



## SOFTWARE LICENSE AGREEMENT

PLEASE READ THIS END USER LICENSE AGREEMENT (“AGREEMENT”) CAREFULLY BEFORE USING THE AxSTREAM® SOFTWARE. BY USING AxSTREAM® SOFTWARE, YOU ARE AGREEING TO BE BOUND BY THE TERMS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, DO NOT INSTALL, COPY, ACCESS, OR USE THE AxSTREAM® SOFTWARE, AND PROMPTLY RETURN THE AxSTREAM® SOFTWARE TO SOFTINWAY.

IMPORTANT NOTE: To the extent that the AxSTREAM® Software may be used to reproduce, modify, publish, or distribute materials, it is licensed to you only for reproduction, modification, publication, and distribution of non-copyrighted materials, materials in which you own the copyright, or materials you are authorized or legally permitted to reproduce, modify, publish, or distribute. If you are uncertain about your right to copy, modify, publish, or distribute any material, you should contact your legal advisor.

This Agreement is between you and SoftInWay, Inc., a Massachusetts corporation with its principal place of business at 1500 District Avenue, Burlington, MA 01803 (“SoftInWay”) and sets forth all the terms, conditions, obligations, responsibilities, and remedies between you and SoftInWay in regards to your use of SoftInWay’s AxSTREAM® software.

### Recital

1. Licensor is a global engineering company specializing in turbomachinery design, redesign, optimization, analysis, consultation, and training, through its flagship AxSTREAM® platform as well as AxCYCLE™ for thermodynamic design and analysis.
2. Licensor provides components of AxSTREAM® platform to educational institutions to enrich the overall student educational experience by giving students and faculty the opportunity to work with real-world design tools AxSTREAM® Software allow educational institutions to increase focus on thermodynamic cycle and turbomachinery design and multidisciplinary optimization principles whilst decreasing focus on course construction requiring utilization of separate engineering systems and platforms.
3. Licensee is an educational institution, aimed at providing excellence in education.
4. Licensor is the entire legal and beneficial owner of the AxSTREAM® platform software (“**Licensed Software**”), and desires to license the AxSTREAM® platform software to Licensee.
5. Licensee desires to obtain a license to use the Licensed Software for internal research purposes subject to the terms and conditions of this Agreement.

Accordingly, the Parties agree as follows:

### 1. Definitions and Terms

- 1.1 **Defined Terms.** Each term defined in the preamble and the recital of this Agreement has its assigned meaning, and each of the following terms has the meaning assigned to it.
- 1.2 “**Agreement**” means this Software License Agreement for AxSTREAM® platform software.
- 1.3 “**Authorized Users**” means you and/or faculty who require access to the Licensed Software in the performance of their teaching and research related duties, and currently enrolled students who require access to the Licensed Software for research and educational purposes only.
- 1.4 “**Documentation**” means explanatory materials in printed, electronic, or online form, accompanying the AxSTREAM® platform software.
- 1.5 “**Effective Date**” has the meaning set forth in the preamble.
- 1.6 “**EULA**” has the meaning assigned to it in Section 3.5.
- 1.7 “**Good Cause**” has the meaning assigned to it in Section 2.3.



- 1.8 “**Licensee**” means the holder of a license for AxSTREAM® software.
- 1.9 “**Licensor**” means SoftInWay, Inc
- 1.10 “**Licensed Software**” means SoftInWay’s AxSTREAM® software including all computer software now comprising the AxSTREAM® software and all bug fixes, patches, and other updates obtained by you pursuant to this Agreement, and all associated media, including online or electronic documentation.
- 1.11 “**Parties**” means collectively SoftInWay, Inc. and you.
- 1.12 “**Party**” means either SoftInWay, Inc. or you.
- 1.13 “**STU**” has the meaning assigned to it in Section 4.
- 1.14 “**Term**” has the meaning assigned to it in Section 2.1.
- 1.15 “**Website**” means SoftInWay’s websites located at www.softinway.com and its subdomains, or any subsequent URL which may replace them.

## 2 Term and Termination

- 2.1 **Term.** This Agreement shall become effective upon the Effective Date and will continue in full force and effect for one year from date software is downloaded.
- 2.2 **Termination.** This Agreement may be terminated by either Party at any time, with or without cause, by providing thirty (30) days written notice.
- 2.3 **Termination for Good Cause.** This Agreement may be terminated by Licensor at any time, immediately and without advanced notice, for good cause by providing written notice to Licensee. “Good Cause” is defined as any material breach of Licensee’s obligations hereunder.
- 2.4 **Effect of Termination or Expiration.** Upon expiration or termination of the right to use the Licensed Software, all rights, licenses, and authorization granted to Licensee hereunder will immediately terminate and Licensee shall immediately discontinue use of the Licensed Software. Licensee shall immediately destroy or return all copies of the Licensed Software and Documentation, and uninstall the Licensed Software from any computers upon which the Licensed Software has been installed.

## 3. Scope of License

- 3.1 **License Grant.** Licensor grants to Licensee up to thirty (30) non-exclusive, non-transferable, floating amazon server machine licenses of the Licensed Software for the Term of this Agreement for research and educational purposes only.
- 3.2 **Prohibited Use.** Licensee acknowledges and agrees that Licensee shall not use the Licensed Software for any commercial applications or benchmarking activities.
- 3.3 **Authorized Users.** Licensee acknowledges and agrees that access to the Licensed Software shall be restricted to Licensee’s students and professors in non-commercial applications and for educational and research purposes only (“**Authorized Users**”).
- 3.4 **Modification.** Licensee shall not cause or allow any third party to copy, decompile, disassemble, or reverse-engineer the Licensed Software; or create or recreate, or attempt to create or recreate the source code from the object code for the Licensed Software.
- 3.5 **End User License Agreement.** Licensor is bound by the terms and conditions expressed in the End User License Agreement (“**EULA**”), currently in full force and effect, the terms of which are incorporated herein by reference, and by use of the Licensed Software.
- 3.6 **Education Software.** The AxSTREAM® software is identified as an educational version in the Documentation, on the packaging of the AxSTREAM® software, or on the purchase or download page of the Website. Educational versions of the AxSTREAM® software may not be used for commercial, professional or other for-profit purposes. Notwithstanding the foregoing, you are not entitled to use the



AxSTREAM® software unless you qualify in your jurisdiction as an academic end user (e.g., faculty, staff members, and degree, diploma or certificate-seeking students at qualified educational institutions). Work product and other data created with the educational version of the AxSTREAM® software may contain certain notices and limitations that make the data unusable outside the educational use area. You may not export data created using the educational version of the AxSTREAM® software. If you combine or link data created with educational version of the AxSTREAM® software with data otherwise created, then that data may also be affected by these notices and limitations.

- 3.7 **Intellectual Property.** Licensee acknowledges and agrees that the Licensed Software is owned and copyrighted by Licensor, and the license confers no title and ownership in the Licensed Software, and is not a sale to Licensee of any rights in the Licensed Software. All ownership rights remain in Licensor. Licensee acknowledges that AxSTREAM® is a registered trademark of Licensor in the United States of America, and Licensee is prohibited from displaying or otherwise using the mark in any manner without Licensor's prior written consent. All other marks in the AxSTREAM® software are the marks of their respective owners.
4. **Confidentiality.** The AxSTREAM® software, including the source code, object code, and the operational methods of the AxSTREAM® software, and all Documentation, and other materials associated with the AxSTREAM® software, is the Confidential Information of SoftInWay ("Confidential Information"). You acknowledge and agree that you will use commercially reasonable efforts to safeguard SoftInWay's Confidential Information and to prevent any unauthorized access, reproduction, disclosure and/or use of any of the Confidential Information, utilizing at least the safeguards that you use for protection of your own confidential information. You may disclose the Confidential Information only to those employees and agents who need to know such information, and in the event the employment or appointment of any such person is terminated, you agree to use your best efforts to recover any Confidential Information in such person's custody or control. You may not remove any copyright notice, trademark notice and/or other proprietary legend or indication of confidentiality set forth on or contained in any of the Confidential Information. You may not use any of the Confidential Information other than as expressly permitted in this Agreement. You may not, directly or indirectly, either during or subsequent to the term of this Agreement, disclose the existence, content and/or substance of any of the Confidential Information to any third party, nor develop, manufacture, produce and/or distribute any software product(s) derived from or which otherwise use any of the Confidential Information. You must promptly notify SoftInWay in writing of any unauthorized use or disclosure of the Confidential Information, which notice shall include a detailed description of the circumstances of the disclosure and the parties involved. Your obligations hereunder with respect to the Confidential Information shall commence upon the date you accept this Agreement, and shall continue for such time as SoftInWay continues to treat such data as Confidential Information.
5. **Cooperation and Notice of Infringement.**
- 5.1 **Cooperation.** Licensee shall take all reasonable measures to safeguard the Licensed Software and Documentation (including all copies thereof) from infringement, misappropriation, theft, misuse, or unauthorized access.
- 5.2 **Notice.** Licensee shall promptly notify Licensor in writing if Licensee becomes aware of any actual or suspected infringement, misappropriation, or other violation of Licensor's intellectual property rights in or relating to the Licensed Software or Documentation, or any violation of any provision under this Agreement or the EULA.
6. **Mutual Representation and Warranties.** Each Party represents, warrants, and covenants, to the other Party that:
- (a) it is duly organized, validly existing and in good standing as a corporation or other entity under the Laws of the jurisdiction of its incorporation or other organization;
  - (b) it has the full right, power and authority to enter into and perform its obligations and grant the rights, licenses and authorizations it grants and is required to grant under this Agreement;



- (c) the execution of this Agreement by its representative whose signature is set forth at the end of this Agreement has been duly authorized by all necessary corporate or organizational action of such Party; and
- (d) when executed and delivered by both Parties, this Agreement will constitute the legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms.

7. **General Provisions.**

7.1 **Governing Law.** The internal laws of Massachusetts govern all matters arising under or relating to this Agreement, including torts.

7.2 **Entire Agreement.** This Agreement constitutes the entire and sole agreement between the Parties on the matters contained herein. All earlier and contemporaneous negotiations and agreements between the Parties on the matters contained in this Agreement are expressly merged into and superseded by this Agreement.

7.3 **Amendments.** The Parties may amend this Agreement only by the Parties' written agreement that identifies itself as an amendment to this Agreement.

7.4 **Waiver.** No term or provision hereof shall be deemed waived and no breach hereof shall be deemed consented to or excused, unless such waiver, consent or excuse shall be expressly made in writing and signed by the Party claimed to have so waived, consented, or excused. Should either Party consent, waive, or excuse a breach by the other Party, such consent, waiver, or excuse shall not constitute a consent to, waiver of, or excuse of any other different or subsequent breach, whether or not of the same kind as the original breach.

7.5 **Relationship of Parties.** Nothing in this Agreement shall create, or be deemed to create, a joint venture, partnership or the relationship of principal and agent between the Parties. Except as expressly authorized in this Agreement, neither Party has any authority to act, make representations or bind or contract on behalf of the other Party.

7.6 **Severability.** This Agreement constitutes the entire understanding and agreement between the Parties relating to the subject matter hereof. If any provision of this Agreement is held by a court of competent jurisdiction to be illegal, invalid, or unenforceable, (i) such provision will be deemed amended to achieve as nearly as possible the same economic effect as the original provision, and (ii) the legality, validity, and enforceability of the remaining provisions of this Agreement will not be affected or impaired thereby.

7.7 **Construction.** The Parties acknowledge that it or its respective legal counsel have had the opportunity to review and revise this Agreement and, therefore, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

7.8 **Further Assurances.** Each Party undertakes, at the request of the other, to sign all documents and do all other acts promptly, and use commercially reasonable efforts to procure that a third party promptly signs all documents and does all other acts, which may be necessary to give full effect to this Agreement.

8. **Third-Party and Open Source Software.** SoftInWay is in compliance with the terms and conditions of all licenses for the Open Source Materials used in or distributed with the AxSTREAM® software. Permission is hereby granted, free of charge, to any person obtaining a copy of these software components and associated documentation files to deal in the Software without restriction, including without limitation the rights to use, copy, modify, merge, publish, distribute, sublicense, and/or sell copies of the Software, and to permit persons to whom the Software is furnished to do so, subject to the conditions of this EULA. SoftInWay utilizes the following third-party software in conformity with the licensing requirements:

8.1 Open CASCADE and uses Open CASCADE in conformity with the GNU General Public License.

8.2 CoolProp

8.3 Eigen

8.4 ActiPro



**9. THIS SECTION SETS FORTH SOFTINWAY'S ENTIRE LIABILITY AND YOUR EXCLUSIVE REMEDIES IN CONNECTION WITH DEFECTS IN MEDIA OR YOUR DISSATISFACTION WITH THE AxSTREAM® SOFTWARE.**

9.1 Limited Warranty and Disclaimers. You understand and acknowledge that the AxSTREAM® software, although functionally complete, is inherently complex and may not be completely free of errors. Although SoftInWay will make reasonable efforts to correct any material nonconformity between the AxSTREAM® software and its then-current documentation that you bring to SoftInWay's attention with written, documented reports, the AxSTREAM® software is licensed "as is." SoftInWay has no obligation to correct any deficiencies that you may discover, nor does SoftInWay guarantee its service results, or warrant or represent that all program errors can or will be corrected.

- a) EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, SOFTINWAY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAWS. IN PARTICULAR, YOU ACKNOWLEDGE THAT THE AxSTREAM® SOFTWARE IS PROVIDED "AS IS" AND YOU ACCEPT THE ENTIRE RISK AS TO THE SOFTWARE'S QUALITY AND PERFORMANCE.
- b) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, SOFTINWAY, ITS AFFILIATED COMPANIES AND THEIR LICENSORS DISCLAIM ALL OTHER REPRESENTATIONS, TERMS AND CONDITIONS, WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED BY STATUTE, COLLATERALLY, OR THE PARTIES' COURSE OF DEALINGS OR OTHERWISE, REGARDING THE AxSTREAM® SOFTWARE, RELATED DOCUMENTATION AND OTHER MATERIALS AND SERVICES INCLUDING WITHOUT LIMITATION THE WARRANTIES OF MERCHANTABILITY OR SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS IN THE SOFTWARE.
- c) SOFTINWAY DOES NOT WARRANT THAT THE AxSTREAM® SOFTWARE SHALL PERFORM WITHOUT INTERRUPTION OR BE ERROR FREE, OR THAT IT IS FREE FROM BUGS, VIRUSES, ERRORS OR OTHER PROGRAM LIMITATIONS.
- d) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAWS, NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY SOFTINWAY OR ITS LICENSORS, THEIR RESPECTIVE EMPLOYEES, DISTRIBUTORS, DEALERS OR AGENTS, SHALL INCREASE THE SCOPE OF THE ABOVE REPRESENTATIONS, WARRANTIES, TERMS OR CONDITIONS IN CONNECTION WITH THE AxSTREAM® SOFTWARE OR ANY SERVICE RELATED THERETO.
- e) SOME JURISDICTIONS MAY NOT ALLOW THE EXCLUSION OF IMPLIED REPRESENTATIONS, WARRANTIES, TERMS OR CONDITIONS, SO THE ABOVE EXCLUSIONS MAY NOT FULLY APPLY TO YOU. IN THAT EVENT, TO THE EXTENT YOUR JURISDICTION PERMITS SUCH LIMITATIONS, ANY IMPLIED REPRESENTATIONS, WARRANTIES, TERMS OR CONDITIONS ARE LIMITED IN DURATION TO THIRTY (30) DAYS FROM THE DATE YOU PURCHASED THE AxSTREAM® SOFTWARE OR TO THE SHORTEST PERIOD PERMITTED BY APPLICABLE LAW, IF LONGER. THIS WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY HAVE OTHER RIGHTS AS WELL, WHICH MAY VARY ACCORDING TO JURISDICTION.

9.2 Limitation of Liability and Damages:

- a) UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, WHETHER IN TORT, NEGLIGENCE, CONTRACT OR OTHERWISE, SHALL SOFTINWAY BE LIABLE UNDER THIS AGREEMENT OR IN CONNECTION WITH ITS SUBJECT MATTER FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL, OR EXTRA-



- CONTRACTUAL DAMAGES OF ANY KIND, LOSS OF GOODWILL, LOSS OF PERSONNEL SALARIES, LOST PROFITS OR REVENUE, DAMAGES DUE TO WORK STOPPAGE AND/OR COMPUTER FAILURE OR MALFUNCTION, AND/OR COSTS OF PROCURING SUBSTITUTE SOFTWARE OR SERVICES, WHETHER OR NOT FORESEEABLE, EVEN IF THE EXCLUSIVE REMEDIES PROVIDED BY THIS AGREEMENT FAIL OF THEIR ESSENTIAL PURPOSE AND EVEN IF YOU HAVE ADVISED SOFTINWAY OF THE POSSIBILITY OR PROBABILITY OF SUCH DAMAGES.
- b) THE ENTIRE AND SOLE LIABILITY OF SOFTINWAY, AND ITS AFFILIATES, LICENSORS, THIRD-PARTY CONTENT OR SERVICE PROVIDERS, DISTRIBUTORS, DEALERS OR SUPPLIERS (“REPRESENTATIVES”) FOR ANY REASON SHALL BE LIMITED TO THE AMOUNT PAID BY YOU TO SOFTINWAY FOR THE AxSTREAM® SOFTWARE OR SERVICES IN RELATION TO WHICH THE CLAIM ARISES, EXCEPT AS MAY BE REQUIRED BY APPLICABLE LAWS.
  - c) THE LIMITATIONS OF LIABILITY SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN SOFTINWAY AND YOU. YOU AGREE AND ACKNOWLEDGE THAT SOFTINWAY WOULD NOT BE ABLE TO HAVE PROVIDED THE SOFTWARE AND/OR THE RELATED SERVICES AND MATERIALS WITHOUT SUCH LIMITATIONS.
- 9.3 Your Responsibilities. You are responsible for the supervision, management and control of the Use of the AxSTREAM® software, and output of the AxSTREAM® software, including, without limitation, (i) the selection of the AxSTREAM® software for your intended Use; (ii) determining the appropriate Use and users of the AxSTREAM® software, and the use of the output from the AxSTREAM® software; (iii) determining the appropriate process for testing the accuracy of the AxSTREAM® software and evaluating any output from the AxSTREAM® software and its application in your environment; and (iv) determining the appropriate process for backing-up the Software and related data and causing the back-up to occur, to prevent the loss of data in the event the AxSTREAM® software malfunctions or is damaged. You acknowledge that the AxSTREAM® software is a tool to be Used by qualified, trained users, that it is not designed to be a substitute for professional judgment or independent testing or analysis, and that you bear the sole responsibility for the use of any results obtained from the AxSTREAM® software
- 9.4 Survival of this Section 9. The provisions of this Section 9 shall survive termination of this Agreement and the License granted hereunder.

## 10. Export controls

- 10.1 **General Export Controls.** You may not download, distribute, export, re-export, or redistribute the AxSTREAM® software, including any underlying information or technology, (i) into, or to a national or resident of any country to which the United States of America has embargoed goods; (ii) to anyone on the United States of America's Treasury Department's list of Specially Designated Nationals or the United States of America's Commerce Department's Table of Denial Orders; and/or (iii) otherwise in breach of United States laws and regulations related to exports and to all administrative acts of the US Government pursuant to such laws and regulations. By downloading or Using the AxSTREAM® software, you agree to the foregoing and represent and warrant that you are not located in, under the control of, or a national or resident of any country or on any such list in breach of this Section 13. In addition, you are responsible for complying with any local laws in your jurisdiction which may impact your right to import, export or Use the AxSTREAM® software, and you represent that you have complied with any regulations or registration procedures required by applicable law to make this license enforceable.
- 10.2 **Required Licenses for Approved End Use.** SoftInWay is subject to U.S. laws and regulations controlling the export of technical data, computer software, and other commodities for an end use that may require a license from the applicable agency of the United States government and/or may require written assurances by you that you will not Use the AxSTREAM® software for a restricted end use without prior approval of such agency. SoftInWay neither represents that a license is required, nor that, if required, it will be issued.



By downloading or Using the AxSTREAM® software, you agree to the foregoing and will provide written assurances that you will Use the software in compliance with the existing export terms complaint with United States Department of Commerce Bureau of Industry and Security commodity classification of ECCN EAR99.

- (a) You warrant that AxSTREAM® Software is not for Nuclear Test, Chemical Weapon Test, nor Missile Test, and that AxSTREAM ® software will not be re-exported to any country or national of another country without prior written permission from SoftInWay and the applicable agency of the United States government.
11. **Reference.** SoftInWay may use and reference your name and, with your prior consent, your logo and marks, as a reference in connection with the AxSTREAM® software and/or in SoftInWay’s advertising, publicity efforts and Website.
12. **Representation and Warranties.** Each Party represents to the other that they have the requisite authority to enter into this Agreement.
13. **License Management and Usage Information.** AxSTREAM® software contains technology for license management and for the prevention of unlicensed use. AxSTREAM® software is activated, installed, or first used by a Licensee, and periodically for license management and product improvement purposes, information about the License, use of the software, and the Computer will be transmitted to SoftInWay. This data includes the license information, computer identification, and location. The access and use of some licensed software packages also require the SoftInWay Account information and the operating system user name for the Licensee. See SoftInWay’s privacy policy for details on the use of this digital information.

**BY INSTALLING THE AxSTREAM® SOFTWARE OR USING THE AxSTREAM® SOFTWARE, YOU ACCEPT AND AGREE TO BE BOUND BY ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT.**