

LICENSE AGREEMENT

This is License Agreement (“Agreement”) by and between JAHM Software, Inc. (“JAHM”) and the entity that pays for a license key and accepts the terms and conditions of this Agreement (“Licensee”) on or after 5 September 2014.

CAREFULLY READ THIS AGREEMENT BEFORE INSTALLING OR USING THE PROGRAMS. THE RIGHT TO USE THE SOFTWARE IS CONDITIONED ON ACCEPTANCE OF, AND COMPLIANCE WITH, THIS AGREEMENT.

INSTALLING AND/OR USING THE SOFTWARE MEANS THAT THE TERMS AND CONDITIONS OF THIS AGREEMENT HAVE BEEN ACCEPTED BY THE LICENSEE.

IF THE TERMS AND CONDITIONS OF THIS AGREEMENT ARE NOT ACCEPTED, THEN RETURN ANY MEDIA CONTAINING THE SOFTWARE, CEASE ANY AND ALL ATTEMPTS TO DOWNLOAD AND INSTALL THE SOFTWARE, AND/OR DELETE ANY SOFTWARE DOWNLOADED.

1. License Grant. JAHM grants Licensee a perpetual, non-exclusive, non-transferable, limited license to install, run, use, operate, and perform (collectively “use”) the Temperature Dependent Elastic & Thermal Properties Database software (the “Software”) as provided herein.

a. Use. The Software may be installed and operated on one or more individual computers, provided the Software are only accessible to, and operated by, a single user, unless otherwise stated in the bill of sale. The Software may be accessed through a network, provided that a license has been purchased for each user.

b. Object Code. The license granted herein applies only to the object code version of the Software. Licensee shall have no rights whatsoever with respect to the source code for the Software.

c. Ownership. All right, title and interest in and to the Software, including without limitation, copyrights and trade secrets, are, and shall at all times remain, the exclusive property of JAHM, and Licensee shall have no right, therein, except the expressly limited license rights granted herein.

d. Use Limitation. The Software may not be sold, licensed, sublicensed, rented, leased, distributed, or made available for use on a time sharing, hosted, or software as a service basis.

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f. Modifications & Derivative Works. Licensee shall not modify or create any derivative, compilation, or collective work involving the Software.

g. License Subject To Payment. The license granted herein is contingent upon timely and complete payment of all amounts due and payable for the license to the Software.

h. Backup. Licensee may make a backup copy of the Software as reasonably necessary to support the use of the Software in accordance with this Agreement.

i. No Reverse Engineering. Licensee shall not decompile, reverse engineer, disassemble, isolate, separate, or otherwise attempt to derive source code from the Software, except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation.

j. Notices. Licensee shall not remove, obscure, or alter copyright notices, trademark notices, or other proprietary rights notices affixed to or contained within the Software or documentation therefor.

2. Confidentiality & Copyright.

a. Acknowledgments. Licensee agrees, acknowledges, and admits that the Software contains confidential information proprietary to JAHM. Licensee agrees, acknowledges, and admits that: the Software is owned exclusively by JAHM and the copyright in and to the Software is exclusively owned by JAHM

b. Definition. JAHM Confidential information includes, but is not limited to, this Agreement, the terms of this Agreement, information relating to the intellectual property and business practices of JAHM, whether or not reduced to writing or other tangible medium of expression, and whether or not patented, patentable, capable of trade secret protection, or protected by copyright. Confidential information also includes comparable information that JAHM may have received from others with whom it does business. Intellectual property includes information relating to research and development, inventions, discoveries, improvements, methods and processes, know-how, algorithms, compositions, works, concepts, designs, ideas, prototypes, models, samples, writings, notes, and data.

c. Exceptions. Confidential information does not include information which (i) is or becomes generally available to the public other than as a result of a breach of this Agreement, (ii) is already known to Representative from a source other than JAHM or one of its affiliates prior to the execution of this Agreement, (iii) is furnished by a third party who is lawfully in possession of such information and who lawfully conveys that information to Representative, or (iv) is subsequently developed by Representative independently of the information received from JAHM.

d. Treatment. Representative shall take steps to protect JAHM's confidential information and it shall not (i) use, (ii) disclose, (iii) copy or (iv) allow access to JAHM confidential information except in the normal and proper course of using the Software in accordance with this Agreement. Notwithstanding the foregoing, Licensee may disclose JAHM confidential information responsive to a request by a government agency in connection with an investigation, in response to a litigation discovery request, and in response to a subpoena, subject to prompt notice to JAHM and reasonable efforts and cooperation in making such disclosure subject to a protective order or on a confidential basis.

e. Confidentiality Term. Representative acknowledges and agrees that its obligations with regard to JAHM confidential information shall continue until such time as one of the exceptions identified in sub-section (c) above applies to the subject matter in question.

3. Support. JAHM shall make reasonable commercial efforts in its sole and absolute discretion to support the Software with respect to any issues concerning non-functioning software, errors, and bugs. JAHM may from time to time update the Software but JAHM shall not be under any obligation to do so. Any such updates shall be issued at no additional charge. The foregoing support requires Licensee to provide JAHM with a current e-mail address for such support and updates may be delivered.

4. Limited Warranty & Limitation Liability.

a. Limited Warranty. JAHM warrants that the Software and provided will be operable on equipment meeting the applicable system requirements and will be free from third party infringement and misappropriation claims. If the Software does not operate as warranted or if the Software is the subject of a third party infringement or misappropriation claim, Licensee shall notify JAHM within thirty (30) days. Licensee's exclusive remedy and JAHM's sole liability shall be to provide operable Software or termination of this Agreement and refund the fee received by JAHM for the license.

b. Warranty Disclaimer. EXCEPT AS EXPRESSLY PROVIDED ABOVE AND AS REQUIRED BY LAW, THE SOFTWARE IS PROVIDED "AS IS." JAHM DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, DESIGN, OPERATION, LACK OF VIRUSES, ACCURACY OR COMPLETENESS OF OUTPUT, SECURITY, AND FITNESS FOR A PARTICULAR PURPOSE, AND WARRANTIES ARISING FROM ANY COURSE OF DEALING, USAGE, OR TRADE PRACTICE.

c. Limitation Of Liability. EXCEPT TO THE EXTENT REQUIRED BY LAW, LICENSEE'S SOLE REMEDY AND JAHM'S SOLE LIABILITY OR OBLIGATION ARISING UNDER OR RELATING TO THIS AGREEMENT AND/OR THE SOFTWARE IS THE REPLACEMENT OF INOPERABLE SOFTWARE ACCORDING TO THE LIMITED WARRANTY IN SUB-SECTION a ABOVE. EXCEPT TO THE EXTENT OTHERWISE REQUIRED BY LAW, IN NO EVENT SHALL JAHM BE LIABLE TO LICENSEE FOR ANY CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL OR PUNITIVE DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT AND/OR THE USE OF THE SOFTWARE, INCLUDING WITHOUT LIMITATION, DAMAGES FROM THIRD PARTY CLAIMS, LOSS OF PROFITS, DATA, INVASION OF PRIVACY, FAILURE TO MEET ANY DUTY SUCH AS GOOD FAITH OR REASONABLE CARE, NEGLIGENCE, OR ANY OTHER LOSS, EVEN IF JAHM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ANY EVENT, EXCEPT TO THE EXTENT OTHERWISE REQUIRED BY LAW, JAHM'S MAXIMUM LIABILITY SHALL NOT IN TOTAL EXCEED THE AMOUNT PAID TO JAHM FOR THE LICENSE. THE REMEDIES AGAINST JAHM PROVIDED HEREIN ARE EXCLUSIVE AND ARE IN LIEU OF ANY OTHER REMEDIES AT LAW OR IN EQUITY. THE LIMITATION OF LIABILITY AND REMEDIES SET FORTH HEREIN REFLECTS THE LICENSE FEE AND THE ALLOCATION OF RISK BETWEEN JAHM AND LICENSEE THE PARTIES. THE PROVISIONS OF THIS SUB-SECTION IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN JAHM AND LICENSEE.

5. Indemnification. With respect to claims against one or both parties by third parties, insofar as such claim, demand, or action is attributable to Licensee's entering into this Agreement, the use of the Software by Licensee, and/or the acts or omissions of Licensee, Licensee shall (i) indemnify JAHM against any liability, cost, loss, or expense of any kind; and (ii) hold JAHM harmless and safe from any liability, cost, loss, or expense of any kind.

6. Taxes. Licensee shall bear all costs, fees, duties, taxes, or the like assessed in connection with the license of the Software and/or the use of the Software.

7. Assignment & Transfer. JAHM may freely assign and/or transfer this Agreement in connection with the sale, assignment, or transfer of the Software. This Agreement and the license granted herein may be transferred by Licensee subject to the transferee agreeing to be bound to this Agreement as Licensee.

8. Bind & Benefit. This Agreement shall bind and benefit the successors and permitted assigns of the parties.

9. Waiver. A breach of any provision of this Agreement may only be waived in writing and the waiver of such breach shall not operate or be construed as a waiver of any subsequent breach. The failure of JAHM to enforce one or more of the provisions of this Agreement or to exercise any option or other rights hereunder or to require at any time performance of any of the obligations hereof shall not be construed to be a waiver of such provisions by JAHM or to in any way affect the validity of this Agreement or JAHM's right thereafter to enforce each and every provision of this Agreement, nor to preclude JAHM from taking any other action at any time which it would legally be entitled to take.

10. Termination. If Licensee breaches any term or condition of this Agreement, JAHM may terminate this Agreement and the license granted herein by written notice to Licensee. Immediately upon termination of this Agreement for any reason:

Licensee's rights under this Agreement shall cease; Licensee shall immediately stop using the Software; Licensee shall erase all copies of the Software from its electronic storage media and deliver to JAHM all tangible copies of the Software; and, within five (5) business days of the termination, Licensee shall provide JAHM with a written declaration signed under penalty of perjury by an officer of Licensee attesting to compliance with the provisions of this Section.

11. Governing Law, Jurisdiction & Dispute Resolution.

- a. Any dispute between JAHM and Licensee concerning the Software, this Agreement, and/or a breach of this Agreement shall be finally settled in accordance with the provisions of this Section.
- b. If Licensee has an office or facility in the United States, this Agreement shall be governed and interpreted in accordance with the laws of the Commonwealth of Massachusetts, United States of America without regard to principles of conflict of laws and the parties consent to the federal and state courts located in the Commonwealth of Massachusetts having jurisdiction over them to finally resolve any dispute.
- c. If Confidant does not have an office or facility in the United States, then according to the table set out below for the location of Confidant's principal office or facility, this Agreement shall be governed by the Applicable Law without reference to other law, and any dispute concerning this Agreement or a breach of this Agreement shall be finally settled by arbitration in accordance with Arbitration Rules. In accordance with the foregoing, the arbitration proceeding shall take place in the specified Arbitration Location in the English language, before a single arbitrator, the parties consent to the jurisdiction of the arbitrator, any award by the arbitrator shall be final and binding upon the parties, the arbitrator shall issue a well-reasoned written opinion supporting any decision and/or award, and neither party shall call upon a court of law or any other authority in an attempt to invalidate, amend or review the arbitral award. Notwithstanding the foregoing requirement to arbitrate disputes, the parties may seek and obtain temporary and/or preliminary injunctive relief from a competent court in case of a material breach or imminent material breach of this Agreement and may seek and obtain from a court of competent jurisdiction an order to confirm and/or to enforce an arbitration decision, ruling, and/or award.

Location Of Office Or Facility	Applicable Law	Arbitration Rules	Arbitration Location
Americas, excluding USA	Commonwealth of Massachusetts, USA	American Arbitration Association	Miami, Florida, USA
Asia and Australia	State of California, USA	International Chamber of Commerce	Vancouver, Canada
Europe	Great Britain	International Chamber of Commerce	Reykjavik, Iceland

d. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement or the license granted herein.

- 12. Prevailing Party. If any legal action or other proceeding is brought for any breach of this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and other costs incurred in bringing such action or proceeding, in addition to any other relief to which such party may be entitled.
- 13. Headings. Headings and subheadings in this Agreement are included solely for convenience of reference and will not be considered part of, or affect the interpretation of, this Agreement.
- 14. Severability. In the event any one or more of the provisions contained in this Agreement should for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, the remaining provisions contained herein shall be enforced to the full extent permitted by law.
- 15. Entire Agreement. This Agreement constitutes the entire agreement between the JAHM and Licensee with respect to the subject matter hereof, and supersedes all prior oral and written term sheets, understandings, or agreements between the parties relating to the subject matter hereof. In the event of any conflict between the text of this Agreement and the text of any other agreement between the parties as to the subject matter hereof, the text of this Agreement shall control.
- 16. Amendment & Modification. This Agreement may not be amended or modified except in a writing referencing an intent to amend this Agreement signed by an officer or principal of JAHM and an authorized representative of Licensee.
- 17. Language. Licensee acknowledges that it and/or its legal counsel fully understand this Agreement in the English language even though the English language may not be their primary language. Licensee acknowledges that it has had an opportunity to have this Agreement translated into a more familiar language and for its counsel to review this Agreement. Licensee acknowledges that it is fully aware of the contents of this Agreement and the legal effect of this Agreement.

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