

# User Agreement

## INTRODUCTION.

Low Carbon Operating Software (“**LCOS**”) is a system for the assessment of carbon emission data developed by MALAYSIAN GREEN TECHNOLOGY AND CLIMATE CHANGE CORPORATION (“**MGTC**”) for users in Malaysia. LCOS deployment was by utilising a cloud platform (“Platform”) and the modules or applications developed for or running on the Platform (including Web, iOS, Android and other application versions, API, and SDK), in object code form, accompanying this User Agreement, and their associated Documentation included or provided for use with such software (collectively, “the Licensed Software”).

## TERMS AND CONDITIONS.

Under the terms and conditions of this User Agreement with MGTC, you as the user of the Licensed Software (referenced as applicable as “you” or “your”) HAD AGREED TO UTILISE THE LICENSED SOFTWARE VIA THE AUTHORISED LOGIN ACCOUNT (“**USER ACCOUNT**”).

Read the terms and conditions of this User Agreement carefully before using the Licensed Software. This is a legal and enforceable contract between you and MGTC. By accepting this Agreement, either by indicating assent electronically or by downloading, installing and utilizing the Licensed Software, you agree to the terms and conditions of this User Agreement. If you do not agree to this User Agreement, you must not download, install or use the Licensed Software.

If you enter into this User Agreement on behalf of a company or other legal entity, You represent that you have the authority to bind such entity to this User Agreement. Any changes, additions or deletions by you to this User Agreement will not be accepted and will not be a part of this User Agreement.

## 1. License Rights.

Subject to your compliance with the terms and conditions of this User Agreement, MGTC grants you a non-exclusive, non-transferable limited license to install and use

the Licensed Software and related Documentation solely in support of your use of the digital services which you received the Licensed Software.

## **2. Your Responsibilities.**

**2.1 User Account.** To access the Licensed Software, MGTC requires the use of a username and password after setting up a User Account. You shall be responsible for protecting your username, password, and User Account information from disclosure to third parties, and you are not permitted to circumvent the use of required encryption technologies, if any. You agree to (i) immediately notify us of any unauthorized use of your username, password, or User Account, or any other breach of security, and (ii) ensure that you exit from your User Account at the end of each session. MGTC cannot guarantee or warrant that information transmitted through the Internet is secure, or that such transmissions are free from delay, interruption, interception or error.

**2.2 Authenticity of Your Information.** In creating and using Your User Account, You agree to (i) provide true, accurate, current and complete information about Yourself on any registration form required for the use of the Licensed Software (“**Registration Information**”), and (ii) maintain and promptly update the Registration Information to keep it true, accurate, current and complete.

If you provide any Registration Information that is untrue, inaccurate, not current, or incomplete, or if MGTC has reasonable grounds to suspect that such information is untrue, inaccurate, not current, or incomplete, then MGTC has the right to suspend or terminate your User Account and refuse any and all current or future use of your User Account and the Licensed Software, without any refund of the fees paid or payable by you.

MGTC cannot and will not be responsible for any loss or damage arising from (i) your failure to provide MGTC with true, accurate, current and complete Registration Information, (ii) Your failure to maintain and promptly update the Registration Information, and (iii) Your failure to keep your password to your User Account secure.

**2.2A Payment of the subscription or other fees.** For the continued use of the Licensed Software or LCOS, you shall make payment of the Licensed Software subscription fee or any other related fees within the time and manner ascribed by MGTC. MGTC reserves the right to restrict access to your User Account without further notice until the payment of your User Account is regularised promptly.

## **2.3 Restrictions of Use.**

You shall:

2.3.1 comply with all applicable laws regarding the use of the Licensed Software;

2.3.2 only use the Licensed Software for lawful purposes;

2.3.3 not cause or permit the transfer, loan, lease, publication, copying, rental, lease, sublease, sublicense, or use of the Licensed Software except as expressly provided in this User Agreement;

2.3.4 not reverse engineer, decompile, or otherwise attempt to discover the source code of the Licensed Software;

2.3.5 not otherwise modify, adapt, or merge the Licensed Software;

2.3.6 not sell, license, distribute or transfer the Licensed Software;

2.3.7 not subject the Licensed Software to any open source software license that conflicts with this User Agreement or that does not otherwise apply to such the Licensed Software;

2.3.8 only use APIs identified as published in the Documentation and only as described therein to support the authorized use of the Licensed Software;

2.3.9 not remove, erase, obscure, or tamper with any copyright or any other product identification or proprietary rights notices, seal, or instructional label printed or stamped on, affixed to, or encoded or recorded in or on the Licensed Software or Documentation; or fail to preserve all copyright and other proprietary notices in all copies You make of the Licensed Software and Documentation;

2.3.10 not lease, lend, or use the Licensed Software for timesharing or service bureau purposes;

2.3.11 not use the Licensed Software to provide, alone or in combination with any other product or service, any product or service to any person or entity, whether on a fee basis or otherwise;

2.3.12 not modify, adapt, tamper with, translate or create derivative works of the Licensed Software or the Documentation;

2.3.13 not combine or merge any part of the Licensed Software or Documentation with or into any other software or documentation; or refer to or otherwise use the Licensed Software as part of any effort to develop software (including any routine, script, code, or program) having any functional attributes, visual expressions, or other features similar to those of the Software to compete with the Licensed Software;

2.3.14 not copy or imitate the Licensed Software's design concepts, interface functions, charts, documents, software trademarks, FLASH, design patterns, audio and video, photography, animation, art, and any other intellectual property rights embedded therein, such as patents, copyrights, trademarks;

2.3.15 not, except with MGTC's prior written permission, publish any performance or benchmark tests or analysis relating to the Licensed Software;

2.3.16 not upload, publish, transmit any information that violates applicable laws, regulations and relevant policies, while using the Licensed Software;

2.3.17 not violate or circumvent any technological use restrictions in the Licensed Software;

2.3.18 comply with all network protocol provisions and procedures regarding the use of the Licensed Software;

2.3.19 not attack or attempt to undermine the security, integrity, authentication or intended operation of the Licensed Software, including by transmitting material that contains viruses, Trojan horses, worms, time bombs, cancelbots or other computer programming routines or engines with the intent or effect of damaging, destroying, disrupting or otherwise impairing the operation of the Licensed Software;

2.3.20 not create or permit others to create Internet "links" to the Licensed Software or "frame" or "mirror" the Licensed Software on any other server, wireless or Internet-based device;

2.3.21 not engage a third party to host the Licensed Software; or

2.3.22 attempt to do any of the restricted activities listed in Sections 2.3.1 to 2.3.21.

## 2.4 Security.

You are responsible for the security of Your systems and data. You will take commercially reasonable steps to exclude malware, viruses, spyware, and Trojans.

## 2.5 Responsibility for Users.

You are liable for a breach of this User Agreement by any user invited or authorised by you to register and use the Licensed Software.

**2.6 Audit.** You will at all times maintain records identifying the Licensed Software, the location of each copy thereof, and the location and identity of workstations and servers on which the Licensed Software is installed.

MGTC may, during regular business hours and upon reasonable advance notice, conduct an audit of your compliance with this User Agreement. You will permit MGTC or its authorized agents to access facilities, workstations, and servers and take all commercially reasonable actions to assist in determining compliance with this User Agreement. MGTC and its agents in their reasonable endeavour comply with reasonable security regulations while on your premises.

## 3. Ownership/Title.

The Licensed Software is the proprietary property of MGTC or its licensors and is protected by copyright and patent laws. MGTC and its licensors retain any and all rights, title and interest in and to the Licensed Software, including in all copies, improvements, enhancements, modifications and derivative works of the Licensed Software. Your rights to use the Licensed Software shall be limited to those expressly granted in this User Agreement. All rights not expressly granted to you are retained by MGTC and/or its licensors.

All rights, title and ownership to any technical data and related information that you provide to MGTC for the purposes of this User Agreement and your use of the Licensed Software ("**End-User Data**") shall be expressly reserved and retained by you, and MGTC does not acquire any right, title, or interest to such End-User Data. Notwithstanding the above, you acknowledge and agree that MGTC may use the End-

User Data in an anonymized form such that you cannot be identified as the source of such data, and that such use does not constitute disclosure of your Confidential Information.

## **4. Third Party Programs.**

This Licensed Software may contain third-party software programs (“**Third Party Programs**”), including open-source software. This User Agreement does not alter any rights or obligations you may have under those open-source or free software licenses. Notwithstanding anything contrary in such licenses, the disclaimer of warranties and the limitation of liability provisions in this User Agreement shall apply to such Third Party Programs.

## **5. Service Interruption.**

Scheduled maintenance or upgrading of the Licensed Software and systems will not normally result in service interruption or outage. However, in the event scheduled maintenance or upgrading should require a service interruption or outage and network services have to be suspended, MGTC will exercise commercially reasonable efforts to notify you as far in advance as practicable.

## **6. Warranty, Limitation of Liability and Indemnity.**

**6.1. Warranty Disclaimer.** THE LICENSED SOFTWARE IS PROVIDED “AS IS,” EXCLUSIVE OF ANY WARRANTY, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, OR ANY OTHER WARRANTY, WHETHER EXPRESSED OR IMPLIED. REPRESENTATIONS ABOUT PRODUCTS, FUNCTIONALITY, OR SERVICES IN ANY COMMUNICATION WITH YOU CONSTITUTE TECHNICAL INFORMATION, NOT A WARRANTY OR GUARANTEE.

**6.2. Limitation of Liability.** THE ENTIRE, COLLECTIVE LIABILITY OF MGTC, SUBSIDIARIES AND AFFILIATES, LICENSORS, AND THEIR REPRESENTATIVES, FOR ALL CLAIMS AND DAMAGES RELATED IN ANY WAY TO THIS USER AGREEMENT, IN THE AGGREGATE AND REGARDLESS OF THE FORM OF ACTION, WILL BE LIMITED TO THE AMOUNT PAID TO MGTC FOR THE SOFTWARE LICENSE THAT GAVE RISE TO THE CLAIM.

IN NO EVENT WILL MGTC, SUBSIDIARIES AND AFFILIATES, LICENSORS, AND THEIR REPRESENTATIVES BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, LOSS OF PRODUCTION, INTERRUPTION OF OPERATIONS, OR LOST DATA OR PROFITS, EVEN IF SUCH DAMAGES WERE FORESEEABLE. FOR SERVICES PROVIDED AT NO CHARGE, MGTC, SUBSIDIARIES AND AFFILIATES, LICENSORS, AND THEIR REPRESENTATIVES SHALL HAVE NO LIABILITY WHATSOEVER.

**6.3 Indemnity.** You are solely responsible for any damage caused to MGTC, its licensors, channel partners and associated service providers and subcontractors, other users of the product or any other individual or legal entity as a result of your violation of this User Agreement.

YOU HEREBY AGREE TO DEFEND, INDEMNIFY AND KEEP INDEMNIFIED MGTC AND ITS AFFILIATES, THEIR LICENSORS, CHANNEL PARTNERS AND ASSOCIATED SERVICE PROVIDERS AND THEIR SUBCONTRACTORS AGAINST ANY CLAIM OR ALLEGED CLAIMS, LIABILITIES, LOSSES DAMAGES AND ALL COSTS (INCLUDING LAWYERS' FEES), DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO YOUR FAULT AND/OR RESULTING FROM (A) A VIOLATION OF ANY PROVISION OF THIS USER AGREEMENT OR (B) YOUR USE OR MISUSE OF THE LICENSED SOFTWARE. MGTC reserves the right to take sole responsibility, at its own expense, for conducting the defence of any claim for which you unconditionally agreed to indemnify and reimburse MGTC.

## **7. Term and Termination.**

This User Agreement and the license rights granted herein will be effective on the earlier of your executing this User Agreement or an order form that references this User Agreement, your downloading, installing and utilizing the Licensed Software or your indicating your assent to this User Agreement in any way, until terminated in accordance with this User Agreement. In the event you breach this User Agreement, it will automatically terminate. MGTC may also immediately suspend or terminate this User Agreement in order to comply with the law or requests of governmental entities.

Upon termination, the licenses granted automatically terminate, and you must immediately stop using and destroy all copies of the Licensed Software and Documentation within your possession or control. MGTC may require you to certify such removal and destruction in writing. No refund or credit will be given as a result of

termination under this Section 7. Sections 6, 7, 8, 9, 10 and 11.6 survive termination of this User Agreement.

## 8. Previews.

Unless otherwise specified in this Section, the terms and conditions of this User Agreement shall apply to Previews (as defined below).

MGTC may make available pre-release, early-access, alpha or beta versions of the Licensed Software ("**Previews**") to you. The Previews may not be stable or tested to the same level as commercially released software and may contain coding, design or other defects. You bear the risk of using the Previews. In no event will MGTC be liable for loss or damage to your data from any cause. You shall have the sole responsibility for adequate protection of your data used in connection with the Previews. The Previews may change before commercial release or may not be released as a product or supported.

All right, title, and interest in and an improvement of the Previews, whether or not patentable, conceived or made in the course of, or as a result of performance under this User Agreement, shall be the exclusive property of MGTC ; and you agree to cooperate with MGTC in the execution and filing of documents relating to patent applications on behalf of MGTC and in the worldwide assignment of the same in favor of MGTC. MGTC may assign the rights to the improvement as ascribed herein to MGTC's nominated assignees.

MGTC does not offer a support or maintenance program for any Previews and Previews are excluded from any applicable Service Level Agreements or service standards.

## 9. Confidentiality.

"**Confidential Information**" means all information disclosed by one party or any of its affiliates ("**Disclosing Party**") to the other party or any of its affiliates ("**Receiving Party**") under this User Agreement that is marked as confidential or the confidential nature of which is evident to a reasonable person. MGTC Confidential Information includes the terms of this User Agreement and the Licensed Software. The Receiving Party will (i) not disclose Confidential Information, except on a need-to-know basis to



its employees, affiliates' employees, consultants, contractors, and financial, tax and legal advisors; and with respect to the use of the Licensed Software solely as authorized by the agreed license terms, (ii) use and copy Confidential Information only as required to exercise rights or perform obligations under this User Agreement, and (iii) protect Confidential Information from unauthorized use or disclosure. The Receiving Party (i) will ensure that all its recipients of Confidential Information are bound by confidentiality obligations and use restrictions at least as restrictive as those herein, and (ii) will be liable for compliance with this Section by each of its recipients. MGTC and its affiliates may name you as a customer on their websites and in customer lists and other marketing materials.

The foregoing confidentiality obligations will not apply to any Confidential Information that (i) is or becomes generally available to the public other than as a result of disclosure by the Receiving Party in violation of this User Agreement; (ii) becomes available to the Receiving Party from a source other than the disclosing party, provided that the receiving party has no reason to believe that such source is itself bound by a legal, contractual, or fiduciary obligation of confidentiality; (iii) was in the Receiving Party's possession without an obligation of confidentiality prior to receipt from the disclosing party; (iv) is independently developed by the Receiving Party without the use of, or reference to, the disclosing party's Confidential Information; or (v) is required to be disclosed by a governmental agency or law, so long as the Receiving Party promptly provides the Disclosing Party with written notice of the required disclosure, to the extent such notice is permitted by law, and cooperates with the Disclosing Party to limit the scope of such disclosure.

## **10. Data Protection.**

When MGTC processes personal data on Your behalf in connection with Licensed Software, the terms set out at <https://www.mgtc.gov.my/privacy-policy-2/> ("**Privacy Policy**") are incorporated herein by reference and shall apply to the use of the Licensed Software.

You will indemnify and hold harmless MGTC, its affiliates, the licensors and their representatives from any claims, damages, fines, and costs (including attorney's fees and expenses) relating in any way to your noncompliance with applicable data protection laws.

## **11. General.**

11.1 No Assignment. You may not assign the rights granted hereunder or this User Agreement, in whole or in part and whether by operation of contract, law or otherwise, without MGTC's prior express written consent.

11.2 MGTC Affiliates and Licensors. Each of MGTC's affiliates, partners, contractors and licensors may exercise MGTC's rights and fulfill any of MGTC's obligations under this User Agreement.

11.3 Feedback. If you provide any ideas regarding the Licensed Software, including suggestions for changes or enhancements, (collectively "**Feedback**") in the course of using or evaluating the License Software, you agree that such Feedback shall be the exclusive property of MGTC and be kept confidential by you. By providing Feedback, you are irrevocably granting MGTC and its affiliated companies and licensors free of any charge the right to make, use, distribute, and otherwise commercialize the Feedback in any way and for any purpose. In addition, MGTC shall have the sole and exclusive right to register copyright of any Feedback in its own name in any and all countries and to obtain renewals thereof and to manufacture, reproduce, publish, distribute, and sell such Feedback. MGTC may assign the rights on the registration of the foregoing copyright to MGTC's nominated assignees.

11.4 Force Majeure. Neither party will be liable for delay or failure to perform due to any cause beyond its reasonable control, which could not have been prevented by good industry practice, provided the delayed party promptly notifies the other party.

11.4 Notices. Notices relating to this User Agreement will be in writing and sent to the party's address as specified. A party may change its address for receipt of notice by delivery of written notice to the other party.

11.5 Governing Law. This User Agreement will be governed by the laws of Malaysia. Such governing laws are exclusive of any provisions of the United Nations Convention on Contracts for Sale of Goods, including any amendments thereto, and without regard to principles of conflicts of law. If any provision of this User Agreement is found partly or wholly illegal or unenforceable, such provision shall be enforced to the maximum extent permissible, and remaining provisions of this User Agreement shall remain in full force and effect.

11.7 No Waiver; Validity and Enforceability. The failure to enforce any provision of this User Agreement will not be construed as a waiver of such provision. A waiver of any breach or default under this User Agreement shall not constitute a waiver of any other subsequent breach or default. If any provision of this User Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not be affected, and such provision will be deemed restated to reflect the original intentions of the parties as nearly as possible in accordance with applicable law.

11.8 Entire Agreement. This User Agreement is the complete and exclusive agreement between you and MGTC relating to the Licensed Software and supersedes any previous or contemporaneous oral or written communications, proposals, and representations with respect to its subject matter.

## **12. Changes.**

MGTC may, in its sole discretion, revise, update, change, modify, add to, supplement, or delete certain terms of this User Agreement for security, legal, best practice or regulatory reasons.

Such changes will be effective with or, as applicable, without prior notice to you. You can review the most current version of this User Agreement by clicking on the “User Agreement” link located on the Licensed Software. You are responsible for checking this User Agreement periodically for changes. Your continued use of the Licensed Software following any revision to this User Agreement constitutes your complete and irrevocable acceptance of any and all such changes.