

MIKE Powered by DHI SaaS Client Agreement

Revision date: 14 April 2016

PLEASE READ CAREFULLY - THIS IS A BINDING CONTRACT

THIS MIKE Powered by DHI SaaS CLIENT AGREEMENT (“SaaS AGREEMENT” OR “AGREEMENT”) IS A BINDING AGREEMENT BETWEEN DHI AND YOU AND, IF APPLICABLE, THE COMPANY OR OTHER LEGAL ENTITY YOU REPRESENT (COLLECTIVELY “YOU”).

BY CLICKING THE “ACCEPT” BUTTON FOR THIS AGREEMENT OR ACCEPTING ANY MODIFICATION TO THIS AGREEMENT IN ACCORDANCE WITH SECTION 2 BELOW, YOU AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE LEGAL AUTHORITY TO BIND THE LEGAL ENTITY TO THIS AGREEMENT, IN WHICH CASE “YOU” SHALL MEAN SUCH ENTITY. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THE TERMS AND CONDITIONS OF THIS AGREEMENT, YOU MUST SELECT THE “DECLINE” BUTTON AND YOU MAY NOT USE THE SERVICES.

Welcome

This Agreement consists of the following Sections:

- 1) The Services
- 2) Other Agreements
- 3) Modifications to this Agreement
- 4) Term, Termination and Suspension
- 5) Authorisation and Licence to Use the Services
- 6) Technical Support for MIKE SaaS Users
- 7) Limited Warranty
- 8) Service Fees
- 9) Disputes
- 10) Notices
- 11) Miscellaneous Provisions

1 THE SERVICES

The services covered by this Agreement include:

- a) Web-based remote access to MIKE Powered by DHI software operated via Amazon Web Services™ (called “AWS”)
- b) Technical support to you as a user of MIKE software using this web-based access

2 OTHER AGREEMENTS

2.1 MIKE Powered by DHI Licence Agreement

2.1.1 In order to make use of the Services, you have to accept the MIKE Powered by DHI End-User Licence Agreement, which is an agreement between you and DHI regarding your licence to use the MIKE software. The MIKE Powered by DHI End-User Licence Agreement applies when you are using the MIKE software through this SaaS Agreement with the sole exception of Clause 1 Grant of Licence and Clause 2 Term of agreement / termination, which are replaced by the following clauses:

2.1.2 Grant of licence

DHI hereby grants you a non-transferable, non-exclusive, non-sublicensable right to use one copy of the MIKE software (the Software) ordered by you through the MIKE Powered by DHI SaaS Portal. The Software may be used only as installed on the hardware provided. You may order more than one copy of the Software, in which case each copy will be installed and run on a separate hardware platform. You are not allowed to bypass the licence control system or take any other action which might enable you to use more copies of the Software simultaneously – except if you have specifically ordered such copies through the MIKE Powered by DHI SaaS Portal. You are not allowed to copy the Software for any purpose including for backup. Backup of the Software is provided through DHI only. The Software including documentation, tutorials, examples, etc. provided together with the Software is the property of DHI and may not be copied without express prior written consent from DHI.

2.2.3 Term of agreement/termination

The licence granted hereunder shall be valid until you decide to terminate it in accordance with Clause 4.1 and 4.2 or until otherwise suspended or terminated in accordance with Clause 4.3 or 4.4.

3 MODIFICATIONS TO THIS AGREEMENT

You agree that DHI may modify this Agreement or any policy or other terms referenced in this Agreement (collectively, “Additional Policies”) at any time by posting a revised version of the Agreement or such Additional Policy on the MIKE SaaS Website <http://saas.dhigroup.com>. The revised terms shall be effective as follows:

1. if the revised terms are for a new Service which DHI are adding at the time of the revision, then the revised terms shall be effective upon posting (unless DHI expressly states otherwise at the time of posting);
2. if the revised terms are for a then-existing Service, then the revised terms shall be effective upon the earlier to occur of (a) fifteen (15) days after posting and (b) if DHI provides a mechanism for your immediate acceptance of the revised terms, such as a click-through confirmation or acceptance button.

By continuing to use or receive the Services after the effective date of any revisions to this Agreement or any Additional Policies, you agree to be bound by the revised Agreement or any revised Additional Policies. It is your responsibility to check the MIKE Powered by DHI SaaS Website pages regularly for changes to this Agreement or the Additional Policies, as applicable. DHI last modified this Agreement on the date set forth at the top of this Agreement.

4 TERM, TERMINATION AND SUSPENSION

4.1 Term

The term of this Agreement (“Term”) will commence, and you may begin using the Services, once you agree to the terms and conditions of this Agreement by clicking the “Accept” button below and complete the registration process for your MIKE Powered by DHI SaaS account. The Agreement will remain in effect until terminated by you or DHI in accordance with this Section 4.

4.2 Termination by You for Convenience

You may terminate this Agreement for any reason or no reason at all, at your convenience, by (i) providing DHI written notice of termination in accordance with Section 10 and (ii) closing your account for your MIKE Powered by DHI SaaS Service.

4.3 Termination or Suspension by DHI Other Than for Cause

DHI may suspend your right and licence to use any or all Services covered by this Agreement for any reason or for no reason, at DHI’s discretion at any time by providing you sixty (60) days’ advance notice in accordance with the notice provisions set forth in Section 10 below.

4.4 Termination or Suspension by DHI for Cause

We may suspend your right and licence to use any individual Service or any set of Services, or terminate this Agreement in its entirety (and, accordingly, your right to use all Services), for cause effective as set forth below:

4.4.1 Immediately upon DHI’s notice to you in accordance with the notice provisions set forth in Section 10 below if: (i) you attempt a denial of service attack on any of the Services; (ii) you seek to hack or break any security mechanism on any of the Services or DHI otherwise determine that your use of the Services poses a security or service risk to DHI, to any user of services offered by DHI or any third party to liability, damages or danger; (iii) you otherwise use the Services in a way that disrupts or threatens the Services; (iv) you are in default of your payment obligations hereunder and there is an unusual spike or increase in your use of the Services; (v) DHI determines, in DHI’s sole discretion, there is evidence of fraud with respect to your account; (vi) you use any of the Services (as defined in Section 6.1) or Marks (as defined in Section 6.2) other than as expressly permitted herein; (vii) DHI receives notice or DHI otherwise determines, in DHI’s sole discretion, that you may be using the Services for any illegal purpose or in a way that violates the law or violates, infringes, or misappropriates the rights of any third party; (viii) DHI determines, in DHI’s sole discretion, that DHI’s provision of any of the Services to you is prohibited by applicable law, or has become impractical or unfeasible for any legal or regulatory reason; or (ix) subject to applicable law, upon your liquidation, commencement of dissolution proceedings, disposal of your assets, failure to continue

your business, assignment for the benefit of creditors, or if you become the subject of a voluntary or involuntary bankruptcy or similar proceeding.

4.4.2 Fifteen (15) days following DHI's provision of notice to you in accordance with the notice provisions set forth in Section 10 below if you are in default of any payment obligation with respect to any of the Services or if any payment mechanism you have provided to DHI is invalid or charges are refused for such payment mechanism, and you fail to cure such payment obligation default or correct such payment mechanism problem within such 15 day period.

4.4.3 Five (5) days following DHI's provision of notice to you in accordance with the notice provisions set forth in Section 10 below if you breach any other provision of this Agreement and fail, as determined by us, in DHI's sole discretion, to cure such breach within such 5 day period.

4.5 Effect of Suspension or Termination

4.5.1 Suspension

Upon DHI's suspension of your use of any Services, in whole or in part, for any reason, (i) fees will continue to accrue for any Services that are still in use by you, notwithstanding the suspension (including your continued storage of data during the period of suspension); (ii) you remain liable for all fees, charges and any other obligations you have incurred through the date of suspension with respect to the Services; and (iii) all of your rights with respect to the applicable Services shall be terminated during the period of the suspension.

4.5.2 Termination

Upon termination of this Agreement for any reason: (i) you remain liable for all fees, charges and any other obligations you have incurred through the date of termination with respect to the Services; (ii) all of your rights under this Agreement shall immediately terminate.

4.6 Survival

In the event this Agreement is terminated for any reason, Sections 4.5, 4.6, 4.7, 4.8, 5.2, 7, 8.2 (with respect to payments that are accrued but unpaid at the time of termination), and 9 through 11 will survive any such termination.

4.7 Data Preservation in the Event of Suspension or Termination

4.7.1 In the Event of Suspension Other Than for Cause

In the event of a suspension by DHI of your access to any Service for any reason other than for a cause suspension under Section 4.4.1, during the period of suspension, (i) DHI will not take any action to intentionally erase any of your data stored on the Services and (ii) applicable Service charges will continue to accrue.

4.7.2 In the Event of Termination Other Than for Cause

In the event of any termination by DHI of any Service or any set of Services, or termination of this Agreement in its entirety, other than a for cause termination under Section 4.4.1, (i) DHI will not take any action to intentionally erase any of your data stored on the Services for a period of thirty (30) days after the effective date of termination; and (ii) your post termination retrieval of data stored on the Services will be conditioned on your

payment of Service charges for the period following termination, payment in full of any other amounts due DHI, and your compliance with terms and conditions DHI may establish with respect to such data retrieval.

4.7.3 In the Event of Other Suspension or Termination

Except as provided in Sections 4.7.1 and 4.7.2 above, DHI shall have no obligation to continue to store your data during any period of suspension or termination or to permit you to retrieve the same.

4.8 Post-Termination Assistance

Following the suspension or termination of your right to use the Services by DHI or by you for any reason other than for a cause termination (i.e., a termination under Section 4.2 or under Section 4.3), you shall be entitled to take advantage of any post-termination assistance DHI may generally make available with respect to the Services, such as data retrieval arrangements DHI may elect to make available. DHI may also endeavour to provide you unique post-suspension or post-termination assistance, but DHI shall be under no obligation to do so. Your right to take advantage of any such assistance, whether generally made available with respect to the Services or made available uniquely to you, shall be conditioned upon your acceptance of and compliance with any fees and terms DHI specify for such assistance.

5 AUTHORISATION AND LICENCE TO USE THE SERVICES

Subject to your acceptance of and compliance with this Agreement and with the payment terms for the Services that are set forth in connection with the ordering of software packages from the MIKE Powered by DHI SaaS portal, DHI hereby grants you a limited, non-exclusive, non-transferable, non-sublicensable right and licence, in and under DHI's intellectual property rights, to access and use the Services, solely in accordance with the terms and conditions of this Agreement.

5.1 Permitted Uses

5.1.1 You may use the specific configuration of MIKE Powered by DHI software ordered by you on the hardware from AWS provided by DHI (called the SaaS Hardware). Your use of the MIKE software is subject to the limitations which you have accepted by accepting the MIKE Powered by DHI End-User Licence Agreement with amendments as provided in Clause 2.2 of the Agreement.

5.1.2 You may transfer model input and output data between the SaaS Hardware and your local hardware as long as you are in compliance with all parts of this Agreement.

5.2 Restricted Uses

5.2.1 You may not interfere or attempt to interfere in any manner with the functionality or proper working of the Services.

5.2.2 You may not use any other MIKE software than the configuration ordered by you as part of the MIKE Powered by DHI SaaS. You may not attempt to copy or move other MIKE software to your SaaS Hardware, regardless of whether such software is legally licensed by you or not.

5.2.3 You may not install third party software on your SaaS Hardware, whether for pre-processing or post-processing of input/output data for the MIKE software or for any other use. Such software may interfere with the operation of the MIKE software. Consequently, you will automatically cease to be eligible for technical support for your MIKE software if you violate this clause.

5.2.4 You may not remove, obscure, or alter any notice of any Mark, or other intellectual property or proprietary right designation appearing on or contained within the Services or on any DHI Properties.

5.2.5 Subject to the terms and conditions of this Agreement, you may generally publicise your use of the Services; however, you may not issue any press release with respect to the Services or this Agreement without DHI's prior written consent.

6 TECHNICAL SUPPORT FOR MIKE SAAS USERS

You are entitled to free technical support in relation to your use of the MIKE Powered by DHI SaaS software provided that your company already has a valid Service and Maintenance Agreement with DHI for the relevant MIKE products).

If not, then you may still receive technical support at DHI's current rates for such services.

Technical support is not the same as project assistance and DHI's commitment to provide technical support as part of the MIKE Powered by DHI SaaS does not cover project assistance. Technical support covers questions related directly to the functionality and operation of the Software. Project assistance covers advice on how to use the Software in order to solve the specific needs of your project. Explaining how you change a parameter is technical support. Advice on your choice of value for the parameter is project assistance. DHI reserves the right to distinguish between the two kinds of assistance and inform you in case your inquiries are considered to fall under the category of project assistance. In such cases, you may make use of other services provided by DHI for exactly this purpose.

7 LIMITED WARRANTY

7.1 General Warranty

Your use of the MIKE Software accessed through the MIKE Powered by DHI SaaS Portal is covered by the same Limited Warranty provided as Section II of the MIKE Powered by DHI End-User Licence Agreement.

7.2 No refunds of Service Fees

Your responsibilities when using the MIKE Software accessed through the MIKE Powered by DHI SaaS Portal are exactly the same as if the Software was installed and operated on your own hardware.

Failure to complete simulations or other operations of the Software does not entitle you to a refund of Service Fees – fully or partially – unless such failure can clearly be

documented to be the result of negligence on DHI's part. Non-completion of simulations is not uncommon when complex models are setup and used. Such non-completion does not in any way constitute a cause for refund of Service Fees.

Giving advice on how to stabilise a model may be difficult and stabilising a model may involve trying a range of options. Hence, even if a simulation fails to complete or fails to give useful results directly or indirectly due to advice from DHI's Technical Support staff, this does not constitute negligence on DHI's part and does not constitute a cause for refund of Service Fees.

Your failure to enjoy the benefits of the Service or your inability to terminate the Service due to difficulties with network connections, disruptions in the service from AWS or any similar cause does not constitute cause for refund of Service Fees unless such failure is directly attributable to DHI.

8 SERVICE FEES

8.1 Calculation of Service Fees

The fees for the use of the MIKE Powered by DHI SaaS depend on two parameters:

1. Your choice of MIKE Powered by DHI Software package
2. Your potential special agreements with DHI

When selecting your preferred MIKE Software through the MIKE Powered by DHI SaaS Portal, you are provided with a Price Per Hour of this combination. That price automatically also includes any discounts that you may be entitled to through your special agreements with DHI. By accepting to use the Services you also automatically accept the Price Per Hour associated with these Services.

At the start of each hour (each new 1 hour period calculated from the time you commenced using the Service) your account is automatically charged a Service Fee corresponding to the Price Per Hour. This continues until you actively terminate the Service through the MIKE Powered by DHI SaaS Portal or until your use of the Service is terminated in accordance with Clause 4.

8.2 Payment

Payment for the Services takes place in accordance with standard invoicing procedures defined by DHI. These procedures may vary from country to country, but the most common (and default) rule is that accrued use of the Services is invoiced on a monthly basis.

9 DISPUTES

9.1 Notwithstanding anything to the contrary, DHI may seek injunctive or other relief in any state, federal, or national court of competent jurisdiction for any actual or alleged infringement of DHI's or any third party's intellectual property and/or proprietary rights. Any dispute relating in any way to your visit to the MIKE Powered by DHI SaaS Portal

(Website) or to products or services sold or distributed by DHI or its affiliates in which the aggregate total claim for relief sought on behalf of one or more parties exceeds \$7,500 shall be adjudicated in an appropriate court in Copenhagen, Denmark, and you consent to exclusive jurisdiction and venue in such courts. You further acknowledge that DHI's rights in the DHI Properties are of a special, unique, extraordinary character, giving them peculiar value, the loss of which cannot be readily estimated and may not be adequately compensated for in monetary damages.

9.2 Governing Law

By using the Services, you agree that the laws of Denmark, without regard to principles of conflicts of laws, will govern this Agreement and any dispute of any sort that might arise between you and DHI. The parties expressly exclude application of the United Nations Convention for the International Sale of Goods to this Agreement.

10 NOTICES

10.1 To You

Except as otherwise set forth herein, notices made by DHI to you under this Agreement that affect DHI's customers generally (e.g., notices of amended Agreements, updated fees, etc.) will be posted on the MIKE Powered by DHI SaaS Portal. Notices made by DHI under this Agreement for you or your account specifically (e.g., notices of breach and/or suspension) will be provided to you via the email address provided to DHI in your registration for the Services or in any updated email address you provide to DHI in accordance with standard account information update procedures DHI may provide from time to time. It is your responsibility to keep your email address current and you will be deemed to have received any email sent to any such email address, upon DHI's sending of the email, whether or not you actually receive the email.

10.2 To Us

For notices made by you to DHI under this Agreement and for questions regarding this Agreement or the Services, you may contact DHI as follows:

mike@dhigroup.com

and/or

DHI

Agern Allé 5

DK-2970 Hørsholm

Denmark

Att: MIKE Powered by DHI SaaS Manager

10.3 Language

All communications and notices to be made or given pursuant to this Agreement shall be in the English language.

11 MISCELLANEOUS PROVISIONS

11.1 Severability

If any portion of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining portions of this Agreement will remain in full force and effect, and any invalid or unenforceable portions shall be construed in a manner that most closely reflects the effect and intent of the original language. If such construction is not possible, the provision will be severed from this Agreement, and the rest of the Agreement shall remain in full force and effect.

11.2 Waivers

The failure by DHI to enforce any provision of this Agreement shall in no way be construed to be a present or future waiver of such provision nor in any way affect DHI's right to enforce such provision thereafter. All waivers by DHI must be in writing to be effective.

11.3 Successors and Assigns

This Agreement will be binding upon, and inure to the benefit of the parties and their respective successors and assigns.

11.4 Entire Agreement

This Agreement incorporates by reference all policies and guidelines posted on the MIKE Powered by DHI SaaS Portal (Website), including all Additional Policies, and constitutes the entire agreement between you and DHI regarding the subject matter hereof and supersedes any and all prior or contemporaneous representation, understanding, agreement, or communication between you and us, whether written or oral, regarding such subject matter.

11.5 Relationship

Nothing in this Agreement is intended to or does create any type of joint venture, creditor-debtor, escrow, partnership or any employer/employee or fiduciary or franchise relationship between you and DHI (or any of DHI's affiliates).

11.6 Read and understand

You acknowledge that you have read this Agreement, understand it and agree to be bound by its terms and conditions.



April 2016
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