

SOFTWARE LICENSE AGREEMENT

AGREEMENT (“Agreement”) made this ____ day of _____, by and between Taylor Enterprises, Inc., an Illinois corporation (“Licensor”) and _____, a _____ corporation (“Licensee”).

RECITALS:

WHEREAS, Licensor has developed certain software and related documents, specifications, information or manuals specifically described in Schedule A attached hereto (collectively, the “Software”); and

WHEREAS, Licensor is the owner of the Software.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants contained herein, the parties hereto agree as follows:

1. License and Confidentiality

In accordance with the terms herein, Licensor grants to Licensee, and Licensee accepts from Licensor, a perpetual non-exclusive and non-transferable license to use the current version of Licensor’s Software at the specified site. Licensee may not sublicense or otherwise distribute the Software at any time or in any fashion.

The Software shall be used only on equipment owned or operated by Licensee at the specified site. The Software shall be used solely for internal use in Licensee’s own business, for processing of Licensee’s own data. Licensee shall not: (1) permit any third party to use the software, except to the extent the third party is providing services to Licensee, (2) use the Software in the operation of a service bureau, or (3) allow access to the licensed Software through terminals located outside Licensee’s business premises, except that Licensee shall be permitted off-site access to use the Software on Licensee’s secure, password protected Intranet.

Licensee acknowledges the confidential and proprietary nature of the Software and agrees that it shall not reveal or disclose Software for any purpose to any other person, firm, corporation or other entity. Licensee agrees to safeguard, secure and protect the Software from all manner of unauthorized copying, unauthorized disclosure, unauthorized use, theft, or piracy, all in a manner consistent with the manner in which Licensee protects its most confidential information and consistent with the maintenance of Licensor’s rights therein, and agrees that each employee or consultant who is permitted access to the Software shall have executed an agreement with a general covenant to keep confidential information of which he learns or has access to during his engagement by Licensee. Licensee agrees to inform its employees and consultants of their obligations under this Agreement, and shall take steps as may be reasonable in the circumstances, or as may reasonably be requested by Licensor, to prevent any unauthorized disclosure, copying, or use of the Software.

2. Copies

The license granted herein includes the right to copy the Software in non-printed, machine readable form in whole or in part as necessary for Licensee's own business use. In order to protect Licensor's trade secret and copyrights in the Software, Licensee agrees to reproduce and incorporate Licensor's trade secret or copyright notice in any copies, modifications or partial copies.

3. Price and Payment

Licensee shall make payment to Licensor for this Software license pursuant to the fees set forth in Schedule B. Licensee shall certify, in writing, to Licensor, a description of the site licensing the software, the number of users, and the license fee shall be computed accordingly. The license fee due under this Agreement shall be due and payable immediately upon execution of this Agreement, and need only be paid once, except as indicated below. Licensee shall give written notice to Licensor immediately in the event the number of users under this license increases such that a different license fee is due. Licensee agrees to pay any incremental amount by which the license fee increases, which increase shall be calculated based upon Licensor's then-currently published prices as of the date Licensee gave or should have given notice pursuant to this paragraph, and subtracting any license fee(s) previously paid by Licensee.

4. Software Ownership

Licensor represents and warrants that it is the owner of the Software and all portions thereof and that it has the right to modify same and to grant Licensee a license for its use.

5. Intent to Cooperate

Licensor and Licensee acknowledge that successful implementation of the Software pursuant to this License Agreement shall require their full and mutual good faith cooperation, and Licensor and Licensee each acknowledge that it shall timely fulfill its responsibilities, including but not limited to those set forth below.

6. Title to Software Systems and Confidentiality

The Software, and all programs and applications thereof, developed hereunder and all copies of each are proprietary to Licensor and title thereto remains in Licensor. All applicable rights to patents, copyrights, trademarks and trade secrets in the Software, or any modifications made to either at Licensee's request are and shall remain in Licensor. Licensee shall not sell, transfer, publish, disclose, display or otherwise make available the Software or copies thereof to others. Licensee agrees to secure and protect the Software, and each module, software product, documentation and copies thereof in a manner consistent with the maintenance of Licensor's rights therein and to take appropriate action by instruction or agreement with its employees or consultants who are permitted access to each to satisfy its obligations hereunder. All copies made by the Licensee of the Software and other programs developed hereunder, including translations, compilations, partial copies with modifications and up-dated works, are the property

of Licensor. Licensee may modify the Software for its own use as Licensee sees fit. Licensee may not use any of the Software to develop other information, documentation, materials or resources which will compete with, supersede, render obsolete, or in any way displace Licensee's need for the Software. Violation of any provision of this paragraph shall be the basis for immediate termination of this License Agreement.

7. Use and Training

Licensee shall limit the use of the Software to its employees or consultants who have been appropriately trained. If requested by Licensee, training for the Software may be made available to Licensee at location(s), in such manner, and for such fees as shall be agreed to by the parties.

8. Upgrades

Licensor agrees to include in the license fee all upgrades made to the Software ("Software Upgrades") for one (1) year from the date of this Agreement. After the first year, the following two options are available, and Licensee shall initial Licensee's choice:

(a) Option Number One: One year from the date hereof, and on the same date each year thereafter, Licensee shall pay a fee equal to 20% of the license fee currently charged by Licensor as calculated based on the number of users, and in exchange, shall receive any and all Software Upgrades pursuant to the terms and conditions of the Software Upgrade Purchase Agreement, attached hereto and incorporated herein by this reference as Schedule C; or,

(b) Option Number Two: Licensee agrees and acknowledges that after one year from the date of this Agreement, Licensee shall not receive any Software Upgrades, but may purchase any and all available Software Upgrades at the fee currently charged by Licensor to its best customers for the applicable Software Upgrades.

Licensee's shall be billed at end of one year and every year thereafter. Payment is deemed as acceptance of Option Number One and shall also be an acceptance of the Software Maintenance Agreement as indicated in Schedule C. Licensee's failure to make any of the maintenance payments shall mean Licensee has converted to Option Number Two. Licensee is advised that, generally, Option Number One will prove less expensive to Licensee if Licensee intends long-term use of the Software.

9. Disclaimer of Warranty and Limitation of Liability

EXCEPT AS TO THE DESCRIPTION OF THE SOFTWARE AS INDICATED IN SCHEDULE A HEREOF, LICENSOR MAKES NO WARRANTIES, AND LICENSOR EXPRESSLY DISCLAIMS, AND LICENSEE HEREBY EXPRESSLY WAIVES, ALL WARRANTIES EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. LICENSOR DOES NOT WARRANT THAT THE SOFTWARE WILL MEET LICENSEE'S REQUIREMENTS OR THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT ANY ERRORS CAN BE CORRECTED. THE ENTIRE RISK OF THE SOFTWARE'S QUALITY AND PERFORMANCE IS WITH LICENSEE.

LICENSOR SHALL HAVE NO LIABILITY WITH RESPECT TO ITS OBLIGATIONS UNDER THIS AGREEMENT FOR CONSEQUENTIAL, EXEMPLARY, OR INCIDENTAL DAMAGES EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ANY EVENT, THE LIABILITY OF LICENSOR TO LICENSEE FOR ANY REASON AND UPON ANY CAUSE OF ACTION SHALL BE LIMITED TO THE AMOUNT PAID TO LICENSOR BY LICENSEE UNDER THIS AGREEMENT. THIS LIMITATION APPLIES TO ALL CAUSES OF ACTION IN THE AGGREGATE, INCLUDING WITHOUT LIMITATION TO BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATIONS, AND OTHER TORTS. BOTH PARTIES UNDERSTAND AND AGREE THAT THE REMEDIES AND LIMITATIONS HEREIN ALLOCATE THE RISKS OF PRODUCT AND SERVICE NONCONFORMITY BETWEEN THE PARTIES AS AUTHORIZED BY THE UNIFORM COMMERCIAL CODE AND ALL OTHER APPLICABLE LAWS. THE LICENSE FEES HEREIN REFLECT, AND ARE SET IN RELIANCE UPON, THIS ALLOCATION OF RISK AND THE EXCLUSION OF CONSEQUENTIAL DAMAGES SET FORTH IN THIS AGREEMENT.

10. Indemnity

Licensor at its own expense will defend any action brought against Licensee to the extent that it is based on a claim that any software system used within the scope of this License Agreement infringes any patents, copyrights, license or other property right of any third party, provided that Licensor is notified in writing of such claim. Licensee shall be liable for any damage suffered by Licensor to the extent Licensee prejudiced Licensor's rights by failing to timely notify Licensor of any such claim. Licensor shall have the right to control the defense of all such claims, lawsuits and other proceedings. In no event shall Licensee settle any such claim, lawsuit or proceeding without Licensor's prior written approval, which approval shall not be unreasonably withheld.

If, as a result of any claim of infringement against any patent, copyright, license or other property right, Licensor is enjoined from using the Software, or if Licensor believes that the Software is likely to become the subject of a claim of infringement, Licensor at its option and expense may procure the right for Licensee to continue to use the Software, or replace or modify the Software so as to make it non-infringing. If neither of these two options is reasonably

practicable Licensor may discontinue the license granted herein on one month's written notice and refund to Licensee the unamortized portion of the license fees hereunder (based on four-year straight-line amortization). The foregoing states the entire liability of Licensor with respect to infringement of any copyrights or patents by the Software or any parts thereof.

Licensee hereby defends and holds Licensor harmless from any and all loss, costs, damages or expenses (including but not limited to reasonable attorney's fees) which may be incurred by Licensor relating to Licensee's use of the Software in any manner prohibited by this Agreement.

11. Termination

Licensor and Licensee shall each have the right to terminate this agreement and license(s) granted herein:

(a) Upon ten days' written notice in the event that the other party, its officers or employees breaches any material provision of this Agreement including but not limited to, confidentiality and payment;

(b) In the event the other party (i) terminates or suspends its business; (ii) becomes subject to any bankruptcy or insolvency proceeding under Federal or state statute or (iii) becomes insolvent or becomes subject to direct control by a trustee, receiver or similar authority; or

(c) In the event the other party breaches a material term of any other agreement which may exist between the parties, in which case, the non-breaching party may elect to terminate any or all said agreements.

In the event of termination by reason of the Licensee's failure to comply with any material part of this Agreement, or upon any act which shall give rise to Licensor's right to terminate, Licensor shall have the right, at any time, to terminate the license and take immediate possession of the Software and all copies wherever located, without demand or notice. Within fifteen (15) days after termination of the license, Licensee will return to Licensor the Software in the form provided by Licensor or as modified by the Licensee, or upon request by Licensor destroy the Software, and all copies of each, and certify in writing that they have been destroyed. Termination under this paragraph shall not relieve either party of its obligations regarding confidentiality of the Software. Termination of the Agreement shall be in addition to and not in lieu of any other remedies in law or in equity which may be available to Licensor. In the event of termination by Licensee following breach of a material term by Licensor, Licensee may retain the perpetual right to use the Software for which Licensee pays or has paid amounts due therefor.

Without limiting any of the above provisions, in the event of termination as a result of the Licensee's failure to comply with any of its material obligations under this Agreement, the Licensee shall continue to be obligated for any payments accrued and owing prior to the date of termination. Termination of the license(s) shall be in addition to and not in lieu of any equitable remedies available.

12. Taxes

Licensee shall, in addition to the other amounts payable under this Agreement, pay all sales and other taxes, federal, state, or otherwise, however designated, which are levied or imposed by reason of the license granted to Licensee by this Agreement, except for income taxes imposed upon licensing proceeds received by Licensor. Without limiting the foregoing, Licensee shall promptly pay to Licensor an amount equal to any such items actually paid, or required to be collected or paid by Licensor, upon reasonable notice thereof, together with supporting documentation.

13. Custom Modifications

All custom modifications to the Software may be undertaken by Licensor pursuant to the terms of another agreement entered into by and between the parties, the terms of which shall be mutually agreed upon prior to commencement of such custom modification effort.

14. General

(a) Each party acknowledges that it has read this Agreement, it understands it, and agrees to be bound by its terms, and further agrees that this is the complete and exclusive statement of the Agreement between the parties, which supersedes and merges all prior proposals, understandings and all other agreements, oral and written, between the parties relating to this Agreement. This Agreement may not be modified or altered except by written instrument duly executed by all parties.

(b) Dates or times by which either party is required to make performance under this license shall be postponed automatically to the extent that that party is prevented from meeting them by causes beyond its reasonable control.

(c) This Agreement and performance hereunder shall be governed by the laws of the State of Illinois, without regard to conflicts of law principles.

(d) The parties hereto consent and agree that all legal proceedings relating to the subject matter of this Agreement shall be maintained only in courts sitting within Lake or Cook Counties, Illinois, and each of the parties consents and submits to the jurisdiction of any local, state or federal court in said counties. The parties hereto waive any rights to have transferred or changed the venue of any litigation brought against them.

(e) No action, regardless of form, arising out of this Agreement may be brought by Licensee more than two years after the cause of action has arisen.

(f) If any provision of this Agreement is invalid, illegal or unenforceable under any applicable statute or rule of law, it is deemed modified to the extent necessary to render the provision enforceable.

(g) The Licensee may not assign or sub-license, (except to affiliates) without the prior written consent of Licensor, its rights, duties or obligations under this Agreement to any person or entity, in whole or in part. The term “affiliates” shall refer to entities which Licensee has a greater than 50% ownership interest.

(h) Each non-breaching party hereto shall have the right to collect from the breaching party, each non-breaching party’s reasonable expenses incurred in enforcing this Agreement including attorney’s fees.

(i) The waiver or failure of Licensor to exercise in any respect any right provided for herein shall not be deemed a waiver of any further right hereunder.

(j) Notice under this Agreement shall be deemed given when: delivered to the party personally, deposited in the U.S. Mail with first class postage prepaid to the party, faxed to the party, or sent via overnight courier with charges prepaid, next day delivery, all to the address or fax number indicated below.

(k) In the event of a breach of this Agreement, each party hereto acknowledges that the remedy at law may be inadequate and that the injured party shall be entitled to an injunction restraining such breach without the necessity to post a bond, in addition to all other remedies available in law or equity. Each party hereto agrees to reimburse the injured party for any and all loss, damages, costs, including but not limited to reasonable attorneys’ fees, and expenses incurred by the injured party in enforcing the provisions of this Agreement.

(l) Licensor shall not be required to modify the Software during the course of this Agreement so as to conform to new equipment or hardware, or to modify features or add additional features, except as per agreement of the parties hereto, and for such additional fees and payments and other conditions as the parties hereto shall agree in writing.

(m) Licensee agrees and acknowledges that Licensor may sell, license or otherwise distribute the Software to other parties as Licensor sees fit.

(n) Licensee agrees and acknowledges that Licensee will look only to Licensor and to no other party with regard to the performance of this Agreement, and that no other party shall be liable for Licensor’s non-performance of this Agreement.

(o) Licensee and all its affiliates or subsidiaries may use the Software pursuant to the terms of this Agreement. If Licensee is acquired, Licensee may assign its right under this Agreement to the acquiring company provided appropriate additional license fees have been paid by the acquiring company if it desires to use the Software outside of Licensee’s preexisting businesses.

Certification of Site and Number of Employees:

Description of the site/company/division covered by this license agreement is:

Number of employees in the site/company/division covered by this license agreement is:

_____.

Licensor Initials: _____

Licensee Initials: _____

Agreement with Software License Agreement and Schedules A, B and C:

LICENSOR:

Taylor Enterprises, Inc.

Address: 5510 Fairmont Road, Suite A
Libertyville, Illinois 60048

Signature: _____

Title: _____

Date: _____

Fax: _____

LICENSEE:

Company: _____

Address: _____

Signature: _____

Title: _____

Date: _____

Fax: _____

SCHEDULE A

Description of Software

VarTran Software

VarTran is a tolerance analysis package. It can perform statistical tolerancing, worst-case tolerancing, process tolerancing and sensitivity analysis. VarTran is also a robust design package. It not only evaluates an existing design by performing a tolerance analysis, it will identify the optimal design by finding the targets/nominals for the inputs that maximize the performance and minimize the variation of the output.

SCHEDULE B
License Fees
VarTran® Price List

Site Licenses: (Can also be applied to a company, division, business unit, etc.)

Size of Company (Number of Employees)	Price Per Company
<1,000	\$5,000
<5,000	\$10,000
<10,000	\$20,000
<30,000	\$30,000
>30,000	\$40,000

SCHEDULE C

SOFTWARE UPGRADE PURCHASE AGREEMENT

AGREEMENT (“Agreement”) by and between Licensor having its principal place of business at 5510 Fairmont Road, Suite A, Libertyville, Illinois 60048 and Licensee having its principal place of business at the location given below.

WHEREAS, Licensor has licensed to the Licensee certain Software as defined and specified in the Software License Agreement, by and between Licensor and Licensee (“Software License Agreement”) which agreement is incorporated herein by this reference, and the Licensee wishes to have Licensor provide software upgrades to the licensed Software pursuant to the following terms and conditions:

1. Software Covered

The software covered in this Agreement is the Software licensed by Licensor to Licensee, as more fully described in the Software License Agreement. During the terms of this Agreement, Licensor shall supply the Licensee with any improvements, upgrades or modifications to the Software which are not charged for as options, and which offer distinct functionality (“Upgrades”). Licensor shall have no obligation to develop Upgrades.

2. Licensee Responsibility

The Licensee shall inform Licensor in writing of any modifications made by the Licensee to the Software. Licensor shall not be responsible for modifications made to the Software by Licensee which affect the performance of the Upgrades.

3. Term

The term of this Agreement shall commence one year from the date of the Software License Agreement, and shall continue for a period of one year, during which time it may be terminated by either party on sixty (60) days’ prior written notice. This Agreement may be renewed by agreement of Licensee and Licensor for one (1) year periods by payment and acceptance of the Annual Upgrade Purchase Fee (as hereinafter defined) from Licensee to Licensor.

4. Price and Payment

Licensee shall pay to Licensor the Annual Upgrade Purchase Fee for the Software which is equal to 20% of Licensor’s license fee currently charged by Licensor. The Annual Upgrade Purchase Fee shall be payable in advance.

5. Adjustments to Terms and Conditions

Notwithstanding anything to the contrary contained herein, contained in the Software License Agreement or contained in the Consulting Agreement, if any, by and between Licensor and Licensee, Licensor, upon 30 days written notice to Licensee, may change the terms of this Agreement, or may choose to discontinue providing Upgrades; provided however, that Licensor shall be obligated to fulfill the balance of any remaining term of this Agreement or any renewals thereof. Licensee shall have the opportunity to review such changes and to terminate this Agreement if the changes are found unsatisfactory for a prorated refund of the fees based on the remaining term of the agreement.

6. Title to Software and Confidentiality

Any changes, additions, and enhancements in the form of new or partial programs or documentation as may be provided under this Agreement shall remain proprietary to Licensor. The Software License Agreement includes under its proprietary restrictions any such additional programming and documentation provided under this Agreement.

The Software or any improvements, modifications or changes to the Software provided hereunder and all copies thereof are proprietary to Licensor and title thereto remains in Licensor. All applicable rights to patents, copyrights, trademarks, and trade secrets in the Software and the improvements, modifications and changes thereto are and shall remain in Licensor. The Licensee shall not sell, transfer, publish, disclose, display or otherwise make available the Software or improvements, modifications or changes thereto or copies thereof to others. The Licensee agrees to use reasonable care to secure and protect each program, software product and copies thereof in a manner consistent with the maintenance of Licensor's rights therein and to take appropriate action by instruction or agreement with its employees who are permitted access to each program or software product to satisfy its obligations hereunder. All copies of the Software or improvements, modifications or changes thereto made by the Licensee including translations, compilations, partial copies with modifications and updated works are the property of Licensor.

Violation of any provisions herein shall be the basis for immediate termination of this Agreement. Termination of this Agreement shall be in addition to and not in lieu of any equitable remedies available.

7. Exclusion of Liability

LICENSOR MAKES AND LICENSEE RECEIVES NO WARRANTY EXPRESS OR IMPLIED AND THERE IS EXPRESSLY EXCLUDED ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. LICENSOR SHALL HAVE NO LIABILITY WITH RESPECT TO ITS OBLIGATIONS UNDER THIS AGREEMENT FOR CONSEQUENTIAL, EXEMPLARY, OR INCIDENTAL DAMAGES EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8. Termination

In the event of termination of the Software License Agreement, Licensor's obligations under this Agreement shall immediately end. Each party may terminate this Agreement in the event of default by the other.

9. Taxes

Licensee shall, in addition to the other amounts payable under this Agreement, pay all sales and other taxes, national, state, or otherwise, however, designated, which are levied or imposed by reason of the transactions contemplated by this Agreement, except for income taxes imposed on payments received by Licensor hereunder. Without limiting the foregoing, Licensee shall promptly pay to Licensor an amount equal to any such items actually paid, or required to be collected or paid by Licensor.

10. General

(a) Each party acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and further agrees that it is the complete and exclusive statement of the Agreement between the parties, which supersedes and merges all prior proposals, understandings and all other agreements, oral and written, between the parties relating to this Agreement. This Agreement may be modified or altered except by a written instrument duly executed by both parties.

(b) This Agreement and performance hereunder shall be governed by and construed in accordance with the laws of the State of Illinois. Any and all proceedings relating to the subject matter hereof shall be maintained in only the courts sitting within Lake or Cook Counties, Illinois, which courts shall have exclusive jurisdiction for such purpose.

(c) If any provision of this Agreement shall be held to be invalid, illegal or unenforceable under any applicable statute or rule of law, it is deemed modified to the extent necessary to render the provision enforceable.

(d) The Licensee may not assign without the prior written consent of Licensor, its rights, duties or obligations under this Agreement to any person or entity, in whole or in part.

(e) The waiver or failure of either party to exercise in any respect any right provided for herein shall not be deemed a waiver of any further right hereunder.