenance and Support Services**. Software Company will provide Customer, with Software Maintenance and Support Services for all Software Products listed on a Quotation referencing this Agreement. Customer agrees to use the Software in accordance with the published documentation and specifications. Nothing herein shall be construed to require Software Company to provide Software Maintenance and Support Services for any operating system software or Software running on hardware platforms not supported by Software Company. Although Software Company may attempt to resolve application issues related to non-supported platforms, any problems requiring extensive support and problem resolution, up to and including call resolution and dispatched personnel, will be charged to Customer at Software Company’s standard hourly rate. Software Company is not obligated to provide Customer with special patches or Updated Software for applications residing on non-supported platforms. Nothing in this Agreement shall be construed as to require Software Company to dispatch personnel to Customer’s site or otherwise provide on-site services, which if mutually agreed shall be governed by the terms and conditions of a separate consulting services agreement. Software Maintenance and Support Services expressly do not include network support, application integration or implementation, reformatting data, data conversion, scripting, training or support for customized applications or third-party products not provided by Software Company.
   2. **Applications Support Line**. During normal business hours of the local Software Company support center, Software Company will respond to questions about Software Company Software usage. Software Company will respond to Customer as soon as reasonably possible after receipt of Customer's request for support.
10. **TRAVEL AND RELATED CHARGES**. Software Company's support technicians will not be required to visit Customer's site unless in Software Company's determination the error cannot be identified by other means. If travel is necessary, Customer will reimburse Software Company for actual travel expenses and necessary lodging and meals at Software Company's local per diem rate. Software Company will invoice Customer for such expenses upon completion of the service call and Customer will make payment within thirty (30) days of date of such invoice.
11. **TERMINATION**.
    1. **Software**
       1. Customer may terminate this Agreement at any time. In addition to Software Company's right to terminate as detailed in Section 2.4, Software Company may terminate this Agreement if Customer fails to comply with these terms and conditions, provided Software Company has given Customer ten (10) days' notice prior to the proposed termination, during which time Customer fails to cure the breach to Software Company's reasonable satisfaction. Upon termination, Customer must return to Software Company all Software copies, documentation, bitlocks or other license keys (including modified and merged portions thereof in any form), and provide to Software Company written confirmation that Customer has destroyed the Software from all installation locations.
       2. Termination does not relieve Customer of its obligation to pay for any previously-shipped Software. Upon termination, Customer agrees to reimburse Software Company for any costs incurred in cancelling or rescheduling Customer's order.
    2. **Maintenance and Support Services**
       1. The Maintenance and Support Services portion of this Agreement may be terminated as of the expiration of any Term of this Agreement by either Software Company or Customer upon thirty (30) days' written notice to the other Party.
       2. The Maintenance and Support Services portion this Agreement will be terminated with respect to any particular Software Product on the date any license of such Software Product expires or is terminated for any reason. If Customer terminates this Agreement for any reason other Software Company's uncured non-compliance under Section 7, Customer will forfeit all prepaid amounts applicable to the Term in which Customer terminated this Agreement.
       3. Software Company or Customer may terminate this Agreement if the other Party fails to comply with the terms and conditions of this Agreement, provided that the non-complying Party has been given thirty (30) days' written notice prior to the proposed termination, during which the non-complying Party has failed to correct the breach to the reasonable satisfaction of the contractor.
12. **EXPORT**. Customer may not export nor re-export any Software Product without first obtaining authorization from the United States Department of Commerce and/or the United States Department of Treasury, as applicable. If Customer fails to comply with this requirement, Software Company may be prohibited from servicing or supporting such Software Product until Customer complies.
13. **UNITED STATES GOVERNMENT RESTRICTED RIGHTS**. Software licenses acquired by or on behalf of the United States Government are provided with Restricted Rights. Use, duplication or disclosure by the United States Government is subject to the restrictions as set forth in DFARS 252.227-7013(c)(1)(ii) or 48 CFR 52.227-19 subparagraphs (c)(1) and (2), as applicable. Manufacturer is Software Company.
14. **GENERAL**.
    1. Except for the obligation of payment, neither Party will be liable for non-performance caused by circumstances beyond their reasonable control, including, but not limited to work stoppages, delay in transportation, delay in delivery by vendors, fire, civil disobedience, war or acts of nature.
    2. During the term of this Agreement, Software Company may, upon reasonable notice, request an audit of the installation locations of the Customer relating to the use of the Software under this Agreement. Customer will have the right to exclude any trade secrets or sensitive business information from the audit. Any audit performed will be reasonable in duration, and performed during normal working hours when done at Customer's facilities.
    3. This Agreement and Quotation constitute the entire agreement between the Parties with respect to this subject and supersede and cancel all prior agreements or understandings (whether oral, written or electronic), as well as any different, conflicting or additional terms which appear on any purchase order or form Customer submits (except that quantities, dates, installation location and means of transportation may be specified by Customer 's purchase order and Software Company's acknowledgment).
    4. This Agreement may only be amended by written agreement between the Parties. The Parties may waive provisions of this Agreement in writing only. Any waiver of any provision of this Agreement will not be deemed a waiver of any subsequent rights in this Agreement. All notices, authorizations and requests by Customer in connection with this Agreement will be deemed given on the day they are transmitted by fax to Software Company's address shown on the Quotation. This Agreement is governed by and construed in accordance with the laws of Norway, and be subject to the exclusive jurisdiction of the Norwegian courts. All disputes arising out of or in connection with the present contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. During the term of this Agreement, Software Company may, upon reasonable notice, request an audit of the installation locations of the Customer relating to the use of the Software under this Agreement. Customer will have the right to exclude any trade secrets or sensitive business information from the audit. Any audit performed will be reasonable in duration, and performed during normal working hours when done at Customer's facilities.

|  |  |
| --- | --- |
| Software Company | Customer |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Signature | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Signature |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Typed Name | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Typed Name |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Title | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Title |