



Aspen Technology, Inc.

200 Wheeler Road
Burlington, MA 01803 USA

Software License
Terms and Conditions
(Rev. 11/2013)

1. DEFINITIONS:

1.1 “Administrative Coordinator” means each party’s representative designated by written notice to the other party on or before the Start Date, who is the exclusive point of contact responsible for processing all licensing, decommission and install requests.

1.2 “Affiliate” means any company that is controlled by, under common control with, or controls Customer, provided that such control relationship also existed as of the Start Date. A company shall be deemed to have control of another if it directly or indirectly owns more than 50% of the voting shares of the other company.

1.3 “Agreement” means the license contract consisting of the Cover Page signed by the parties, these Standard Terms, and any Exhibit A or other attachment to the Cover Page. Unless otherwise specified, this Agreement will become effective when a facsimile or original of the Cover Page has been signed by both parties. In the event of any conflict between these Standard Terms and the Cover Page, the Cover Page will control.

1.4 “Assignee” means a financial institution to which AspenTech has assigned its rights to receive any and all payments due under this Agreement.

1.5 “Base Load Product” means a Software product that: (i) consumes Tokens upon activation by AspenTech, which Tokens will not be available for other use unless and until the Base Load Product is de-activated at Customer request; and (ii) consumes additional Tokens while the activated Base Load Product is in use.

1.6 “Cover Page” means the signed document to which these Standard Terms are attached.

1.7 “Customer” means the legal entity identified on the Cover Page as the Customer.

1.8 “Dedicated Tokens” means Tokens that may only be used to access the specific Software product for which those Dedicated Tokens are designated, and are not permitted to be used to operate any other Software product.

1.9 “Defect” means a material error in program logic or documentation attributable to AspenTech that prevents the performance of a principal computing function as set forth in AspenTech’s published specifications for the Software.

1.10 “Dongle” means a hardware security device required for Software to function.

1.11 “Evaluation License” means a license to use the Software solely for internal evaluation and/or testing purposes for no more than 90 days, and not: (i) for use in a production environment; (ii) as an aid or tool for the creation of any new software; or (iii) as a mechanism for training or aiding any party in the performance of the foregoing prohibited activities.

1.12 “Exhibit A,” if applicable, means the product and pricing exhibit attached to the Cover Page.

1.13 “Force Majeure” means a force beyond the reasonable control of a party to this Agreement, such as fire, strike, war, civil unrest, terrorist action, government regulations or acts of nature. A force will not be deemed a Force Majeure with respect to Customer’s payment obligation unless such force disrupts public banking or communications networks necessary to effect the transfer of funds.

1.14 “LAN” license means a license that may be used by Simultaneous Users on a local area network at a Site.

1.15 “License Fees” means amounts payable to AspenTech by Customer for Software licensed under this Agreement.

1.16 “License Term” means the period of time a Software license is in effect, and is specified in Exhibit A. The License Term commences on the Start Date specified in the Cover Page.

1.17 “Measurement Period” means each full calendar month during the License Term, and any additional partial calendar month during the License Term.

1.18 “Proprietary Information” means Software and other confidential information provided in connection with Software, and any benchmarking data or other results of use or testing of the Software which are indicative of its performance, operation, efficacy, reliability or quality.

1.19 "Region" means one or more of the following geographic areas: (i) Asia-Pacific, including Pakistan, China, Southeast Asia, Australasia, Japan, Republic of Korea and India ("**APAC**"); (ii) Europe, Africa and Middle East, including Israel, Russia, Ireland, the United Kingdom and Greenland ("**EMEA**"); and (iii) North America and Latin America, including the U.S., Canada, Mexico and Central and South America ("**NALA**").

1.20 "Release" means a generally available new version of the Software with new features and/or significant enhancements.

1.21 "Simultaneous User" or "User" means one individual running one instance of one Software product on one computer at one given moment in time.

1.22 "Site" means each facility or office specified in Exhibit A.

1.23 "SLM Server" means a network computer that manages the licenses required to run the Software. Subject to any specified license restrictions, Customer may install Software on more than one SLM Server upon written notice to the AspenTech Administrative Coordinator.

1.24 "Software" means AspenTech or third-party proprietary computer program(s) set forth in Exhibit A and licensed to Customer by AspenTech in object code form, and any Updates, Releases, Dongles, license keys, documentation, data, process or other manuals, databases, simulation files, integrated or standalone models, technology archives, process tools, enhancements and instructions, and any authorized copies thereof, provided with or accessible via the Software.

1.25 "Software License Manager" ("SLM") means a software-based licensing system which controls and tracks the usage of Software products. The SLM does not change or provide additional functionality to the products; it only provides access to the Software through an SLM Server.

1.26 "Software Maintenance and Support" ("SMS") means technical support via telephone, email or the AspenTech Online Support Center as described at <http://support.aspentech.com>; Updates and Releases and associated user documentation offered on a when-and-if available basis; and commercially reasonable efforts by AspenTech to remedy Defects by: (i) providing a bug fix, patch or workaround procedure; and/or (ii) incorporating a permanent Defect correction in the next Update or Release of the Software.

1.27 "Standalone" license means a license to use Software on one Supported Computer using a Dongle or a license file that is locked to that Supported Computer or an Internet Protocol address, where the Software may not be accessed through a network, including through a LAN or WAN network.

1.28 "Standard Terms" means these AspenTech Software License Terms and Conditions (Rev. 11/2013).

1.29 "Start Date" means the date the License Term commences as specified in the Cover Page. The Start Date specified in any amendment of this Agreement will pertain only to that amendment (including any additional software or expanded entitlement specified therein), and will not operate to change the Start Date of this Agreement.

1.30 "Supported Computer(s)" means one or more computers: (i) owned or leased by, or under the control of, Customer or a permitted Affiliate (if any); and ii) of a manufacture, model and operating system for which AspenTech at the time offers a current version of the Software.

1.31 "Token" means a unit of measurement of Software usage based on the applicable Unit of Measure specified in the Token Count Table.

1.32 "Token Count" means the number of Tokens required to operate a single instance of a Software product in accordance with the applicable Unit of Measure specified in the Token Count Table.

1.33 "Token Count Table" means the schedule of Software products and associated Token Counts and Units of Measure that is attached to the Cover Page.

1.34 "Token Limit(s)" means the number of Tokens licensed to Customer under this Agreement for each Software product that requires Dedicated Tokens and for each aspenONE® suite license, respectively, as set forth in Exhibit A.

1.35 "Unit of Measure" means the specified property of Software usage set forth in the Token Count Table, in terms of which the scope of permitted usage of individual Software products is measured.



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Software License
Terms and Conditions
(Rev. 11/2013)

1.36 “Update” means a generally available revision of the Software with minor changes and/or Defect corrections. Updates generally occur between each Release of the Software.

1.37 “Usage Log(s)” means computer files containing the record of usage of any Software managed by an SLM Server.

1.38 “User Limit” means the maximum number of Simultaneous Users permitted for each Software product that is subject to User Limits as set forth in Exhibit A.

1.39 “WAN-1R,” “WAN-2R” and “WAN-3R” license means a license to use Software on a wide area network in one, two or three Regions, respectively, where multiple Simultaneous Users at multiple Sites within the applicable Region(s) may access the Software.

2. LICENSE GRANT:

2.1 General. AspenTech grants and Customer accepts a non-exclusive, non-transferable, non-sublicensable license to use the Software during the License Term solely on Supported Computer(s) for the internal business purposes of Customer and any permitted Affiliate(s) specified in the Cover Page, and in accordance with terms and conditions of this Agreement. LAN and WAN licenses may be used only at the Site(s) or Region(s) specified in Exhibit A. Customer may permit contractors or consultants to use the Software on Supported Computer(s) for the internal business purposes of Customer or any permitted Affiliate upon AspenTech’s prior written consent, manually signed by an executive officer assigned to AspenTech’s headquarters, and subject to the limitations stated herein. Customer and any permitted Affiliates, contractors or consultants may not access or provide Software on a service bureau or time-sharing basis. AspenTech specifically reserves all rights not expressly granted under this Agreement.

2.2 aspenONE®. An aspenONE suite license includes any Software products AspenTech may add to that aspenONE suite during the License Term, subject to Token Counts to be established by AspenTech. Customer may order additional Tokens, subject to a minimum increment and pricing to be established by AspenTech at the time of addition if not specified in the Agreement, prorated for the period of time the additional Tokens are licensed.

2.3 Base Load Products. Base Load Products accessed with Dedicated Tokens or included in the aspenONE Manufacturing and Supply Chain suite will be configured initially at the Token levels specified in the Base Load Product Initial Configuration attachment to the Cover Page. Customer may submit a request to AspenTech at any time to de-activate a Base Load Product, and may activate Base Load Products by clicking on the [Upgrades, Media & Licenses](#) link at <http://support.aspentech.com>, and selecting License Key Request.

2.4 Commuting. Customer may download a license key from an SLM Server for no more than 30 consecutive days before Customer must check the key back in to the SLM Server. Tokens will be consumed for Token Software licenses until the downloaded license keys are checked back in to the SLM Server.



Aspen Technology, Inc.

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Software License Terms and Conditions (Rev. 11/2013)

2.5 Dongles. Within 30 days of request by AspenTech, Customer shall return all Dongles for any Software for which the license has expired or been terminated or superseded and replaced. If Customer loses a Dongle, Customer shall give prompt email notice of the lost Dongle to AspenTech Customer Care at customercare@aspentech.com, and shall confirm in said notice that if the Dongle is found, Customer will promptly notify AspenTech Customer Care via email and return the Dongle.

2.6 Additional SLM Servers. Customer may add SLM Servers during the License Term upon written notice to the AspenTech Administrative Coordinator, subject to any specified license restrictions.

3. SMS:

3.1 SMS. Unless otherwise stated in Exhibit A, no SMS is provided for Evaluation Licenses, and SMS is provided for all other licenses for the duration of the License Term. To receive SMS, Customer must designate a system administrator who is familiar with the Software. For AspenTech to troubleshoot in real time Software performance problems identified by Customer, Customer must provide AspenTech remote access to Customer's system via an electronic medium approved by AspenTech. AspenTech has no responsibility to provide SMS to the extent prevented by Customer's failure to provide such access.

3.2 Fees. Unless otherwise stated in Exhibit A, SMS fees are included in the License Fees. Where SMS fees are **not** included in the License Fees, Customer shall pay the SMS fees set forth in Exhibit A for the specified SMS term. AspenTech will issue a renewal notice to Customer at least 60 days prior to the end of the SMS term. The SMS term will renew for successive one-year terms during the License Term unless either party terminates SMS upon written notice to the other party at least 30 days before the end of the SMS term then in effect. If Customer terminates SMS, Customer may not subsequently reinstate SMS unless Customer pays AspenTech all SMS fees that would have accrued during the lapse in SMS coverage.

4. OWNERSHIP AND PROPRIETARY RIGHTS:

4.1 General. Title to, ownership of, and all rights in patents, copyrights, trade secrets and other intellectual property rights in Software do not transfer to Customer and shall remain in AspenTech and/or AspenTech's third-party vendors and licensors.

4.2 Benchmarking - Third Parties. Customer may not engage a third party to perform benchmarking or security testing on the Software unless that third party enters into a written nondisclosure agreement directly with AspenTech.

4.3 Customer Modifications and Enhancements. Customer may not make any modifications or enhancements to Software, create any derivative works of Software, or merge or separate Software or any component thereof.

4.4 Proprietary Information. Customer shall protect Proprietary Information to the same degree Customer protects its own proprietary information, but with no less than a reasonable degree of care, and in any event shall not use it in any way other than as permitted herein, or disclose it or permit access thereto to any third party (other than permitted Affiliates, contractors or consultants within the meaning of Section 2.1 above) without AspenTech's prior written consent, manually signed by an executive officer assigned to AspenTech's headquarters, and subject to the limitations stated herein. If such consent is granted, such third parties shall not be regarded as licensees of AspenTech nor as sublicensees of Customer.



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Software License
Terms and Conditions
(Rev. 11/2013)

4.5 Copying; Prohibition against Reverse Engineering. Customer may make one archival or back-up copy of Software, provided that all copyright and proprietary notices must be duplicated on such copy. Customer shall not make any other copies. Customer shall not remove any copyright notice of AspenTech or its third-party vendors. Customer shall not, nor attempt to, reverse compile, disassemble or otherwise reverse engineer the Software. If applicable law requires that Customer be able to modify Software to make it inter-operable with other software, AspenTech will, at its option: (i) at Customer's expense, use commercially reasonable efforts to make the Software inter-operable with such other software, or license Customer tools and/or information to make the Software inter-operable; or (ii) grant Customer the right to make such modifications only to the extent required by law. Any such permitted modifications will constitute Software for purposes of this Agreement.

4.6 Security. Software may contain license management technology that must be activated in order for the Software to function, and may include a hardware lock device, license administration software, and/or a license authorization key to control access to the Software and identify and deter any use of the Software in violation of this Agreement. Customer shall not take any action to modify or avoid or defeat the purpose of any such license management technology. Use of the Software without any required lock device or authorization key is prohibited. AspenTech reserves the right to embed a software security mechanism within the Software to collect, store and transmit to AspenTech or its agent, data relating to the usage of an unauthorized or illegal copy of the Software, including, without limitation, information about the device(s) and location(s) where an unauthorized or illegal copy of the Software is used, the number of times it has been copied, and specific user information of the user of an unauthorized or illegal copy of the Software, such as the username or email address of such unauthorized user. Customer consents to such collection and transmission of data, as well as its use if an unauthorized or illegal copy is detected.

4.7 Third-Party Software. Customer shall not: (i) separate any embedded third-party software or its components from the Software; (ii) use any such third-party software or its components independently of the Software; (iii) develop and link Customer's programs with any third-party libraries or classes provided with Software; or (iv) develop or use any runtime configuration tools not provided with Software for the purpose of configuring any third-party runtime components embedded in Software.

4.8 Injunctive Relief. A breach of Sections 2 or 4 of these Standard Terms or any breach that adversely affects AspenTech's intellectual property rights might give rise to irreparable injury to AspenTech for which money damages would not be adequate compensation. In addition to any other legal remedies that may be available, AspenTech will be entitled to seek injunctive relief against such breach or threatened breach, and will not be required to post bond.

5. DELIVERY:

AspenTech will deliver one copy of the Software and any required license keys, and will deliver a Dongle where necessary for the Software to function. At AspenTech's discretion, delivery may be either electronic or physical. Electronic delivery will be EXW (Ex Works) AspenTech's facility when AspenTech makes the Software available to Customer and Customer has either taken possession of the Software or has the ability to take possession of the Software. Physical delivery will be FCA (Free Carrier) AspenTech's facility. Software is deemed delivered and accepted upon shipment, and Customer is responsible for installation.



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Software License
Terms and Conditions
(Rev. 11/2013)

6. TERM:

6.1 Term. The license granted under this Agreement commences on the Start Date and expires at the end of the License Term or any agreed renewal or extension thereof. Upon expiration or termination of a license, Customer's right to use Software shall end and Customer shall promptly: (i) return to AspenTech all Software and Proprietary Information and all copies thereof; (ii) erase all Software from the memory of Customer's computer(s) and storage devices or render it non-readable; (iii) return all Dongles provided by AspenTech; and (iv) certify in writing that Customer has satisfied its obligations under this Section 6.1.

6.2 Termination for Breach. Either party may terminate a license or this Agreement upon 30 days' written notice if the other party breaches its obligations under this Agreement and fails to cure the breach by the end of the notice period. Upon termination by AspenTech under this Section 6.2, all License Fees outstanding or due hereunder in the future, shall automatically accelerate and be immediately due and payable in full.

7. PAYMENT:

7.1 License Fees. Except as otherwise stated in this Agreement: (i) the initial invoice issued by AspenTech for License Fees is payable by Customer in full within 30 days of the Start Date; and (ii) each subsequent invoice for License Fees is payable by Customer in full on the due date specified in Exhibit A.

7.2 Other Fees. Fees for any training or professional services are payable in accordance with the applicable schedule specified in Exhibit A. Any other charges are payable when incurred.

7.3 Payment. AspenTech will issue invoices to the Customer address specified on the Cover Page or to such other address as Customer may designate upon written notice received by AspenTech. Unless otherwise specified in the Cover Page or an attachment of this Agreement, all payments must be in U.S. Dollars. Customer may make payment by check or by Automatic Clearing House/Electronic Funds Transfer or other wire transfer method. Customer may make payment by credit card upon execution of this Agreement, subject to the maximum dollar value established by AspenTech. Customer shall make all payments required under this Agreement without setoff, counterclaim or other defense.

7.4 Taxes. All amounts to be invoiced under this Agreement will be exclusive of taxes or duties, and Customer is responsible for any such taxes or duties that may apply, including, but not limited to, sales and use taxes; excise taxes; value added taxes; consumption taxes; or goods and services taxes. If Customer is required to withhold tax on any amounts payable under this Agreement, Customer shall be responsible for the payment of such tax and shall pay AspenTech the full amount invoiced without any deduction for such withholding tax. If AspenTech is required to collect any taxes from Customer, Customer shall pay such invoiced taxes, and AspenTech will remit amounts collected to the appropriate taxing jurisdiction. If Customer is tax exempt, Customer must provide AspenTech with a valid exemption certificate as evidence of exemption for any taxes that AspenTech is required by law to collect and remit to the appropriate taxing jurisdiction.

7.5 Right to Assign Payments. AspenTech may assign to an Assignee all AspenTech's rights to receive any and all payments due under this Agreement. Such assignment will not affect or release AspenTech from its obligations and liabilities to Customer; however, Assignee will not be chargeable with or assume any of AspenTech's obligations or liabilities to Customer. Customer shall promptly execute any ancillary documents and take further actions as AspenTech or Assignee may reasonably request relating to such assignment, including but not limited to assignment notifications and certificates of authorization. Notwithstanding any termination under Section 6.2 above, Customer shall, in accordance with the terms of this Agreement and on instruction from AspenTech, pay Assignee all License Fees outstanding or due hereunder in the future, without deduction or offset, notwithstanding any claim or defense Customer may have against AspenTech.

7.6 Late Charges and Remedies for Late Payment. If Customer fails to make a payment when due, AspenTech will send the past-due invoice to Customer with notice of late payment. Late payment charges of 1.5% per month will accrue on all invoices that conform to this Agreement commencing 15 days from the



Aspen Technology, Inc.

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Software License
Terms and Conditions
(Rev. 11/2013)

date of such notice, and will continue to accrue until all conforming invoices are paid in full. Any late payment charges will be set forth in a separate invoice, which will be payable in full upon receipt. If Customer fails to make any payment to AspenTech or its Assignee within 30 days of the date of such notice, AspenTech may suspend performance of SMS, and all License Fees outstanding or due hereunder in the future, will automatically accelerate and be immediately due and payable in full. AspenTech or Assignee may recover reasonable fees and expenses incurred in exercising any rights and remedies upon default, including without limitation, reasonable third-party collection agency fees and attorneys' fees and expenses.

8. WARRANTY; DISCLAIMER:

8.1 Customer Warranty. If this Agreement supersedes and replaces any prior agreement(s), Customer warrants and represents that it has the authority to supersede such prior agreement(s) on behalf of the customer(s) named in the prior agreement(s).

8.2 AspenTech Warranty. AspenTech warrants that Software will be free from Defects as of the Start Date. To the maximum extent permitted by applicable law, Customer's exclusive remedy and AspenTech's sole obligation will be to correct or circumvent any Defect reported to AspenTech that causes and continues to cause a system-critical disruption of Customer's business operations; provided, however, that: (i) Customer must report any Defects to AspenTech promptly after discovery, and furnish AspenTech with supporting documentation and details adequate to substantiate the report and assist AspenTech in the identification and detection of such Defect; and (ii) AspenTech is able to reproduce the Defect on properly functioning equipment controlled by AspenTech. This warranty is contingent upon: (i) use of Software in accordance with Section 2 above; and (ii) no interference from applications, derivative works, or configurations provided by third parties.

8.3 Disclaimer. ASPENTECH DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. ASPENTECH DOES NOT WARRANT THAT THE OPERATION OF SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE. SOFTWARE PROVIDED SUBJECT TO AN EVALUATION LICENSE IS PROVIDED "AS IS," WITHOUT ANY WARRANTIES, EXPRESS OR IMPLIED.

9. EXCLUSION OF DAMAGES; LIMITATION OF LIABILITY:

9.1 Exclusion of Damages. IN NO EVENT WILL ASPENTECH BE LIABLE TO CUSTOMER FOR SPECIAL, INDIRECT, PUNITIVE, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR ANY DAMAGES ARISING FROM THE LOSS OF USE, DATA OR PROFITS. ASPENTECH WILL NOT BE LIABLE FOR DAMAGES OR ANY OTHER CLAIM, WHETHER IN TORT, CONTRACT, NEGLIGENCE, OR OTHERWISE, ARISING FROM EVENTS THAT OCCURRED MORE THAN ONE YEAR PRIOR TO INSTITUTION OF A LEGAL PROCEEDING PREDICATED THEREON.

9.2 Limitation of Liability. EXCEPT FOR ASPENTECH'S INTELLECTUAL PROPERTY INFRINGEMENT INDEMNIFICATION OBLIGATION UNDER SECTION 10.1, IN NO EVENT WILL ASPENTECH'S LIABILITY WITH RESPECT TO A SPECIFIC LICENSE UNDER THIS AGREEMENT EXCEED THE AMOUNT OF LICENSE FEES PAID BY CUSTOMER FOR SUCH LICENSE.

9.3 Third-Party Suppliers. SOFTWARE MAY CONTAIN FUNCTIONALITY SUPPLIED BY THIRD PARTIES, INCLUDING DEVELOPERS, VENDORS, SUPPLIERS, CONTRACTORS, OR CONSULTANTS. IN NO EVENT WILL SUCH THIRD PARTIES BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR ANY DAMAGES ARISING FROM THIS AGREEMENT. SUCH THIRD PARTIES ARE BENEFICIARIES OF THE LICENSE OF SUCH SOFTWARE GRANTED TO CUSTOMER UNDER THIS AGREEMENT.

10. INFRINGEMENT INDEMNIFICATION:

10.1 Indemnity. AspenTech will defend and indemnify Customer against claims of infringement by unmodified Software of a third party's U.S. intellectual property rights, provided that: (i) Customer promptly (and in no event more than ten days after learning of such alleged infringement) notifies AspenTech's General Counsel in writing; (ii) Customer gives AspenTech the right to control the defense of such claims; and (iii) Customer fully cooperates with AspenTech in any defense or settlement of such claims. AspenTech has no infringement indemnification obligation except as stated in this Section 10.1, and this obligation does not apply to infringement arising from: (i) integration or combination of Software together with other software, materials or products not integrated or combined by AspenTech, if the infringement would have been avoided in the absence of such integration or combination; (ii) use of the Software for other than its intended purpose; or (iii) use of other than the current, unaltered Release if the infringement would have been avoided by the use of such Release.

10.2 Remedy. Customer's sole and exclusive remedy if a court of competent jurisdiction determines that Software has infringed a third party's U.S. intellectual property rights as specified in Section 10.1 will be that AspenTech will, in its sole discretion: (i) replace the infringing Software product with a non-infringing, functionally-compatible product; (ii) modify the product so that it becomes non-infringing; or (iii) obtain a license for Customer to use the allegedly infringing product.

11. RESTRICTED RIGHTS:

Software is subject to the following restricted rights legend:

Use, reproduction or disclosure of the licensed computer software is subject to restrictions set forth in the applicable license agreement with Aspen Technology, Inc., and if applicable, the restrictions set forth at Title 48 of the U.S. Code of Federal Regulations ("CFR") at Part 52, Sections 227-14, Alt. III and 227-19; and at Part 227, Sections 71 and 72 and Part 252, Section 227 (including all subparts thereunder). The software shall be deemed to be "unpublished" and licensed subject to disclosure prohibitions.

If Customer is acquiring Software under a U.S. Government contract, Customer shall include all necessary and applicable restricted rights legends on Software and the documentation to protect AspenTech's proprietary rights. Customer shall include such legends whenever Software is, or is deemed to be, a deliverable under that contract.

12. EXPORT:

Customer shall not export or reexport Software for use with chemical or biological weapons, sensitive nuclear end-uses, or missiles to deliver them, or in violation of any controls maintained or administered by the U.S. Government, including: (i) to any individual or organization on the Treasury Department's list of Specially Designated Nationals, or on the Commerce Department's Denied Persons List, Entity List, or Unverified List, or on the State Department's Debarred List or Nonproliferation List; or (ii) to any location in, or citizen of, any country in specified in Country Group E of U.S. 15 CFR 740, Supplement No. 1.

13. USAGE LOGS (*Applicable to LAN or WAN Licenses Only*):

13.1 Usage Log Generator. AspenTech will provide Customer written instructions for activating the Usage Log generator. Customer shall deploy the version of the SLM Server and SLM client software



Aspen Technology, Inc.

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Software License
Terms and Conditions
(Rev. 11/2013)

required by AspenTech, activate the Usage Log generator, and configure each SLM Server to deliver Usage Logs to the AspenTech Licensing Center™ (“ALC”) using an auto upload or other tool approved by AspenTech. Upon request, AspenTech will provide Customer with a utility that will mask all usernames, machine names and IP addresses recorded on the Usage Logs, and replace that data with generic identifiers. If Customer chooses to mask usernames or other data from the Usage Logs and replace that data with generic identifiers, Customer may only do so using the utility provided by AspenTech therefor. The mapping file will be retained by Customer and will not be transferred to AspenTech. Providing a Usage Log stripped of usernames using this utility will fulfill Customer’s obligation to provide an original unmodified electronic copy of the Usage Log.

13.2 Delivery of Usage Logs. Customer shall provide AspenTech with an original, unmodified, electronic copy of the Usage Logs for each SLM Server for each Measurement Period, subject to any migration period specified in the Cover Page. The Usage Logs must be delivered to the ALC within 30 days of the end of each Measurement Period. In addition to exercising any of its other remedies (which include, without limitation, the right to terminate this Agreement), AspenTech may suspend performance of SMS if Usage Logs are not timely delivered. AspenTech will store Usage Logs in a secure internal database. Upon request, AspenTech will grant access to the ALC to a designated Customer representative for the purpose of viewing Customer usage reports.

13.3 Verification. At any time during the License Term, during normal business hours, AspenTech may, upon reasonable written notice to Customer and not more than once in each six-month period, examine computer names/usernames/departments and location information found on each SLM Server to confirm and verify that Customer’s usage of Software is in compliance with this Agreement. Such examination shall be performed at AspenTech’s expense.

14. GENERAL:

14.1 Audit Rights. Promptly upon request by AspenTech, Customer shall provide data regarding Customer’s usage of Software, or allow AspenTech reasonable access for the purpose of retrieving such data. Such data may be in the form of Usage Logs or other discrete data, in electronic or hardcopy format. AspenTech will not disclose such information to any third party, except to enforce AspenTech’s rights. Upon written notice to Customer, during normal business hours and at AspenTech’s expense, AspenTech or its authorized representative may audit Customer’s records relating to Customer’s compliance with the terms of this Agreement, including payment records, computer names/usernames/departments and location information found on each SLM Server, and other physical and electronic data concerning all Software usage at any or all Customer locations worldwide.

14.2 Force Majeure. Either party’s failure to perform its obligations under this Agreement will not be deemed a breach of this Agreement to the extent that such failure is due to a Force Majeure. Failure to perform will be excused by Force Majeure hereunder only during the period that the Force Majeure prevents performance.

14.3 No Assignment/Change in Control. Customer shall not: (i) assign, sublicense or otherwise transfer all or part of the Software or Proprietary Information; (ii) grant others rights in all or part of the Software or Proprietary Information; or (iii) otherwise assign, transfer, or delegate this Agreement or any of Customer's rights or obligations hereunder. Any purported assignment to a third party without AspenTech's prior written consent is void. Any change in ownership or control, directly or indirectly, of more than 50% of the voting shares of Customer, including by merger, spinoff or other transfer of securities, will also be deemed an assignment or transfer, and will constitute a breach of this Agreement.

14.4 Governing Law. Regardless of where any action may be brought, the validity and performance of this Agreement will be governed by the laws of the State of Delaware, U.S., without regard to its rules on conflicts of law. The parties exclude application to this Agreement of the United Nations Convention on Contracts for the International Sale of Goods. Customer hereby agrees to submit to the non-exclusive jurisdiction of the state and federal courts in and of the Commonwealth of Massachusetts.

14.5 Entire Agreement. This Agreement: (i) constitutes the complete and exclusive statement of the terms and conditions between the parties with respect to the matters set forth herein; (ii) is intended by the parties as a final expression of their agreement with respect to the terms hereof; and (iii) supersedes all other agreements, purchase orders, negotiations, representations, tender documents, and proposals, written or oral. AspenTech expressly rejects any terms or conditions in any Customer purchase order or any other communication that are additional to, or different from, the terms of this Agreement.

14.6 Amendment/Waiver. Any modification of this Agreement must be in a writing manually signed by authorized representatives of the parties and specifically identified as a modification hereof. If AspenTech signs and returns to Customer a Customer purchase order or copy thereof, the parties agree that such AspenTech signature is provided solely as an accommodation to Customer for Customer's internal administrative purposes, and does not signify AspenTech's acceptance of any terms that are additional to, or different from, those set forth in this Agreement. Failure or delay of either party to exercise any right or remedy under this Agreement shall not constitute a waiver of rights or remedies hereunder.

14.7 Severability. If any provision of this Agreement is held unenforceable or inoperative by any court of competent jurisdiction, either in whole or in part, the remaining provisions shall be given full force and effect to the extent not inconsistent with the original terms of this Agreement.

14.8 Notices. Any notice given under this Agreement must be sent in writing to the other party's business address set forth on the Cover Page, or to such other address most recently designated by such party to the other party in writing. Customer shall promptly notify AspenTech of any change in Customer's billing address. Notices directed to AspenTech must be sent "Attn: General Counsel."

14.9 Survival. Sections 4, 6, 7, 8.3, 9, 11, 12, 13 and 14.1 will survive termination or expiration of this Agreement.
