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1. Definitions.

1.1. “End User” (“you” or “your”) shall mean any a university or institution engaged in teaching (including without limitation such university’s or institution’s current faculty, staff, and students) that properly receives a license to the Licensed Product solely for its own internal application, use, or purpose in accordance with this Agreement.

1.2. “Documentation” shall mean the end user manual providing instructions for using the Licensed Product and resolving end user difficulties, along with any other support documentation for the Licensed Product.

1.3. “Licensed Product” shall mean, collectively, the Software, the media embodying the Software, the Engineering Components, and the Documentation.

1.4. “Software” shall mean the current version of the computer software, in executable form, entitled “Numerical Propulsion System Simulation (NPSS)” licensed by SwRI on behalf of the NPSS Licensors, to wit: NPSS v2.8 and EMI v11.0.X to End Users.

1.5. “Engineering Components” shall mean the library of engineering component classes provided as part of the Licensed Product, in both source and object code form, but specifically excluding the Software which utilizes the Engineering Components. For the avoidance of doubt, in no event shall the Engineering Components be considered a component of the Software.

1.6. “Educational Use” shall mean the use of the Licensed Product by faculty, students, staff, or consultants of the End User solely for purposes of teaching, instruction, or engineering simulations, including without limitation, purposes of course related projects or for conducting projects by a student as may be required in pursuit of a degree to be granted the End User. In no event, however, shall the term Educational Use mean the use of the Licensed Product for any sponsored research or for any other purpose(s) in which the End User receives revenue of any sort (monetary or otherwise). Any and all revenue producing and/or related usage purposes, educational or otherwise, shall require the End User to obtain a commercial license to the Licensed Product.

1.7. “NPSS Licensors” shall mean NASA, SwRI, and the NPSS Consortium.

1.8. “Updates” means improvements, bug fixes, or patches, if any, to the Software that are generally made available by NPSS Licensors to End Users free of charge.
2. **License.**

2.1. **Grant.** Subject to the terms of this Agreement (including without limitation the restrictions in Section 2.2 below), End User is hereby granted a perpetual, non-exclusive, non-transferable, nonAssignable nor transferable site license, to the Licensed Product delivered to End User solely to:

(a) Install and use the Licensed Product at the primary campus of the university or institution specified in the Company field for use with the processing of data by End User for Educational Use; and

(b) Make one copy of the Licensed Product solely for backup or archival purposes.

(c) End User may copy for its own use and at its own expense the Documentation but End User must reproduce and include SwRI’s copyright notice on any copy.

2.2. **Certain Restrictions on Use.** Except to the extent expressly allowed in Section 2.1, End User shall not, and shall not permit any third party to:

(a) use the Licensed Product for any non-educational purpose, including without limitation any commercial or revenue producing purpose;

(b) modify, alter, reverse engineer, disassemble, decompile, or create any derivative work of any part of the Licensed Product, provided that such restriction shall not apply to the Engineering Components;

(c) permit any parent, subsidiaries, affiliated entities, or third parties to use the Licensed Product or any component thereof (other than current faculty, staff, or students of End User who use the Licensed Product for the purpose set forth in Section 2.1 above), absent a separate license from SwRI on behalf of the NPSS Licensors to such parent, subsidiary, affiliated entity or third party;

(d) rent, lease, or loan the Licensed Product;

(e) use the Licensed Product for third-party training, commercial time-sharing or service bureau use;

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(g) alter, remove, or obscure any copyright, trademark, or other proprietary notices on the Licensed Product;

(h) disassemble, decompile, or reverse engineer the Software or otherwise attempt to gain access to the source code of the Software;

(i) sell, license, sublicense, publish, display, distribute, assign, or otherwise transfer to a third party the Licensed Product, any copy thereof, or any rights thereto, in whole or in part, without SwRI’s prior written consent; and

(j) except as permitted in Section 2.1 herein, copy the Licensed Product except for installing and loading the Licensed Product into computer memory for the purpose of executing the Software program.

3. **Support.** For one year after purchase and as long as the annual maintenance is up to date, SwRI shall provide limited technical support via e-mail and/or telephone to respond to questions from End Users regarding the use of the Licensed Product. Support will cover general and reasonable questions regarding:
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limitations of the Licensed Product. SwRI shall use reasonable efforts to respond to such requests within
forty-eight (48) hours from receipt of such requests, during normal business hours. SwRI shall have no
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provided to you on a license exchange basis. Upon your installation and use of this copy of the Software,
you agree to voluntarily terminate any earlier EULA and you will not continue to use the earlier version of
the Software or transfer it to another person or entity. Maintenance fees are renewable on an annual
basis. If the End User does not pay the annual maintenance fee, the End User can (1) purchase a new
license, or (2) pay annual maintenance fees retroactively for the years unpaid, whichever is less
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4.  Intellectual Property; Confidential Information.

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granted herein), title, and interest in the Licensed Product shall at all times remain the property of NPSS
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the Licensed Product and agrees that only NPSS Licensors shall have the right to maintain, enhance, or
otherwise modify the Licensed Product.

4.2.  Confidential Information. End User agrees that the Licensed Product contains confidential
information, including trade secrets, know-how, and other information that comprise the exclusive property
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End User shall maintain the confidentiality of this information and shall not sell, license, sublicense,
publish, display, distribute, disclose, or otherwise make available this information to any third party nor use
such information except as authorized by this Agreement. End User shall not disclose any such
information concerning the Licensed Product to persons who are not current faculty, staff, or students of
End User without SwRI’s prior written consent. End User agrees that it will take appropriate action by
instruction, agreement, or otherwise with its faculty, staff, and students to satisfy its obligations under this
Agreement with respect to use, protection, and security of the NPSS Licensors’ confidential information.
End User agrees to immediately notify SwRI of the unauthorized disclosure or use of the Licensed Product
and to assist SwRI in remedying such unauthorized use or disclosure. It is further understood and agreed
that money damages would not be a sufficient remedy for any breach of End User’s obligations under this
Section 4.2 by End User. In the event of any such breach, SwRI shall be entitled to seek equitable relief, in
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5.  Warranty; Disclaimer of Warranties.

5.1.  Limited Warranty. SwRI warrants that the media on which any copies of the Licensed Product are
delivered will be free of defects in material and workmanship under normal use and service for a period of
thirty (30) days from delivery.

5.2.  Disclaimer of Warranty. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 5.1, THE
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6. Infringement; Compliance with Law.

6.1. Infringement Remedies. Should the Licensed Product become or, in the NPSS Licensors’ opinion, be likely to become the subject of a claim or an injunction preventing its use as contemplated herein, SwRI on behalf of the NPSS Licensors may, at its option, (1) procure for End User the right to continue, as applicable, using such Licensed Product, (2) replace or modify the Licensed Product so that it becomes non-infringing, or, if the NPSS Licensors determine, in their sole discretion, that (1) and (2) above are not commercially practical for SwRI, then (3) End User shall return the Licensed Product for a refund depreciated on a two (2) year straight line basis and any related licenses granted under Section 2 shall terminate without further liability to the NPSS Licensors. The NPSS Licensors shall have no liability or obligation to End User hereunder with respect to any infringement or claim thereof based upon alterations or enhancements of the Licensed Product not created by or for the NPSS License. This Section 6.1 states the entire liability of SwRI and the NPSS Licensors with respect to infringement of patents, copyrights, trade secrets, or other intellectual property rights by the Licensed Product or any part thereof or by its operation.

6.2. Compliance with Law. End User shall be responsible for the negligent acts or omissions of its officers, agents, directors, faculty, staff, students, and representatives with respect to its obligations under the Agreement and for compliance with any applicable law relating to its use of the Licensed Product.

7. Limitation of Liability. End User agrees that the NPSS Licensors’ liability hereunder for damages arising from performance or nonperformance of the Licensed Product and/or support thereof, and any other products or services provided hereunder, including but not limited to liability for patent and copyright infringement, shall be as set forth above in Sections 5 and 6. SwRI and the NPSS Licensors will not be liable for any lost profits, loss of data, or costs of procurement of substitute goods or services or for any claim or demand against End User by any other party. In no event will the NPSS Licensors be liable for consequential, special, indirect, or exemplary damages arising out of this Agreement, however caused and under any theory of liability (including negligence), even if advised of the possibility of such damages. End User acknowledges that the amounts payable hereunder are based
in part on these limitations, and End User further agrees that these limitations shall apply
notwithstanding any failure of essential purpose of any limited remedy.

8. **Termination.** Either party to this Agreement shall have the right to terminate this Agreement and the
licenses granted herein in the event: (i) the other party fails to comply with any of the terms and conditions
of this Agreement and such default has not been cured within thirty (30) days after receiving written notice
of such default from the other party; or (ii) the other party terminates or suspends its business, or has
wound up or liquidated, voluntarily or otherwise. The rights and obligations of the NPSS Licensors and
End User in Sections 4, 5, 6, 7, 8, and 9 shall survive termination of this Agreement. Within five (5) days
after termination of this Agreement, End User shall return to SwRI or destroy, at End User’s expense, the
Licensed Product, including all copies thereof, and deliver to SwRI a certification, in writing signed by an
officer of End User, that the Licensed Product and all copies thereof have been returned or destroyed, as
requested by SwRI and their use discontinued. Nothing contained herein shall limit any other remedies that
SwRI or the NPSS Licensors may have for the default of End User under this Agreement nor relieve End
User of any of its obligations incurred prior to such termination.

9. **Miscellaneous.**

9.1. **Assignment.** Neither party shall assign this Agreement and its rights and obligations hereunder, in
whole or in part, by operation of law or otherwise, without the written consent of the other party, except
that SwRI may assign this Agreement to a (i) majority owned subsidiary or an affiliate under the same
common control as SwRI or (ii) a successor pursuant to a merger or a sale of all or substantially all of its
assets or (iii) its successor as Administrator of the NPSS Consortium. In the case of any permitted
assignment or transfer of or under this Agreement, this Agreement or the relevant provisions shall be
binding upon, and inure to the benefit of, the successors, executors, heirs, representatives, administrators
and assigns of the parties hereto.

9.2. ** Entire Agreement; Severability; Waiver.** This Agreement, together with all Exhibits and other
attachments hereto, constitutes and represents the entire agreement between the Licensor and Licensee, and
supersedes all prior agreements and understandings, with respect to the matters covered by this Agreement.
All Exhibits and attachments to this Agreement are incorporated herein by reference as if set forth in full.
To the extent this Agreement conflicts with the terms of any exhibit, attachment, purchase order, or
invoice, the terms of this Agreement shall govern. End User agrees that it has not entered into this
Agreement based on any representations other than those contained herein. No modification of or
amendment to this Agreement, nor any waiver of any rights under this Agreement, shall be effective unless
agreed to in writing by both parties. If any of the provisions of this Agreement is held by a court of
competent jurisdiction to be invalid under any applicable statute or rule of law, such provision shall, to that
extent, be deemed omitted, and the remaining portions of this Agreement shall remain in full force and
effect. The waiver of a breach or default or any delay in exercising any rights shall not constitute a waiver
of any subsequent breach or default. The headings are for convenience and shall not be used to construe
this Agreement.

9.3. ** Governing Law.** This Agreement shall in all respects be governed by the laws of the State of
Texas without reference to its principles of conflicts of laws. Both parties acknowledge and agree that the
U.N. Convention on Contracts for the International Sale of Goods shall not apply to the license of the
Licensed Product hereunder.

9.4. ** Notices.** Unless expressly stated otherwise herein, any notice, demand, request or delivery
required or permitted to be given by either party pursuant to the terms of this Agreement shall be in writing
and shall be deemed given (a) when delivered personally, (b) on the next business day after timely delivery
to an overnight courier, (c) on the third business day after deposit in the U.S. mail (certified or registered
mail return receipt requested, postage prepaid), and (d) upon confirmation of receipt by facsimile
transmission, addressed to the party at such party’s address as set forth on the first page of this Agreement
or as subsequently modified by written notice.
9.5. **U.S. Government Restricted Rights.** This provision applies to all acquisitions of the Licensed Product by or for the federal government. By accepting delivery of the Software, the government hereby agrees that the Software qualifies as “commercial” computer software within the meaning of FAR Part 12.212 (as amended November 2007), DFARS Part 227.7202-1 and 227.7202-3 (December 2011), and DFARS 252.227-7014(a) (Feb 2012). The terms and conditions of this Agreement shall pertain to the government’s use and disclosure of the Licensed Product, and shall supersede any conflicting contractual terms or conditions in any other agreement. If the license granted under this Agreement fails to meet the government’s minimum needs or is inconsistent in any respect with federal procurement law, the government agrees to return the Licensed Product, unused, to SwRI.

9.6. **License Restriction.** This Agreement is subject to the terms and conditions of the Non-exclusive Copyright License Agreement between the National Aeronautics and Space Administration and Ohio Aerospace Institute for Technology known as “Numerical Propulsion System Simulation (NPSS)” assigned to SwRI on May 1, 2013.

9.7. **Export Law Assurances.** End User understands that the Licensed Product is subject to export control restrictions, laws, and regulations. End User shall abide by, and ensure that its officers, agents, directors, faculty, staff, students, and representatives abide by all applicable foreign and United States federal, state, and local laws, ordinances, rules, and regulations including export laws and regulations. If End User wishes to ship or make available the Licensed Product outside of its country, End User shall obtain (i) the prior written consent of SwRI, and (ii) any required export licenses or other permission necessary from the United States and such other countries’ laws as applicable. End User shall be liable for any and all taxes associated with the export of the Licensed Product.

9.8. **General.** All payments by End User to SwRI shall be made in the United States of America currency, and all payments to SwRI shall be free and clear of all taxes and other governmental charges of any country except the United States of America.

10. **Export.**

10.1. **Export Law Assurance for Licensees in the United States.** United States export control laws and regulations govern the transfer/export of NPSS software. Customer shall not transfer or export NPSS software to any other party.

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A. **Certain Nuclear End-Uses:**

(1) Nuclear explosive activities: Nuclear explosive activities, including research on or development, design, manufacture, construction, testing or maintenance of any nuclear explosive device, or components of subsystems of such a device;

(2) Uninadvertent nuclear activities: Activities including research on, or development design, manufacture, construction, operation, or maintenance, of any nuclear reactor, critical facility, facility for the fabrication of nuclear fuel, facility for the conversion of nuclear material from one chemical form to another, or separate storage installation, where there is no obligation to accept International Atomic Energy Agency (IAEA) safeguards at the relevant facility or installation when it contains any source or special fissile material (regardless of whether or not it contains such material at the time of export), or where any such obligation is not met;
(3) Safeguarded and unsafeguarded nuclear activities: Safeguarded and unsafeguarded nuclear fuel cycle activities, including research on or development, design, manufacture, construction, operation or maintenance of any of the following facilities, or components for such facilities:

a. Facilities for the chemical processing of irradiated special nuclear or source material;
b. Facilities for the production of heavy water;
c. Facilities for the separation of isotopes of source and special nuclear material; or
d. Facilities for the fabrication of nuclear reactor fuel containing plutonium.

10.3 Export Law Assurances for Licensees in China (Section A above and Sections B through F below):

B. Certain Rocket Systems (including Ballistic Missile Systems and Space Launch Vehicles and Sounding Rockets) and Unmanned Air Vehicles (including Cruise Missile Systems, Target Drones and Reconnaissance Drones) End Uses:

(1) Used in the design, development, production or use of rocket systems or unmanned air vehicles capable of a range of at least 300 kilometers;

(2) Used in the design, development, production or use of rocket systems or unmanned air vehicles, regardless of range capabilities, for the delivery of chemical, biological, or nuclear weapons.

C. Certain Chemical and Biological Weapons End-Uses: This software may not be used in the design, development, production, stockpiling, or use of chemical or biological weapons.

D. Certain Maritime Nuclear Propulsion End-Uses: This software may not be used in connection with a foreign maritime nuclear propulsion project (including maritime nuclear propulsion plants, their land prototypes, and special facilities for the construction, support, or maintenance, including any machinery, devices, components, or equipment specifically developed or designed for use in such plants or facilities.

E. Certain Exports to or for the Use of Vessels or Aircraft: Customer certifies that NPSS software will not be used on or for the use of any non-U.S.-registered vessel or aircraft, whether an operating vessel or aircraft or one under construction, located in any port outside of the United States, unless:

(1) The vessel or aircraft is located in Customer’s country;

(2) The vessel is registered (or will be registered in the case of a vessel or aircraft under construction) in Customer’s country;

(3) The vessel or aircraft is currently controlled, leased, or chartered by a national of Customer’s country.

F. Military Activity: Customer further certifies that NPSS software will not be used in the support of, or benefit to, any military activity in Customer’s country.

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