

# AASHTOWare® DARWin® 3.1 Order Form

Master Licensing Agreement Number \_\_\_\_\_ Serial Number (ARA to complete) \_\_\_\_\_

## Acquisition Authority

Name \_\_\_\_\_  
Title \_\_\_\_\_  
Organization \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Phone \_\_\_\_\_  
Fax \_\_\_\_\_  
Email \_\_\_\_\_

## Licensing Option Information

### Which licensing fee option are you requesting?

- One-time fee option
- Annual-fee option
- Annual fee renewal

### What licensing option are you requesting?

- Standard
- Standard Upgrade
- Educational
- Travel Pak

### What type of license are you requesting?

- Local
- Network

### Are you a prior DARWin licensee?

- Yes
- No

### How many users do you want licensed to use DARWin? \_\_\_\_\_

\*\* If you are running Netware 5.1, please contact DARWin technical support before ordering. The network version of DARWin is not compatible with some features of Netware 5.1

## Submit order form, with payment, to:

DARWin Sales  
ARA, Inc., Transportation Sector  
100 Trade Centre Drive, Suite 200  
Champaign, IL, 61820

AASHTO member departments should send to:  
AASHTO  
444 North Capitol Street NW, Suite 249  
Washington, DC, 20001

## Shipping & Billing Information

Ship to same address as licensee

Name \_\_\_\_\_  
Title \_\_\_\_\_  
Organization \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

*DARWin will be shipped at no charge by UPS Ground. If you prefer other shipping methods, please call before sending payment. \*\*For International and Canadian orders, consignee pays all shipping charges, duty, and V.A.T.*

## Payment Method

- Check (payable to ARA, Inc.)
- Money order (payable to ARA, Inc.)
- Credit card (MasterCard/VISA only)

Credit Card Number \_\_\_\_\_

Expiration Date \_\_\_\_\_

## Software fee

1. Software fee: \$ \_\_\_\_\_
2. Add'l. DARWin 3.1 manuals (\$25 each): \_\_\_\_\_
3. International shipping costs: \_\_\_\_\_
4. Subtotal (lines 1 + 2 + 3): \_\_\_\_\_
5. Sales tax (7.25% of line 4): \_\_\_\_\_  
(Illinois organizations only, except  
AASHTO member departments)

**Total cost** \$ \_\_\_\_\_

## Ordering & Use Commitment

I have read the DARWin Licensing Agreement and accept the terms and conditions stated therein. I hereby place an order with Applied Research Associates, Inc. (hereinafter called ARA) for the DARWin computer program, as described in the DARWin Licensing Agreement.

Signature \_\_\_\_\_

Date \_\_\_\_\_

**AMERICAN ASSOCIATION OF STATE HIGHWAY  
AND TRANSPORTATION OFFICIALS**

**MASTER LICENSE SOFTWARE AGREEMENT**

MLA Agreement Number \_\_\_\_\_

This Master Agreement is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the American Association of State Highway and Transportation Officials, Inc., a corporation of the District of Columbia, with offices at 444 N. Capitol Street, N.W., Suite 249, Washington, D.C. 20001, (hereinafter "AASHTO"), and the organization named below, (hereinafter the LICENSEE), for the license and use of software products described herein.

ORGANIZATION Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

1. **Supplemental Agreements:** The LICENSEE and AASHTO shall have the right to enter into Supplemental Agreements pursuant to this Master Agreement, which shall contain the specific terms and conditions relating to the licensing and use of any of the Software Products covered by this Master Agreement, which Supplemental Agreements shall be considered to be incorporated into this Master Agreement and subject to all the terms and conditions thereof. This Master Agreement in and of itself does not license any specific Software Product, execution of a Supplemental Agreement under this Master Agreement being required to initiate such a license.
2. **Software Products:** The Software Products covered by this Master Agreement are all owned by AASHTO, and a list and brief description of those Software Products available from AASHTO and/or under development by AASHTO at the time the Master Agreement was executed is attached hereto as The Catalog. This list of The Catalog may be added to from time to time by AASHTO, and AASHTO reserves the right to withdraw Software Products from the list, but in so doing shall honor the terms of any Supplemental Agreements then outstanding covering such withdrawn Software Products. Supplemental Agreements executed pursuant to this Master Agreement shall specifically identify the AASHTO Software Product(s) being licensed, and any such Software Product(s) identified in such Supplemental Agreements shall be deemed to be included within this definition of Software Products and this Master Agreement.
3. **Grant of License:** AASHTO hereby grants, and the LICENSEE accepts, on the following terms and conditions, a limited, nontransferable and nonexclusive license to use AASHTO's Software Product(s) as identified and described in any Supplemental Agreements executed pursuant to this Master Agreement, which Supplemental Agreements are incorporated by reference herein. The LICENSEE's rights under this Master Agreement are those of a licensed user only, and the Software Product(s) shall at all times remain the property of AASHTO.
4. **Term:** This Master Agreement is effective from the date hereof and shall remain in force until terminated. The LICENSEE may terminate this Master Agreement at any time by notifying AASHTO in writing of its intent, which notification shall specify a termination date. All Supplemental Agreements to this Master Agreement would also be considered terminated on the termination date specified in such notification. The LICENSEE may terminate any Supplemental Agreement by similarly notifying AASHTO of its intent. Terminations of Supplemental Agreements do not terminate this Master Agreement. Termination of Supplemental Agreements either through termination of this Master Agreement or through termination of a specific Supplemental Agreement will require destroying the original and all copies, in whole or in part, in any form, including partial copies and modifications of the Software Product(s) received from AASHTO or made in connection with this Master Agreement. AASHTO may require the LICENSEE to terminate this Master

Agreement in the manner described above if the LICENSEE fails to comply with any of the terms and conditions of this Master Agreement.

5. **Use:** This Master Agreement and the Software Products may not be assigned, sublicensed, or otherwise transferred by the LICENSEE without prior written consent from AASHTO.
6. **Permission to Copy and Modify:** Any Software Product materials provided by AASHTO under this Master Agreement in machine readable form may be copied, in whole or in part, in printed or machine readable form, for use by LICENSEE, for archives or emergency restart purposes, to replace a worn copy, to understand the contents of such machine readable materials, or to modify the material as provided. The original and any partial or complete copies of materials named hereunder shall be the property of AASHTO.
7. **Protection and Security:** The LICENSEE agrees not to provide or otherwise make available the Software Product(s) provided under this Master Agreement in any form to any person other than the LICENSEE's designated personnel. The LICENSEE agrees to notify AASHTO immediately of the unauthorized possession, use, or knowledge of the Software Product(s) supplied under this Master Agreement, by any person or organization not authorized by this Master Agreement to have such possession, use, or knowledge. The LICENSEE will promptly furnish full details of such possession, use, or knowledge to AASHTO, will assist in preventing the recurrence of such possession, use or knowledge, and will cooperate with AASHTO in any litigation against third parties deemed necessary by AASHTO to protect its proprietary rights. The LICENSEE's compliance with this paragraph shall not be construed in any way as a waiver of AASHTO's rights to recover damages or obtain other relief against the LICENSEE for its negligent or intentional harm to AASHTO's proprietary rights, or for breach of contractual rights.
8. **Responsibilities of the LICENSEE:** The LICENSEE shall be exclusively responsible for the supervision, management, and control of its use of the Software Product(s) provided under this Master Agreement, including but not limited to: (1) assuring proper machine configuration, (2) establishing adequate backup plans for the software, and (3) implementing sufficient procedures to satisfy its requirements for security and accuracy of input, security of the output, proper execution of software, and accurate reproduction of output as well as restart, and recovery in the event of a malfunction.

Any LICENSEE modifications to the Software Products(s) are the responsibility of the LICENSEE to maintain.

9. **Warranty:** AASHTO makes no warranty regarding the performance or results that may be obtained by using the Software Product(s) provided under this Master Agreement, or that it is appropriate for the LICENSEE's purposes, or that it is error free.

The sole obligation of AASHTO shall be: (1) to make available to the LICENSEE all published modifications or updates made by AASHTO to the Software Product(s) provided to it for a period of 90 days after the effective date of this Master Agreement, or any Supplemental Agreement executed pursuant to this Master Agreement, and (2) to make available to the LICENSEE all such modifications or updates after the initial 90 days, only in the event the LICENSEE has a current Supplemental Agreement(s) with AASHTO.

10. **Limitation of Liability:** The foregoing warranty is in lieu of all other warranties, express or implied, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.
11. **Patent, Copyright, and Trade Secret Indemnification:** AASHTO will defend at its expense any action brought against the LICENSEE to the extent that it is based on a claim that the Software Product(s), provided under this Master Agreement and used within the scope of the license hereunder infringes a United States copyright or United States letters patent, or a trade secret. AASHTO shall have no liability for any claim of copyright, patent or trade secret infringement made

on : (1) use of other than the latest unmodified release of the materials from AASHTO if such infringement would have been avoided by use of the latest materials, or (2) use or combination of the licensed materials with non-AASHTO programs or data if such infringement would have been avoided by use or combination of the licensed materials with other programs or data. The foregoing states the entire liability of AASHTO with respect to infringement of any copyright, patent or trade secret by the Software Product(s) or any part thereof, and AASHTO shall have no liability with respect to any other proprietary rights.

12. **Right of Source Program:** If AASHTO, whether directly or through a successor or affiliate, shall cease to be a provider of Software Products, or if AASHTO should be declared bankrupt or insolvent by a court of competent jurisdiction, LICENSEE shall have the right to obtain, for its own and sole use only, a single copy of the then current version of the source programs for all programs supplied under this Master Agreement, and a single copy of the documentation associated therewith, upon payment to the person in control of the source program the reasonable cost of providing each copy. Each source program supplied to LICENSEE under this paragraph shall be subject to each and every restriction on use set forth in this Master Agreement, and LICENSEE acknowledges that the source programs and their associated documentation are extraordinarily valuable proprietary property of AASHTO and will guard against unauthorized use or disclosure with great care.
13. **Charges:** The license fees shall be set forth in Supplemental Agreements, and are incorporated by reference herein.
14. **General:** The term “Master Agreement” as used herein includes any future written amendments, modifications, supplements, or attachments made in accordance herewith. The LICENSEE agrees that its acceptance of the Software Product(s) from AASHTO under this Master Agreement is conclusive evidence that the license for such software is governed by the terms of this Master Agreement.

If any provision of this Master Agreement is determined to be unenforceable or invalid under any applicable statute or rule of law, the remaining provisions of this Master Agreement shall not be affected and shall remain in full force and effect.

The LICENSEE’s remedies in this Master Agreement are exclusive.

AASHTO and LICENSEE acknowledge that they have read this Master Agreement, understand it, and agree to be bound by its terms, and further agree that it is the complete and exclusive statement of the agreement between the parties, which supersedes all proposals, oral or written, and all other communications between the parties relating to the subject matter of the Master Agreement.

This Master Agreement shall be governed by the laws of the District of Columbia.

In the event of any conflict between the terms and conditions of this Master Agreement and the terms and conditions of any subsequent purchase order, the terms and conditions of the Master Agreement shall control.

For AASHTO:

For the AGENCY:

Name: Jagannath Mallela

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: Project Manager

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

# Supplement Licensing Agreement for AASHTOWare® DARWin®

## Product Description

DARWin is a computer program that was developed in accordance with *AASHTO Guide for Design of Pavement Structures*. DARWin 3.1 operates in the Microsoft Windows®95/98/NT/2000 environment, thus taking advantage of Windows multitasking capabilities and excellent screen graphics to computerize the pavement design process based on the updated AASHTO design equations for both flexible and rigid pavements. DARWin 3.1 contains four modules:

- Flexible Structural Design.
- Rigid Structural Design.
- Overlay Design.
- Life Cycle Cost Analysis.

Options within each module permit the calculation of secondary features such as layer thickness, ESALs, resilient modulus, and effective modulus of subgrade reaction. DARWin also includes reinforcement, tie bars, and joint reservoirs. Material properties can be backcalculated from deflection testing data. DARWin can also be used to determine life cycle cost estimates and compare alternatives designs. Additional enhanced capabilities include the ability to display cross-sections, sensitivity analysis plots, and profile plots.

DARWin 3.1 offers many new features and improved functionality over DARWin 2.0, the most significant being the incorporation of both English and metric units. Other new features include enhanced project file management, combined material and pay item libraries, enhanced deflection data processing, and enhanced graphical outputs such as pavement cross sections, project cash flow diagrams, and pavement deflection profiles.

Although this program is simple enough to be operated by almost anyone, it cannot and should not take the place of the professional judgment of a pavement engineer. A thorough understanding of engineering fundamentals and principles associated with pavement design is essential to the proper application of DARWin.

## System Requirements

The minimum hardware and software requirements needed to run DARWin are presented in the table below. In addition, a Microsoft mouse or other compatible pointing device is required. Although not needed to run DARWin, a printer that is compatible with Microsoft Windows can be used to generate hard copy output.

Minimum Requirements for DARWin 3.01	
Processor	IBM-compatible Pentium or higher
Operating System	Windows 95,98, 2000 or NT
Memory	32 MB RAM
Hard Disk	10 MB minimum free hard disk space
Disk Drive	CD-ROM drive
Graphics Card	VGA or higher resolution

## License Type and Options

Several licensing types and options are available. Please answer the questions on the order form to ensure that you receive the appropriate license.

*License Fee Options.* DARWin is offered for licensing based on either a one-time fee or annual licensing option. Both are shipped with a software lock, and both include limited technical assistance. See the enclosed table entitled “DARWin 3.1 Licensing Options and Fees” for pricing information. Other terms and conditions governing the licensing of DARWin are contained in the section “Licensing and Ordering Procedures.”

*Local versus Network License.* A DARWin license may be purchased for individual computers (local license) or for a network. A local license allows a single user to use DARWin on a specific computer. A network license allows simultaneous multiple users, up to the number of users for the license purchased, to run DARWin from a network file server.

*Educational License.* Qualifying educational institutions can purchase the educational version of DARWin. This version includes all the features and functionality of the standard version but at a reduced cost. However, it cannot be used for commercial purposes. Education applicants must agree to the terms and condition on the order form.

## Technical Assistance

The American Association of State Highway and Transportation Officials (Washington, DC), hereinafter called AASHTO, has contracted with Applied Research Associates, Inc., (Champaign, IL), hereinafter called ARA (the developer of all DARWin releases), to provide technical assistance to DARWin licensees. Technical assistance is available through several means, including a toll-free telephone support line, e-mail, and the Internet. This technical assistance will be limited to operation and direct application of DARWin program and provides for telephone access to ARA staff between the hours of 8:00 a.m. and 5:00 p.m. (Central Time), Mondays through Fridays except recognized holidays.

Technical assistance includes assisting the designated licensee’s user to properly install the product, to determine if there are any problems with the supplied program or documentation, and to provide general guidance in the use of the program and documentation. This technical assistance service is limited to the maximum of the hours of consultation and separate contacts initiated by the licensee’s designated user during the first 120 days after receipt of the product materials, as listed in the table below. Callback telephone calls or other such contacts will not be counted against the limit of the contacts.

# Supplement Licensing Agreement for AASHTOWare® DARWin®

Maximum Technical Assistance Services		
No. of Users	Total Hours	No. of Calls
1	3	8
5	4	10
10	4	12
20	5	14
100	6	20

Technical assistance does not include any support related to interpretation or application of any edition of the *AASHTO Guide for Design of Pavement Structures*, nor does it include any support related to difficulties encountered by the licensee in attempting to modify the program. These services are considered totally outside the scope of this license agreement. The licensee may contract ARA for such services under a separate contract and fee arrangement, which is agreed, will not involve or obligate AASHTO in any way.

## Licensing and Order Procedures

**READ THE FOLLOWING TERMS AND CONDITIONS BEFORE ORDERING THE DARWin PROGRAM.** Signing and returning the order form indicates your understanding and acceptance of the terms and conditions.

The AASHTOWare® computer program, DARWin, is a proprietary product of AASHTO and is protected by Copyright Law. AASHTO retains title to and ownership of the program and has authorized ARA to grant this license to use DARWin.

**License.** As a license, you may use the program and documentation on the number of computers licensed and make copies for backup purposes so long as all such copies clearly indicate that the software is owned by AASHTO and that the licensee acknowledges and observes all aspects of this license agreement.

In no event shall a licensee rent, see, give away, assign, or otherwise transfer in any form, any proprietary materials constituting the program or documentation or any parts thereof to another party that is not a part of the licensee's entity or organization as specified in this agreement.

License may not decompile, disassemble, or otherwise reverse engineer the program, or modify the program in any way without the prior written consent of AASHTO.

**Warranty.** If the DARWin software CD is defective, ARA will replace it at no charge if the defect is reported within 60 days from the date of receipt of the product materials.

AASHTO warrants that the program will perform in substantial compliance with the documentation supplied with the delivery of the DARWin package and makes no further warranties, expressed or implied, about its performance. If a licensee reports a significant defect in performance in writing, AASHTO or ARA will make its best efforts to correct the deficiency so that the program

conforms to the documentation within 90 days of such reporting.

If AASHTO or ARA is not able to correct a problem that is reported within 90 days of acquisition, the licensee may return all materials, including a written agreement that all copies of the program and documentation have been destroyed, and AASHTO or ARA will refund the one-time license fee.

License accepts the remedies described above as licensee's only remedies and recognizes that they will only be available if license has signed and agreed to all conditions of this license and order agreement.

**IN NO EVENT WILL AASHTO OR ARA BE LIABLE TO THE LICENSEE FOR ANY DAMAGES, INCLUDING ANY LOST PROFITS, LOST SAVINGS, OR OTHER INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE LICENSEE'S INABILITY TO USE THE PROGRAM, EVEN IF AASHTO OR AN AUTHORIZED CONTRACT/AGENT OF AASHTO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR FOR ANY CLAIM BY ANY OTHER PARTY. SOME STATES DO NOT ALLOW THE LIMITATION OR EXCLUSION OR LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, IN WHICH CASE THIS LIMITATION MAY NOT APPLY.**

## Term

This agreement shall remain in force from the date of agreement until terminated, in accordance with the terms and procedures stipulated in the Master Agreement. For the annual-fee option, the license granted under this agreement is limited to the following period:

From: \_\_\_\_\_ to: 30 June, \_\_\_\_\_

For the one-time license option, this agreement shall remain in force until canceled. DARWin license may be canceled at any time by submitting a written request to AASHTO.

I have read the licensing agreement for AASHTOWARE DARWin and accept the terms and conditions stated therein.

Organization: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_