

RAMDO  
TERMS AND CONDITIONS OF USE

These TERMS AND CONDITIONS OF USE (the "Terms and Conditions") are incorporated in and made a part of the Site License provided by RAMDO Solutions, LLC ("RAMDO") to a Client desiring to use RAMDO's Software. For purposes of these Terms and Conditions, a "Client" shall refer to all Clients.

1. Definitions. The following terms shall have the meanings set forth below:

- (a) "Fees" shall mean the license fees described in the Site License.
- (b) "License" shall have the meaning set forth in the first paragraph of the Site License.
- (c) "Sites" shall mean those locations and/or facilities of a Client as specified in the Site License. Additional Sites may be added by entering into additional Site Licenses, which shall be subject to these Term and Conditions (as amended).
- (d) "Software" shall mean the program(s) set forth in the Site License for installation on computers, including but not limited to any updates, improvements, upgrades, modifications, fixes, content, online services, and any other services that are provided through the program(s), as well as the particular structure, content, and process used within the program(s).
- (e) "Term" shall have the meaning set forth in the License, as modified herein.
- (f) "Third-Party Materials" shall mean materials and information, in any form or medium, that are not proprietary to RAMDO, including any third-party's: (a) documents, data, content or specifications; (b) software, hardware or other products, facilities, equipment or devices; and (c) accessories, components, parts of features of any of the foregoing.

2. Description of Services. During the Term, RAMDO will provide Client the right to install the Software at the Sites as provided in the License. The purpose of the License is for the Client to install, access, and use the Software for its own internal business purposes, reliability analysis and multidisciplinary design optimization for its manufactured products. During the Term, Client acknowledges and agrees that the Software contains a license manager and Client must install such license manager on Client's computer server in order to manage the number of Client's installs. Client further agrees that Client will not interfere with RAMDO's license manager or otherwise interfere with RAMDO's monitoring of the number of Client's installs. Client acknowledges and understands that it shall not use the Software on behalf of third parties that have not entered into a license agreement to use the Software.

3. Access. Access by Client to the Software will be subject to any operational constraints, restrictions and requirements of RAMDO, in its sole discretion, that are now in effect or may be in effect in the future.

4. Term. The parties' agreement as described in the Site License will be for the Term set forth therein. Notwithstanding the foregoing, in the event either party defaults by failing to substantially perform any provision, term or condition hereof or of the License, the other party may provide written notice specifying such default. If the defaulting party does not cure the default within thirty (30) days of receipt of such notice, the non-defaulting party will have the right to terminate the parties' relationship upon written notice.

5. Fees and Payment. Client will pay RAMDO the Fees specified in the Site License in the manner set forth in this Section 5. RAMDO will invoice Client for the Fees for each billing period, in advance. All Fees are due upon receipt of the invoice. If Client has provided the required information and authorization, RAMDO shall have the authority to initiate such payment on the date of invoice in accordance with the terms and conditions required by our authorized payment processors.

6. Restricted License; IP Ownership. Client acknowledges and agrees that RAMDO is the owner of the Software and that its access to the Software is governed by the License. Any, ideas, discoveries, inventions, patents, products, copyrightable works or other information (collectively the "Work Product") developed in whole or in part by RAMDO in connection with providing services hereunder will be and remain the exclusive property of RAMDO. Upon request, Client will execute all documents necessary to confirm or perfect the exclusive ownership of RAMDO to such Work Product. The Site License and these Terms and Conditions do not constitute a sale of any title or interest in the Software or any content included therein. Such Software, the content, and all proprietary and intellectual property rights contained therein are expressly reserved to and shall remain the sole and exclusive property of RAMDO. Notwithstanding the foregoing, Client shall retain all of its rights in any intellectual property it had developed prior to entering into this Agreement, as evidenced by pre-existing writings, though to the extent such pre-existing intellectual property is incorporated into the Work Product Client hereby grants RAMDO a perpetual, royalty-free, non-exclusive license to use such pre-existing intellectual property in the Software.

7. Computing Environment and Third-Party Materials. Client is responsible for providing the computing environment for the use and operation of the Software that meets RAMDO's then-current requirements for the Software, as communicated to Client from RAMDO from time to time, including without limitation, the MATLAB Runtime program and any other Third-Party Materials that may be required from time to time. Client acknowledges that Client may be required to enter into other

agreements to use and operate the Third-Party Materials.

8. Confidentiality. Client acknowledges that (i) the Software contains trade secrets owned by RAMDO, including the specific design, structure, and logic of the individual software programs, in addition to certain other information that is confidential and proprietary, and (ii) that the content accessed by the use of the Software is owned by, and may constitute the confidential and proprietary information of, RAMDO or other users (together, the "Confidential Information"). Client agrees to keep the Confidential Information in strict confidence and to use the Confidential Information solely pursuant to the terms of these Terms, and shall not disclose such information to any third party except Client's agents, employees, and consultants on a need to know basis. Notwithstanding anything to the contrary herein, Client shall not be prohibited from using or disclosing information which becomes publicly available through no fault of Client or its employees or agents, or is already known to Client as shown by pre-dated written records. Client acknowledges that any breach of this section will cause irreparable harm to RAMDO and/or the user who uploaded the disclosed Content and shall entitle the harmed user, as an intended third party beneficiary of this section, to avail itself of any and all remedies at law and/or equity, including but not limited to injunctive relief and specific performance, without any obligation to post bond.

9. Representations of RAMDO. RAMDO endeavors to make the Software available at all reasonable times to Client. However, the Software is constantly being updated and modified. Therefore, RAMDO provides the Software on an "as-is" basis and does not promise to provide any minimum level of service, uptime guaranty, or customer support to Client related to its use of the Software. RAMDO MAKES NO WARRANTIES REGARDING THE PERFORMANCE OR USE OF THE SOFTWARE, AND CLIENT RECEIVES NO OTHER WARRANTY WHETHER WRITTEN, ORAL, EXPRESSED, IMPLIED, OR STATUTORY EXCEPT AS STATED IN THESE TERMS AND CONDITIONS. IN PARTICULAR, RAMDO MAKES NO WARRANTY THAT CLIENT WILL RECEIVE WILL MEET CLIENT'S REQUIREMENTS, ACHIEVE ANY INTENDED RESULTS, BE COMPATIBLE OR WORK WITH ANY OTHER SOFTWARE, APPLICATIONS, SYSTEMS OR SERVICES, OPERATE WITHOUT INTERRUPTION, MEET ANY PERFORMANCE OR RELIABILITY STANDARDS OR BE ERROR FREE. ALL WARRANTIES OF MERCHANTABILITY, QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT AND WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE ARE EXPRESSLY EXCLUDED. ALL SERVICES ARE PROVIDED ON AN "AS-IS" BASIS AND ARE USED AT CLIENT'S OWN RISK. RAMDO SHALL NOT IN ANY CASE BE LIABLE FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, INDIRECT OR OTHER SIMILAR DAMAGES INCURRED BY ANY PERSON, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR SUCH CLAIMS. CLIENT ACKNOWLEDGES AND AGREES THAT ACCESS TO AND USE OF THE SOFTWARE MAY BE INTERRUPTED OR SUSPENDED FOR EXTENDED PERIODS AND THAT RAMDO AND ITS SERVICE PROVIDERS SHALL HAVE NO LIABILITY WITH RESPECT THERETO.

10. Limitation of Liability; Indemnity.

(a) Limitation of Liability. Client agrees that RAMDO's liability, if any, arising out of or in connection with the access to, use of, or performance of the Software shall not exceed the amount previously paid by Client for use of the Software in the six (6) months prior to the actions giving rise to such liability.

(b) Indemnity. Client hereby agrees to indemnify and hold RAMDO (and any employee, officer, director or affiliate of RAMDO, each a "Company Person") harmless from any claim or demand made by any third party (including costs and attorneys' fees) due to or arising out of its access to or use of the Software, its violation of this agreement, its infringement of any intellectual property or other right of any person or entity, or for any content it posts through the Software (including claims related to defamation, invasion of privacy, or other violation of a person's rights). Your obligations under the foregoing indemnity may not be offset against any other claim you may have against RAMDO or any Company Person. Client remains solely responsible for all content that it or its agents upload, post, email, transmit, or otherwise disseminate using, or in connection with, the Software. Client agrees that the provisions in this section will survive any termination of the License. In addition, Client hereby releases any claims it may have against RAMDO that are in any way related to the Software or its use thereof.

11. Arbitration, Governing Law, Remedies.

(a) Election of Arbitration. Any dispute, claim, or controversy arising out of or relating to the Site License or these Terms and Conditions, or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in Iowa City, Iowa before one (1) arbitrator. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures. Judgment on the award may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.

(b) Applicable Law. This Agreement and the rights of the parties hereunder shall be governed by and construed in accordance with the laws of the State of Iowa, exclusive of conflict or choice of law rules. The parties acknowledge that the Site License and Terms and Conditions evidence a transaction involving interstate commerce. Notwithstanding the foregoing with respect to applicable substantive law, any arbitration conducted pursuant to the terms of this section shall be governed by the Federal Arbitration Act (9 U.S.C. §§ 1-16).

(c) No Class Actions. No class actions or similar process, and no

joinder or consolidation of any claim with a claim of any other person or entity, shall be allowable in arbitration, without the written consent of both Client and RAMDO. The arbitrator shall have no authority to entertain any claim on behalf of a class, group, person, or entity who is not a named party to the arbitration, nor shall any arbitrator have authority to make any award for the benefit of, or against, any class, group, person, or entity who is not a named party to the arbitration. In the event that there is a dispute about whether limiting arbitration to non-class proceedings, or to the named parties, is enforceable under applicable law, then that question shall be resolved by a court rather than by an arbitrator; and to the extent it is determined that resolution of a claim must proceed on a class basis, it shall so proceed in a court of competent jurisdiction rather than in arbitration.

(d) Arbitration Binding. ARBITRATION WITH RESPECT TO A CLAIM IS BINDING AND NEITHER CLIENT NOR RAMDO WILL HAVE THE RIGHT TO LITIGATE THAT CLAIM THROUGH A COURT. IN ARBITRATION CLIENT AND RAMDO WILL NOT HAVE THE SAME RIGHTS THAT APPLY IN COURT, SUCH AS THE RIGHT TO A TRIAL BY JUDGE OR JURY AND THE RIGHT TO PARTICIPATE OR BE REPRESENTED IN PROCEEDINGS BROUGHT BY OTHERS SUCH AS CLASS ACTIONS OR SIMILAR PROCEEDINGS. IN ADDITION, THE RIGHT TO DISCOVERY AND THE RIGHT TO APPEAL MAY ALSO BE LIMITED OR ELIMINATED IN ARBITRATION. ALL OF THESE JUDICIAL RIGHTS ARE WAIVED WITH RESPECT TO CLAIMS THAT CLIENT AND RAMDO ELECT TO ARBITRATE.

12. Assignment. Client will not assign or transfer its rights hereunder or under the Site License without the prior written consent of RAMDO, which will not be unreasonably withheld.

13. Notices. All notices shall be delivered via email using via certified mail or overnight national overnight courier. The email address for notices to RAMDO shall be legal@ramdosolutions.com.

14. Miscellaneous. The Site License and these Terms and Conditions constitute the complete and exclusive agreement between RAMDO and Client and supersede any prior agreements, either written or oral. If either RAMDO or Client fails to exercise any rights hereunder, it shall not constitute a waiver of such rights. The waiver of any breach or default under the Site License or these Terms and Conditions shall not constitute the waiver of any subsequent breach or default. If any provision of the Site License or these Terms and Conditions is determined to be invalid or unenforceable, the remaining provisions shall continue to be valid and enforceable. The Site License may be executed in counterparts, in hard copy or electronically, each of which shall be deemed and original.