

High Energy Laser End-to-End Operational Simulation (HELEEOS)

Air Force Institute of Technology
Center for Directed Energy
2950 Hobson Way, WPAFB OH 45433

User's Agreement

1. **Introduction.** This Agreement is between Department of the Air Force, Air Force Institute of Technology (AFIT), Wright-Patterson AFB, OH (hereinafter referred to as "AFIT" or "Government") and _____ (hereinafter referred to as "User Site"). HELEEOS is an unclassified Air Force critical military technology software provided for authorized U.S. Government agencies and their contractors use only and shall not be released or disclosed outside the United States. The User Site's compliance with the conditions set forth herein is required in order to ensure, among other things, that HELEEOS is protected as an effective simulation tool for a wide range of applications.
2. **HELEEOS Components.** The source code, data files, and documentation for HELEEOS are subject to the terms and conditions of this Agreement.
3. **User Site Point-of-Contact.** The individual named below shall serve as the User Site point-of-contact for all correspondence concerning HELEEOS:

NAME: _____
ORGANIZATION: _____
ADDRESS: _____
TELEPHONE: _____
FAX: _____
E-MAIL ADDRESS: _____

4. **Terms and Conditions.**

a. HELEEOS was developed at Government expense. The Government has unlimited rights, as that term is defined by Defense Federal Acquisition Regulation Supplement (DFARS) 252.227-7014 to use, duplicate, release or disclose HELEEOS in whole or in part, in any manner and for any purpose whatsoever, and to permit others to do so. The User Site's right to use, modify and enhance HELEEOS under this Agreement is for the purpose of further developing HELEEOS as a simulation system for a wide range of applications.

b. The User Site is granted a nonexclusive, nontransferable right to use HELEEOS's name, code, and documentation at each activity or firm as specified herein.

c. The User Site shall not publish or permit HELEEOS to be published for profit or in any manner offered for sale. HELEEOS shall not be disclosed or transferred to any activity or firm without the prior written approval of the AFIT Center for Directed Energy (AFIT/CDE). AFIT/CDE's fax number for sending signed User Agreements is: DSN 986-6000 or Commercial (937) 656-6000.

d. The User Site shall not rename HELEEOS or merge HELEEOS, in whole or in part, with other models or programs unless prior written approval is obtained from AFIT/CDE. If deemed

in the Government's interest, approval to merge and control all or portions of HELEEOS as part of another system may be granted and the terms of this Agreement with respect to HELEEOS will no longer apply; use of the HELEEOS name to describe the products of such a merged model is not permitted without prior written approval of AFIT/CDE. Use of HELEEOS in a merged work not approved for separate control shall be subject to the terms and conditions of this Agreement.

e. Proposals to modify or enhance HELEEOS shall be submitted in writing to AFIT/CDE. All such modifications and enhancements to a HELEEOS version shall be reported in writing within one year of such modification to AFIT/CDE.

f. The User Site shall grant the Government unlimited rights, as defined by DFARS 252.227.7014 (Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation), in any modifications or enhancements to HELEEOS made during the term of this Agreement. The User Site agrees not to assert any proprietary right, claim or interest against the Government, its officers, agents, employees or contractors, resulting from modifications or enhancements made to HELEEOS using IR&D or other private funds.

g. The User Site may not make any claim or inference regarding this Agreement which implies government endorsement or recommendation.

5. Disclaimer of Warranty. HELEEOS IS PROVIDED "AS IS" WITHOUT ANY WARRANTY AS TO ITS PERFORMANCE, ACCURACY, OR FREEDOM FROM ERROR, OR AS TO ANY RESULTS GENERATED THROUGH ITS USE. THE USER SITE ASSUMES THE ENTIRE RISK FOR ANY DAMAGES IN CONNECTION WITH OR ARISING OUT OF THE FURNISHING, PERFORMANCE OR USE OF HELEEOS. THE GOVERNMENT DOES NOT WARRANT THAT HELEEOS WILL MEET THE USER SITE'S REQUIREMENTS OR OPERATE WITHOUT INTERRUPTION OR ERROR. THE GOVERNMENT IS NEITHER LIABLE NOR RESPONSIBLE FOR MAINTENANCE, UPDATING, OR CORRECTING ANY ERRORS IN HELEEOS AS PROVIDED.

6. Limitation or Remedies. In no event shall the Government or its Agencies be liable for any damages, including, without limitation incidental or consequential damages, such as damages for lost data or profits, arising out of the use of or inability to use HELEEOS. Neither party shall be liable to the other for any exemplary or punitive damages arising from this agreement.

7. Indemnity. The User Site agrees to indemnify the Government and its officers, agents, and employees against all liability and attorney fees and costs, resulting from unauthorized use, disclosure, transfer or sale of HELEEOS by the User Site in violation of any terms and conditions of this Agreement. This indemnity shall not apply unless the User Site is informed as soon as practicable by the Government of the suit or action alleging such liability and shall have been given such opportunity as is afforded by applicable law to participate in the defense thereof.

8. Termination. Either party may unilaterally terminate this entire Agreement at any time by giving the other party written notice not less than 30 days prior to the desired termination date. The User Site shall submit such written notice not less than 30 days prior to the desired termination date. The User Site shall submit such written notice to AFIT/CDE. Upon

termination of this Agreement, the User Site shall return or destroy all copies of HELEEOS, including copies or portions thereof embodied within any modified models or programs, developmental versions or unique study data sets. The User Site shall certify in writing that the original and all copies of HELEEOS have been accounted for and returned or destroyed. The Disclaimer of Warranty, Limitation of Remedies, Indemnity, and HELEEOS Component controls shall survive this Agreement.

9. **Governing Law**. This agreement shall be construed in accordance with DoD regulations, irrespective of where any action may be brought.

10. **Savings Provision**. If any provision of this Agreement is ruled invalid under any law, such provision shall be deemed modified or omitted to the extent necessary, and the remainder of this Agreement shall continue in full force and effect.

11. **Effective Date**. This Agreement will become effective and HELEEOS released only after it has been approved by AFIT/CDE.

12. **Complete Agreement**. This Agreement supersedes all prior written and oral communications regarding HELEEOS and sets forth the entire agreement between the parties. Any waiver or amendment of any provision of this Agreement shall be effective only if it is in writing and signed by a duly authorized representative of each party.

HELEEOS USERS AGREEMENT (Signature Page)

USER SITE

**UNITED STATES GOVERNMENT
(Model Manager)**

BY**	_____	BY	_____
NAME	_____	NAME	_____
TITLE	_____	DATE	_____
COMPANY OR ORGANIZATION	_____		
ADDRESS	_____		

DATE	_____		

** FOR NON-GOVERNMENT USER SITES, THE PERSON EXECUTING THIS AGREEMENT MUST BE ABLE TO LEGALLY BIND THEIR USER SITE.

NOTE: HIGHLIGHTED PARAGRAPHS DO NOT APPLY TO GOVERNMENT USER SITES.