

# MODO (without MODTRAN®)

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In consideration of the mutual covenants set forth herein and other good and valuable consideration, ReSe and Licensee agree as follows:

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**7. Force Majeure.** ReSe shall not be liable for any failure to perform hereunder to the extent that such failure arises by factors outside ReSe's reasonable control, including but not limited to Acts of God, war, terrorism, natural disaster or third party transportation and communications failure.

**8. Assignment.** Licensee may not sell, license, assign, or otherwise transfer the Software or the documentation without the written permission of ReSe, which may be withheld in ReSe's sole discretion. Any such sale, license, sublicense, assignment, rental or transfer in breach of this provision shall be void.

**9. Amendment; Waiver; Severability.** No alteration, amendment, waiver, cancellation or other change to this Agreement shall be valid or binding unless agreed to in writing by both parties. No waiver by any party of a breach of any covenant or condition of this Agreement by any other party shall be construed to be a waiver of any succeeding breach of the same or any other covenant or condition. If any provision of this Agreement, or the application thereof, shall for any reason and to any extent be determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of this Agreement shall be interpreted so as best to reasonably effect the intent of the parties. The parties further agree to replace any such invalid or unenforceable provisions with valid and enforceable provisions designed to achieve, to the extent possible, the business purposes and intent of such invalid and unenforceable provisions.

**10. U.S. Government and Spectral Sciences Not Parties.** The U.S. Government and Spectral Sciences are not a party to this Agreement.

**11. Acknowledgement; Entire Agreement.** Licensee ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS. Licensee FURTHER AGREES THAT IT IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE LICENSE AGREEMENT BETWEEN Licensee AND ReSe WHICH SUPERSEDES ANY PROPOSAL, OR PRIOR AGREEMENT, ORAL OR WRITTEN, AND ANY OTHER COMMUNICATIONS BETWEEN Licensee AND ReSe RELATING TO THE SUBJECT MATTER OF THIS LICENSE AGREEMENT.

**12. Certification.** Upon ReSe request, Licensee agrees to provide certification of compliance with all terms and conditions of this Agreement.

IN WITNESS WHEREOF, the Licensee has executed this Agreement by online registration at <https://www.rese-apps.com/software/modo/modo-registration.html> or in written to ReSe Applications LLC and payment of the Software fee.

*The Licensor:*

*ReSe Applications LLC  
Langeggweg 3  
9500 Wil  
Switzerland*

## **EXHIBIT A: SOFTWARE LICENSE PURCHASE SCHEDULE**

### **Type of License**

- 1. Educational Use.** Educational Use licenses shall be used exclusively in connection with non-commercial teaching and undergraduate research being performed at colleges and universities. Work being performed for commercial entities and non-university research institutes does not qualify as an Educational Use.
- 2. Research Use.** Research Use licenses are sold to research institutes and universities for research projects and for regular, but non-commercial processing of research data.
- 3. Commercial Use.** All licenses that are not Educational or Research Use licenses are deemed to be Commercial Use licenses.

### **Description of Software**

The MODO software is a complete graphical user interface to the MODTRAN® software, NOT including MODTRAN® executables and its inherent components and databases. MODO contains GUI tools for eased interfacing with MODTRAN® which are created and maintained by ReSe. The MODTRAN® software is to be licensed independent of MODO to make use of the full functionality of the Software.

### **Scope of License**

Use of the MODO software, is limited to Licensee's internal uses at one physical site, or in the case of personal laptop use, users whose primary place of business is a single physical site. Licensee may report on results obtained with the MODO software and should duly reference the software in reports and papers.

### **Number of Units**

The Licensee may install up to the maximum number of licenses indicated in the purchase contract in node-locked mode to computers at a site. The Software can be used by up to three personnel who are part of a workgroup or unit. Name and email address of each authorized user should be provided to ReSe. One installation of an additional backup license on portable devices, such as laptops, designated to the users and under permanent control of the workgroup are allowable, so long as use is limited to the authorized users.

### **Support and Maintenance**

Maintenance releases to the Software are included for a duration of one year after acquisition as far as made available by ReSe. The Licensees acknowledges that ReSe has no obligation to provide any software update and maintenance service. Limited email support by ReSe is included in the license fee for a duration of one year after acquisition of Software. Support is limited insofar that MODO is an expert system and requires dedicated training for efficient use by an end user which can not be covered by standard email support.

Maintenance extension contracts are to be arranged with ReSe at the latest three months after expiration of the maintenance duration.

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