
End Users License Agreement

SUN® MODIS™ SOFTWARE LICENCE

SNAP-ON UK HOLDINGS LIMITED ("SNAP-ON") (REGISTERED NUMBER 02648720 WITH REGISTERED ADDRESS OF CHICHESTER HOUSE, 278-282 HIGH HOLBORN LONDON WC1V 7HA) OWNS THE COPYRIGHT IN THE ENCLOSED SOFTWARE. WE ARE WILLING TO LICENSE THE ENCLOSED SOFTWARE TO YOU ONLY ON THE CONDITION THAT YOU ACCEPT ALL THE TERMS CONTAINED IN THIS LICENCE AGREEMENT. OPENING THE ENCLOSED SOFTWARE PACKAGE CONSTITUTES DEEMED ACCEPTANCE ("ACCEPTANCE") OF THE TERMS AND CONDITIONS OF USE AND YOUR AGREEMENT TO BE A LICENSEE OF THE SOFTWARE. IF YOU DO NOT WISH TO ACCEPT THE TERMS, RETURN THIS PACKAGE **UNOPENED** TO **SUN** OR ITS AGENT OR OTHER PARTY FROM WHOM YOU OBTAINED THIS PACKAGE AND ANY LICENCE FEE YOU MAY HAVE PAID WILL BE REFUNDED TO YOU.

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Background

A.Licensee has purchased, leased or otherwise lawfully obtained certain vehicle diagnostic equipment manufactured by Snap-on (the "Equipment"). The Equipment is sold by Sun (either directly or indirectly through resellers and other third parties) with certain operating software and vehicle data pre-installed (collectively, the "Modis Software"). The Modis Software is essential to the normal use of the Equipment and allows users to perform diagnostic tests with the Equipment on particular vehicles, as more fully described in the documentation provided with the Equipment.

B.Licensee requires a licence to use the Modis Software on the Equipment in accordance with the terms of this Agreement and Snap-on wishes to grant such a licence to Licensee in consideration of the price paid for the Equipment.

- 1.Licence.** Subject to the terms and conditions of this Agreement, and in consideration of the price paid for the Equipment Snap-on grants to Licensee, and Licensee accepts, a non-exclusive licence (with no right to sublicense) to use the object code version of the Modis Software as well as any related documentation provided by Snap-on to Licensee solely on the Equipment for Licensee's internal business purpose of testing and/or repairing vehicles (the "Licence"). The Licence shall be perpetual unless revoked by Snap-on as provided elsewhere in this Agreement. The Licence is non-transferable except as expressly permitted under clause 12 (Assignment). Any updates and upgrades which may from time to time be provided to the Licensee shall be considered as Modis Software.
- 2.Term.** This Licence commences on Acceptance and shall continue unless and until terminated in accordance with clause 10 (Termination) (the "Term").

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- 3. Diagnostic Information.** The Modis Software enables Licensee to collect diagnostic information generated using the Equipment and other information regarding vehicles (collectively, "Diagnostic Information"); to store and search such Diagnostic Information on the Equipment and/or a personal computer; and to transmit such Information to Snap-on. Licensee warrants that any Diagnostic Information sent to Snap-on will not include any personally identifiable information regarding Licensee's customers or any other natural person. Licensee acknowledges that Snap-on has the right to use any Diagnostic Information it receives to develop or enhance future updates or upgrades or for any other purposes. Snap-on will own all right, title and interest in and to any compilation, aggregation or other work which it creates using Diagnostic Information, and may sell, license or otherwise distribute any such works to its licensees and/or other third parties with no compensation to Licensee.
- 4. Confidentiality/Proprietary Rights.** Licensee acknowledges that the Modis Software is comprised of information which constitutes a trade secret of Snap-on in which Snap-on has a proprietary interest. Licensee therefore agrees that no portion of the information or programs constituting the Modis Software may be disclosed to others, copied, reproduced, disseminated, broadcast, displayed, reverse engineered, translated, disassembled, compiled, modified or used for any other purpose or purposes other than as expressly permitted under the Licence or under Section 50(A) and (B) of the UK Copyright, Designs and Patents Act 1988 or any other applicable law. The foregoing restrictions shall not apply to the extent they are unlawful, voidable or void under any applicable law. Snap-on or its licensors shall retain all right, title and interest in and to such Modis Software and related documentation, and any modifications to or derivative works therefrom, and any intellectual property rights related thereto. Except for Licensee's rights under the Licence, the Licensee shall acquire no interest in the Modis Software or related documentation, or any intellectual property rights related thereto. Licensee acknowledges that no remedy at law for damages is adequate to compensate Snap-on for a breach of the obligations of this clause 4 or for any infringement of Snap-on's intellectual property rights in the Modis Software, and agrees that in the event of such a breach or infringement by Licensee Snap-on shall be entitled to injunctive relief. Such injunctive relief shall in no way limit any other remedies that Snap-on may have as a result of Licensee's breach or infringement.
- 5. Software Modification.** Snap-on reserves the right to make changes in the rules of operation, security measures, accessibility, procedures, system programming languages and any other matters relating to the Modis Software and its use, without prior notice, provided that such changes will not result in any material diminishment of the functionality of the Equipment.
- 6. Warranty Disclaimer.** Snap-on warrants that it owns or has rights in the Modis Software and that Snap-on has the authority to grant the Licence. Licensee acknowledges and accepts that computer programs are not error-free and use of the Modis Software may not be uninterrupted or free of defective code. Snap-on will take reasonable steps to ensure that the Modis Software does not contain viruses or other malicious code when provided by

Snap-on, but Snap-on does not guarantee that the Modis Software will be free from viruses or other malicious code. Save as expressly provided for in this Agreement and subject always to Clause 8, no warranty, condition, undertaking, representation or term, whether statutory, express or implied as to condition, satisfactory quality, performance, durability, fitness for purpose, non-infringement or otherwise is given or assumed by Snap-on and all such terms and warranties are hereby excluded to the fullest extent permitted by law.

7. Internet Service Exclusions. Notwithstanding anything to the contrary in this Agreement, Licensee acknowledges that its ability to access any updates or other services that Snap-on may offer via the Internet is subject to Licensee's own arrangements for accessing the Internet and that the Internet, by its nature, may not always be available or functioning normally, and Snap-on shall not have any liability that arises out of or relates to the unavailability of the Internet in whole or in part nor any Internet connection.

8. Certain Liability Not Excluded. Nothing in this Agreement shall limit or purport to limit the liability of Snap-on for fraudulent misrepresentations, for death or personal injury caused by the negligence of Snap-on or its employees or directors for any obligation of Snap-on arising under section 12 Sale of Goods Act 1979 or section 2 Supply of Goods and Services Act 1982, or for any matter which it would be illegal for Snap-on to limit or attempt to limit or exclude its liability.

9. General Exclusion and Limitation of Liability. Subject to clause 8, Snap-on shall not be liable to Licensee for loss of profit, revenue or anticipated savings, loss of contracts or opportunity, loss of goodwill, loss of data, and loss of management or staff time (whether such losses are direct, indirect, or consequential) or for any indirect or consequential loss or damage of any kind whatsoever, howsoever caused, even if Snap-on has been advised of the possibility of such loss or damage arising. Any liability that Snap-on may incur in connection with this Agreement shall be limited to £500. Licensee agrees that the foregoing exclusions and limitations are reasonable in light of the price of the Equipment and the updates and the likelihood that absent such exclusions and limitations Snap-on's potential liability would be highly disproportionate to any payments that Snap-on will receive in connection with this Agreement.

10. Termination by Snap-on. The following shall constitute a breach of the Agreement and shall allow Snap-on to terminate the Agreement immediately upon written notice to Licensee: any breach of the terms of this Agreement that is not capable of remedy or if capable of remedy by Licensee, which is not remedied by Licensee within 10 business days of written notice of the breach by Snap-on; any breach of clause 4; the appointment of a receiver, administrator or administrative receiver in connection with Licensee or Licensee's business; the institution of any form of insolvency proceedings by or against Licensee; or the dissolution or discontinuance of ordinary business operations of Licensee. Snap-on shall have the right to revoke the Licence immediately upon termination of this Agreement pursuant to clause 10.

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11. **Entire Agreement/Amendment.** This Agreement sets forth the entire agreement and understanding between the parties as to the subject matter hereof and supersedes all prior discussions between the parties.
12. **Assignment.** Licensee may assign this Agreement in its entirety to a third party who has purchased the Equipment from Licensee, or to any successor to Licensee's business by way of the acquisition of a partnership interest, the purchase of all of the shares in the Licensee, a merger, solvent re-organisation, or similar arrangement, or the purchase of all or substantially all of the assets of the Licensee's business, provided that (i) the assignee confirms in writing to Snap-on that the assignee agrees to be bound by all of the terms and conditions of this Agreement, and (ii) Licensee notifies Snap-on within five business days of such assignment. Licensee may not otherwise assign this Agreement without Snap-on's prior written consent, which shall not be unreasonably withheld. Any attempted assignment that does not comply with this clause 12 shall be void and shall constitute a default entitling Snap-on to terminate this Agreement and revoke the Licence. Snap-on may freely assign its rights hereunder without seeking Licensee's permission to do so.
13. **Law and Jurisdiction.** This Agreement shall be governed by and construed in accordance with the law of England and Wales and, subject to clause 14, the parties agree to submit to the exclusive jurisdiction of the English Courts. Notwithstanding the foregoing, Snap-on shall have the right to apply for injunctive relief and both parties shall have the right to seek to enforce judgments in any court of competent jurisdiction.
14. **Arbitration.** Any dispute, controversy or claim arising out of or in relation to this Agreement, or the breach, termination or invalidity thereof, will be settled by binding arbitration. The Parties hereby waive irrevocably: (i) any right of appeal under the Arbitration Act 1996 in relation to any award made by the arbitration tribunal appointed in accordance with this clause 20; and (ii) any right to apply to the High Court under the Arbitration Act 1996 for the determination of any question of law arising in the course of any reference to arbitration under this clause.
15. **Waiver.** Failure of either party hereto to enforce at any time any term of this Agreement shall not be a waiver of that party's right thereafter to enforce each and every term of this Agreement.
16. **Force Majeure.** Any delay or failure to perform any obligation under this Agreement (other than the payment of amounts due hereunder) caused by events, causes or conditions outside of the parties' reasonable control, (including without limitation, the events described in clause 7 (Internet Service Exclusions); failure of or defects in third party software or hardware, failure of third party suppliers, acts of governmental entities, terrorism, natural disasters, national emergencies and acts of God shall not constitute a breach of this Agreement, and shall not give rise to any claim hereunder
17. **Survival.** The rights and obligations under clauses 3 (Diagnostic Information); 4 (Confidentiality/ Proprietary Rights); 6 (Warranty Disclaimer); 8 and 9 (Liability); 13 (Law and Jurisdiction); 15 (Arbitration) and this clause 17 (Survival), shall survive the termination of this Agreement.