

## **Single End-User License Agreement for EnergyGauge® Software**

This End-User License Agreement (the “Agreement”) between you (“you” or “LICENSEE”) and the University of Central Florida Research Foundation, Inc. (“we,” “us” or “UCFRF”) (collectively, “parties”, or singly, “party”) governs commercial use of EnergyGauge® Software Product that accompanies this Agreement, including any associated media, printed materials and electronic documentation. Multiple versions of EnergyGauge®, each with different features, are made available to download upon payment of appropriate fee on the website <http://www.energygauge.com>. **BY INSTALLING, COPYING, DOWNLOADING, ACCESSING OR OTHERWISE USING THE SOFTWARE PRODUCT, YOU AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, DO NOT INSTALL, ACCESS OR USE THE SOFTWARE PRODUCT.**

WHEREAS, employees of the University of Central Florida (“UCF”), working on behalf of the Florida Solar Energy Center (hereinafter “FSEC”) a research institute of UCF created the software titled, ENERGYGAUGE, and including all revisions thereto (hereinafter collectively, the “Software Product”, as further defined below) in the scope of their employment and as work for hire;

WHEREAS, the University of Central Florida Research Foundation, Inc. (“UCFRF”) is a direct support organization, acting as an instrumentality of UCF, and through which UCF-generated intellectual property may be made available for commercial use;

WHEREAS, UCFRF is a Florida not-for-profit corporation incorporated under the provisions of Chapter 617, Florida Statutes, and approved by the Florida Department of State;

WHEREAS, UCFRF owns all rights, title, and interest to the Software Product, including all copyrights, whether registered or not, and to the trademark ENERGYGAUGE, including all trademark rights, whether registered or not, and including without limitation U.S. trademark registration no. 2318526;

WHEREAS, UCFRF has the right to grant licenses to the foregoing Software Product and Documentation (as hereinafter defined), and wishes to have the Software Product utilized by LICENSEE; and

WHEREAS, UCFRF desires to grant to LICENSEE and LICENSEE desires to obtain from UCFRF, a nonexclusive, non-transferable single end-user license to use the Software Product and Documentation solely in accordance with the terms and the conditions set forth in this Agreement and

WHEREAS, UCFRF is in the process of transitioning the licensing, distribution, maintenance, and support responsibilities for the Software Product to a third-party entity; and

WHEREAS, during such transition period, UCFRF desires to provide a temporary extension of certain existing Software Product licenses that are otherwise scheduled to expire between December 11, 2025 and February 28, 2026, through February 28, 2026 (the “Extension Period”), subject to the terms and conditions of this Agreement; and

WHEREAS, LICENSEE acknowledges that such extension is intended solely to permit continued use of the Software Product during the Extension Period and does not constitute a renewal or continuation of maintenance, updates, or technical support services;

NOW, THEREFORE, in consideration of the premises and mutual covenants of this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

**ARTICLE 1  
DEFINITIONS**

For the purpose of this Agreement, the following words and phrases have the following meaning:

**Software Product:** shall mean the computer program EnergyGauge<sup>®</sup> utilized to assess residential and commercial building energy code compliance, and to perform energy analysis and rating, comprising all versions and multiple features, as selected by LICENSEE to suit a particular use.

**Documentation:** shall mean online user documentation and associated media, installation and activation instructions included with the Software Product, patches, and Updates which are made available online to LICENSEE under this Agreement, as applicable.

**System:** shall mean the hardware and third-party software required to operate the computer program Software Product (EnergyGauge<sup>®</sup>).

**Licensed Materials:** shall mean the Software Product and Documentation covered by this Agreement.

**Updates:** if applicable, shall mean a new version or portion of the Software Product that adds substantial new features and functionality to a prior version of the Software Product.

**ARTICLE 2  
GRANT OF RIGHTS**

**A. Grant of License.** This is a license agreement and not an agreement for sale. Subject to the payment of the fee required, and subject to the terms of this Agreement, UCFRF hereby grants to LICENSEE a non-exclusive, non-transferable, revocable license to install Software Product on a single computer, workstation, terminal, tablet, or other digital electronic or analog device ("Device"). A License for the Software Product and its component parts shall not be separated for use on more than one Device and may not be shared or installed on more than one Device, unless expressly permitted by this Agreement.

**B. Use by LICENSEE.** The LICENSEE shall only use himself /herself or permit its employees or its agents to have access to the Licensed Materials on LICENSEE's Device. LICENSEE shall not otherwise use the Licensed Materials for the benefit of any third party, nor may the LICENSEE modify, assign, sublicense or distribute, sell or rent the Licensed Materials or reverse engineer, decompile, or disassemble the Software Product. The Software Product shall be used only by LICENSEE on LICENSEE's System. The Software Product may be used on a backup System if the primary System is down or for onsite testing, as applicable. The license granted herein shall not be construed to confer any rights upon LICENSEE by implication, estoppel, or otherwise except as specifically set forth herein. Any rights not expressly granted herein are hereby expressly reserved to UCFRF.

**C. Copies.** LICENSEE shall make no copies of the Software Product, except for LICENSEE's backup, or archive purposes.

**D. Ownership.** LICENSEE further acknowledges that all copies of the Software Product in any form provided by UCFRF, UCF, or FSEC, and including any backup or archive copy made by LICENSEE are the sole property of UCFRF. LICENSEE is not the owner of the copy or copies of the Software Product made available for its use under this Agreement and does not possess the rights of an owner of a copy of a computer program provided in Section 117 of the United States Copyright Act. LICENSEE shall not have any right, title, or interest to any such Software Product or copies thereof except as provided in this Agreement, and further shall secure and protect all Software Product and Documentation consistent with the maintenance of UCFRF's proprietary rights therein.

**ARTICLE 3  
DELIVERY & INSTALLATION**

**A. Delivery.** UCFRF, via FSEC, shall deliver one (1) copy of the Software Product in executable form and one (1) copy of the Documentation to the LICENSEE.

**B. Installation.** LICENSEE, shall be responsible for the installation of the Software Product on LICENSEE's System or by another arrangement mutually acceptable to the parties hereto.

**C. Required System.** The System requirements for the installation of EnergyGauge® Software Product are listed on the EnergyGauge.com website at the time of purchase. LICENSEE is solely responsible for the cost, acquisition and regular maintenance of the System required to operate the Software Product. LICENSEE UNDERSTANDS AND ACKNOWLEDGES THAT UCFRF WILL NOT PROVIDE ANY MAINTENANCE OR TECHNICAL SUPPORT FOR THE SOFTWARE PRODUCT DURING THIS EXTENSION PERIOD.

**ARTICLE 4  
LICENSE AND TECHNICAL SUPPORT FEES**

No license, maintenance, or technical support fees shall be due for the Extension Period through 02/28/2026.

**ARTICLE 5  
INTELLECTUAL PROPERTY RIGHTS**

All title and intellectual property rights in and to the Licensed Materials (including but not limited to any images, photographs, animations, video, audio, music, text, and "applets" incorporated into the Software Product), the accompanying materials (Documentation), and any and all backup and archive copies of the Software Product are owned by UCFRF. All title and intellectual property rights in and to the content that is in the Software Product, or may be accessed through use of the Software Product, is the property of the respective content owners and may be protected by applicable copyright or other intellectual property laws and treaties. LICENSEE, at LICENSEE's sole expense, is solely responsible for obtaining any and all rights necessary from any third party owners of content that may be accessed through use of the Software Product. This Agreement grants you no rights to use such content. If this Software Product contains documentation that is provided only in electronic form, you may print one copy of such electronic documentation. You may not copy or reproduce the online instructions accompanying the Software Product.

**ARTICLE 6  
TERMINATION**

This Agreement shall become effective on the date of purchase of the Software Product and shall remain in effect through February 28, 2026.

The Extension Period is granted solely to facilitate UCFRF's transition of licensing responsibilities to a third party and does not constitute a renewal of the license or an obligation to provide maintenance, Updates, or technical support services. No additional license fees shall be required for the Extension Period unless expressly communicated in writing by UCFRF.

In case of termination of this Agreement, applicable obligations of the LICENSEE shall continue, including without limitation, as set forth in Section 6(B).

**A. Termination by UCFRF.** Upon any material breach of this Agreement by LICENSEE, UCFRF shall have the right to terminate this Agreement by giving thirty (30) days written notice thereof to LICENSEE. Such termination shall become effective unless LICENSEE shall have cured any such breach prior to the expiration of said thirty (30) day period. UCFRF may also terminate this Agreement for its convenience upon thirty (30) days' notice thereof to such LICENSEE.

**B. Effect of Termination.** Upon termination for any reason, LICENSEE shall provide UCFRF with written assurance that the LICENSEE ceased the use of Licensed Materials and all original copies of the Licensed Materials, and backup copies have been destroyed or return same to UCFRF.

## **ARTICLE 7 TRADEMARKS AND PUBLICITY**

LICENSEE agrees not to use the name of UCFRF, UCF, FSEC, EnergyGauge® or any trademark, trade device, service mark, symbol, or any abbreviation, contraction, or simulation thereof, owned by UCFRF or UCF, nor the names of any officer, employees, or any adaptation thereof, in any advertising, promotional, or sales literature without prior written consent obtained from an authorized officer of UCFRF or UCF in each case.

## **ARTICLE 8 NO WARRANTY AND LIMITATION OF LIABILITY**

The Licensed Materials are furnished to LICENSEE as-is. UCFRF and UCF make no representations or warranties, express or implied. By way of example, but not limitation, UCFRF and UCF (i) make no representations or warranties of merchantability or fitness for any particular purpose, ii) do not assume any legal liability or responsibility for the accuracy, completeness, or usefulness of Software Products, (iii) do not represent that use of Software Products would not infringe privately owned rights, and (iv) do not warrant that the operation of Software Products will be uninterrupted, that it is error-free or that any errors will be corrected.

Nothing in this Agreement shall be construed as a warranty or representation that the Licensed Materials will operate uninterrupted or error free.

The licensed program is not designed, intended, or authorized for use in any type of system or application in which the failure of the system or application could create a situation where personal injury or death may occur.

TO THE MAXIMUM EXTENT ALLOWED BY LAW, UCFRF and UCF SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT, RESULTING FROM YOUR USE OF LICENSED MATERIALS, THE USE OR THE INABILITY TO USE THE SOFTWARE PRODUCT, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, USE, DATA OR OTHER INTANGIBLE LOSS, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IF YOU ARE DISSATISFIED WITH THE SOFTWARE PRODUCT, YOUR SOLE AND EXCLUSIVE REMEDY IS TO STOP USING THE SOFTWARE PRODUCT AND NON-RENEW YOUR SUBSCRIPTION. YOU ACKNOWLEDGE AND AGREE THAT THE AGREEMENT TO MAKE THE SOFTWARE PRODUCT AVAILABLE TO YOU DOES NOT INCLUDE ANY CONSIDERATION FOR ASSUMPTION OF THE RISK OF ANY OF YOUR DAMAGES, REGARDLESS OF WHETHER DIRECT, INDIRECT, CONSEQUENTIAL OR INCIDENTAL OR ANY OTHER DAMAGES WHICH MAY ARISE IN CONNECTION WITH YOUR USE OF THE SOFTWARE PRODUCT. UCF, AND UCFRF AS A DIRECT SUPPORT ORGANIZATION AND INSTRUMENTALITY OF UCF, EXPRESSLY RETAIN ALL RIGHTS, BENEFITS, AND IMMUNITIES OF SOVEREIGN IMMUNITY IN ACCORDANCE WITH SECTION 768.28, FLORIDA STATUTES.

In no event shall UCFRF's liability to LICENSEE, whether in contract, tort (including negligence), or otherwise, exceed the price paid by LICENSEE to UCFRF for the Licensed Materials. LICENSEE agrees that the foregoing limitations shall apply.

## **ARTICLE 9 INDEMNIFICATION**

LICENSEE agrees to indemnify and hold UCFRF, together with UCF, and the officers, directors, boards, employees, agents, and affiliates of both entities (collectively the "UCF Entities") harmless from any and all claims and expenses, including (without limitation) attorney's fees, arising from or related directly or indirectly to your use of Licensed Materials. By engaging in the use of Licensed Materials, you are hereby agreeing to release the UCF Entities from any and all claims, demands, debts, obligations, damages (actual or consequential), costs, and expenses of any kind or nature whatsoever, whether known or unknown, suspected or unsuspected, disclosed or undisclosed, that you may have against the UCF Entities, if any, arising out of or in any way related to such disputes and/or to the products and services.

## **ARTICLE 10 GENERAL**

This Agreement will be governed by and construed in accordance with the laws of the State of Florida without regard to any conflicts of laws principles, and with jurisdiction and venue in Orange County, Florida. If any provision of this Agreement is found by any court, tribunal or administrative body or authority of competent jurisdiction to be illegal, invalid or unenforceable then that provision will, to the extent required, be severed from this Agreement and will be ineffective without, as far as is possible, modifying any other Section or part of this Agreement. The parties to this Agreement are independent contractors. There is no relationship of partnership, joint venture, employment, franchise, or agency between the parties. This Agreement contains the entire agreement between the parties with respect to the subject matter hereof, and supersedes all proposals, understandings, representations, warranties, covenants, and any other communications (whether written or oral) between the parties relating thereto. This Agreement may be modified by UCFRF from time to time, and without the requirement of notice to LICENSEE. UCFRF reserves the right to assign or transfer this Agreement, in whole or in part, to any person or entity at its sole discretion, without the consent of LICENSEE and without any obligation to provide notice.