**LIBRARY LICENSE AGREEMENT**

This Software License Agreement (hereafter “**this** **Agreement**”) is entered into between:

**METROSCOPE S.A.**, a company existing and organized under French law, and whose registered office is \*\*\* with the number \*\*\*, France, duly represented by \*\*\* (hereinafter referred to as “**METROSCOPE**”)

and

**XXX**, a company existing and organized under \*\*\* law, and whose registered office is at \*\*\* (hereinafter referred to as “**Licensee**”)

METROSCOPE and XXX are hereinafter also referred to individually as a “**Party**” and collectively as the “**Parties**”.

**PREAMBLE**

**WHEREAS** METROSCOPE has developed the Library, such as defined in the Preliminary Article “Definitions”, on the basis of which this Agreement is made;

**WHEREAS**, XXX is willing to have the right to make Modifications and Parametrization of said Library, such as those terms are defined in the Preliminary Article “Definitions”;

**WHEREAS** METROSCOPE has agreed to such use by Licensee subject to the terms and conditions of this Agreement by Licensee;

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

**PRELIMINARY ARTICLE – DEFINITIONS**

**Agreement** meansthis document, its annexes and any amendment to them.

**Attribution Notice** has the meaning provided in Article 5.

**Bug** means an error or set of errors in the Library that prevent the Library from operating in accordance with its functional specifications.

**Bug Correction** means one or more changes to the Library that when made or added to the Library either establishes conformity of the Library to its functional specifications or eliminates the practical adverse effect of a Bug.

**Derivative Work** means any modifications of the Library which represent as a whole an original work of authorship. Derivative Works include without limitation any functional additions to, updates, improvements on, new versions of, or other such modifications to the Library, made by the Licensee during the Agreement. Bug Corrections and Parametrization are not deemed Derivative Work.

**Library** means Metroscope Modeling Library (“MML”) in object or source code form such as provided under this Agreement, based on the THERMOSYS PRO Library of EDF licensed under the Modelica 2 license available at the following URL: https://build.openmodelica.org/Documentation/ThermoSysPro.UsersGuide.ThermoSysProLicense.html. The Library is further described in Annex 1.

**Parametrization** means using one or several elements of the Library or a Derivative Work in order to prepare a set of equations (generally named “model”).

**Packaged Parametrization** means Parametrization exported as FMU (Functional Mock-up Unit).

**Transmit** or **Transmitted** is the act of uploading, submitting, transmitting, or distributing the code or other content to the Library, including but not limited to communication on electronic mailing lists, source code control systems, and issue tracking systems that are managed by Metroscope, for the purpose of discussing and improving the Library.

**Virus** means computer instructions, devices or techniques that can or were designed to threaten, infect, assault, vandalize, defraud, disrupt, damage, disable, alter, inhibit or shut down the Library, any software use in conjunction with the Library (in particular METROSCOPE software) and/or a processing environment.

**ARTICLE1 – SUBJECT OF THE AGREEMENT**

This Agreement defines the terms and conditions specifically applicable for the use by the Licensee of the Library for the purposes described in the Agreement.

**ARTICLE 2 – NATURE AND SCOPE OF THE LICENSE**

2.1 Provided Licensee complies at all times with the terms and conditions set forth in this Agreement, and subject to Article 4, METROSCOPE grants to Licensee a worldwide, free of charge and non-exclusive right to use the Library for the following limited purposes:

* The right to use the Library or Derivative Works to produce Parametrization for its own internal needs or its customer internal needs;
* The right to make Derivative Works, Bug Corrections to suit Licensee’s own internal needs or Licensee customer’s internal needs;
* The right to distribute, under the terms and conditions of its choice (on a free of charge basis or against a fee) (i) the source code of a Parametrization based on the Library to a customer having already been granted access to Library by Metroscope (ii) a Packaged Parametrization based on the Library to any customer (iii) Licensee Derivative Work and the source code of any Parametrization based on such Derivative Work, to a customer who has already been granted access to Library by Metroscope (iv) The right to distribute a Packaged Parametrization using Licensee Derivative Work to any customer.

Any distribution mentioned herebefore shall be made in compliance with the Agreement in particular that Licensee does not grant more rights than it has been granted herein and in compliance with Articles 5 and 6 (including the obligation for the Licensee to include Attribution Notices in any Derivative Work and Packaged Parametrization).

2.2 Licensee shall not include any Virus in the Library or in any Derivative Work in any manner whatsoever.

**ARTICLE 3 – INTELLECTUAL PROPERTY**

Subject to third party rights, Licensee acknowledges that METROSCOPE remains the owner of the Library. In accordance with Article 6, Licensee shall preserve and include any proprietary notice, such as copyright or trademark notices, which may appear in the Library in all copies thereof (including the Derivative Works), whether such copies are in whole or in part, in machine readable form or in printed form.

**ARTICLE 4 – RIGHTS GRANTED ON DERIVATIVE WORKS AND BUG CORRECTIONS**

4.1 In consideration for the rights granted under this Agreement, Licensee:

(i) will Transmit to METROSCOPE, on a timely basis upon discovery and work completion, any and all Bug Corrections it may develop. The Bug Corrections shall be Transmitted to METROSCOPE through a method agreeable to both parties.

(ii) grants to METROSCOPE, without further consideration of any kind to Licensee, the right to freely use, modify, adapt, distribute (directly or indirectly, under any terms and conditions including those of the Agreement) represent and reproduce all or part of the Bug Correction. This right is worldwide, non-revocable, sublicensable and, to the maximum permissible under applicable law, perpetual (or, *a minima*, for the duration of the legal protection granted to copyright/droit d’auteur).

4.2 Licensee may Transmit to METROSCOPE, without obligation, any Derivative Works or Parametrization it may develop or make. Shall Licensee elects to Transmit any such Derivative Works or Parametrization, except otherwise agreed by the parties in a separate agreement, the rights described in Article 4.1 shall then apply to them. In such case, for Derivative Works only, METROSCOPE shall preserve Licensee’ Attribution Notice in exercising the rights granted.

**ARTICLE 5 – ATTRIBUTION NOTICES**

Licensee must retain in the code of the Library such as provided by METROSCOPE and of any Derivative Works that Licensee may create, all author notice (i.e. notice that identifies any original author(s)), copyright notice, patent notice, or trademark notice, as well as any descriptive text identified therein as an "**Attribution Notice(s)**".

Licensee must cause the source code of the Library or of any Licensee’s Derivative Works to carry a prominent Attribution Notice reasonably calculated to inform recipients (including to inform that Licensee have modified the Library such as provided in Article 6).

In case the Library or Derivative Work is not provided in source code, the Attribution Notices shall be appropriately displayed, e.g., in the documentation of the Library or of the Derivative Work.

**ARTICLE 6 – DESIGNATION OF DERIVATIVE WORKS**

Licensee shall identify any Derivative Works it may develop. The identifying designation of Derivative Work must be different to the corresponding identifying designation of the Library such as provided by METROSCOPE. This means especially that the (root-level) name of the Library under this license must be changed if the License is modified (besides Bug Correction, adding Licensee specific annotations, using a subset of the classes of the Library, or using another representation, e.g. a binary representation).

Licensee must (i) promptly inform METROSCOPE of the creation of any Derivative Work detailing the modifications made (without obligation to provide METROSCOPE with the Derivative Work itself) and (ii) cause any Derivative Works that it creates to carry a prominent Attribution Notice reasonably calculated to reasonably inform recipients that it has modified the Library.

**ARTICLE 7– EXCLUSION FROM THE LICENSE GRANT**

Neither the names of METROSCOPE, nor the names of any contributors to the Library identified in the Attribution Notice, nor any of their trademarks or service marks, may be used to endorse or promote products derived from the Library without express prior permission of their owner. Except as otherwise expressly stated in the Agreement, nothing in the Agreement grants any license to METROSCOPE’s trademarks, copyrights, patents, trade secrets or any other intellectual property, and no patent license is granted to make, use, sell, offer for sale, have made, or import embodiments of any patent claims.

For the sake of clarity, nothing in the Agreement shall be interpreted to prohibit METROSCOPE from licensing the Library under terms different from the Agreement.

**ARTICLE 8 - LICENSEE’S RESPONSABILITY**

Licensee shall be solely responsible for the supervision, management and control of the use of the Library in accordance with this Agreement. Licensee's responsibility includes, without limitation, allocation of material resources and needed skills to use the Library in the operating conditions specified by METROSCOPE and according to the Agreement.

**ARTICLE 9. DISCLAIMER OF WARRANTY AND EXCLUSION OF LIABILITY**

**THE LIBRARY IS LICENSED TO LICENSEE HEREUNDER ON AN "AS IS" BASIS, AND WITHOUT WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, OF NON-INFRINGEMENT OR FITNESS FOR ANY PARTICULAR PURPOSE, ITS SAFE, INNOVATIVE OR RELEVANT NATURE, THAT THE OPERATIONS OF THE LIBRARY WILL BE UNINTERRUPTED OR FREE OF BUG OR ERRORS.**

To the maximum extent permitted under applicable law, under no circumstances and under no legal theory, whether in contract, tort (including negligence), or otherwise, shall METROSCOPE or any person having contributed to the Library, be liable to the Licensee for any direct, indirect, general, special, incidental, or consequential damages of any character arising as a result of the Agreement or the use of the Library including, without limitation, damages for loss of goodwill, work stoppage, computer failure or malfunction, or any and all other commercial damages or losses.

**ARTICLE 10. TERM AND TERMINATION**

This Agreement shall become effective as of XXX, and shall remain in full force and effect for the duration of the legal protection granted to copyright/droits d’auteur.

This Agreement may be terminated by:

* METROSCOPE for breach of any of its obligation by Licensee under this Agreement. Such termination becomes immediately effective within fifteen (15) days after METROSCOPE has sent a registered letter with acknowledgment of receipt to the Licensee stating the grounds of the complaint, unless within that period of fifteen (15) days, the Licensee has demonstrated that it has fully fulfilled its obligations, or has provided evidence of a case of force majeure.
* At any time for convenience by Licensee upon a fifteen (15) days prior written notice to METROSCOPE.

Upon termination of this Agreement, Licensee shall immediately:

* cease using the Library and any Derivative Works;
* destroy all copies or reproductions of the Library and Derivative Works, and any documentation provided by METROSCOPE, as the case may be, in any form whatsoever.

In addition, Licensee, within one (1) month from termination of this Agreement, shall certify METROSCOPE in writing that it has complied with any such requirement. Such certification shall be signed by a legal representative of Licensee.

**ARTICLE 11. MISCELLANEOUS**

Licensee cannot, under any circumstances, transfer this Agreement in whole or in part without prior written consent of METROSCOPE.

Nothing contained herein shall be construed as an obligation of either party, either express or implied, to subsequently develop, market or license the Library, or any similar Library incorporating some or all of the functionalities contained therein.

Neither Party hereto shall be liable for any default in the performance of its obligations under this Agreement resulting from a case of force majeure as defined by French law and construed by French courts. For clarification purposes, the notification of a case of force majeure shall be made within the terms of section 12 "Notifications" below.

A Party's failure at any time or times to require performance of any provision hereof shall in no manner affect its right at a later time to enforce such provision.

This Agreement is the complete agreement between the Parties relating to the subject matter hereof and supersedes all prior and contemporaneous proposals, agreements, understandings, representations, purchase orders and communications, whether oral or written and this Agreement may be modified only by written amendment signed by the Parties and no other act, document, usage or custom shall be deemed to amend or modify this Agreement.

In the event any part of this Agreement is found to be unenforceable, invalid or illegal in any respect, the Parties shall promptly amendment this Agreement to comply with the legal requirements. The remaining provisions shall be binding with the same effect as if the invalid, illegal or unenforceable part was originally deleted until amended.

The Parties agree that this Agreement shall in no way be construed or considered as creating a partnership, a corporation, a joint venture or partnership or any similar relationship. The affectio societatis and the sharing of profits and losses are expressly excluded.

The rights and obligations of Article 3, "Intellectual Property", Article 7, "Exclusion from the license grant” and Article 9 “Disclaimer of Warranty and Exclusion of Liability", Article 10, "General Provisions” and 12 “Governing Law and Jurisdiction” as well as any other section or provision which, by its nature, would normally survive any such termination, shall endure irrespective of the prior expiration or termination of this Agreement, and shall bind the Parties and their legal representatives, successors and assigns.

**ARTICLE 12. GOVERNING LAW AND JURISDICTION**

This Agreement shall be governed and construed in accordance with the laws of France.

The Court of Paris shall have exclusive jurisdiction to hear any dispute arising out of or in connection with the interpretation and/or performance of this Agreement. Nonetheless, Licensee acknowledges and agrees that the paragraph immediately above shall not prevent, restrict or otherwise limit in any manner, METROSCOPE rights to seek equitable remedies, including injunctive relief before any competent court in any jurisdiction.

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be executed in Paris in two (2) originals by their duly authorized officers.

**XXX METROSCOPE**

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signature signature

Nom : Nom

Titre : Titre :

Date : Date :

**ANNEX 1 TO SOFTWARE LICENSE AGREEMENT**

**Name, description and version of the Library**

Name of the Library: Metroscope Modeling Library

Description: Library contains Modelica modules that can be used to build Digital Twins.

Version: this software license agreement covers all versions stored on *https://github.com/Metroscope-dev/metroscope-modeling-library*. Should this url address evolve, Licencee would get the new location by email.

**Name and description of the documentation, if available**

The Documentation is part of the Library and is therefore accessible at the same url address. It contains a description of the library components as well as justification of the equations.   
  
  
**Contributions**

Contributions to MML should be done accordingly to what is written in file README.md, also part of the Library and available at the same url address.