



Waystream
Software License Agreement
(2022-01-28)

Waystream – Software License Agreement

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IF YOU DO NOT AGREE WITH THESE TERMS YOU ARE NOT PERMITTED TO DOWNLOAD, INSTALL OR USE THE SOFTWARE AND YOU SHOULD NOTIFY THE PARTY FROM WHICH YOU PURCHASED THE SOFTWARE TO OBTAIN A REFUND. THE SOFTWARE MAY NOT BE SOLD, TRANSFERRED OR FURTHER DISTRIBUTED EXCEPT AS AUTHORIZED BY WAYSTREAM.

1 INTRODUCTION

- 1.1 These General Terms and Conditions shall govern the use of Waystreams software. This Software License Agreement governs the use of Waystream AB ("Waystream") software, which includes firmware or other embedded software that is pre-installed or can be installed in Waystream products or other third party systems or functions within such software that requires a separate license to install, activate or use such function within the software and accompanying Documentation (collectively "Software").
- 1.2 Waystream is willing to license the Software to you or the entity you represent (collectively "You") and make available support and maintenance services (collectively "Support Services") only if You accept all of the terms of this agreement and any additional limitations on the license set forth in a supplemental license agreement accompanying the product, made available at the time of Your order, or posted on the Waystream website (collectively "Agreement").
- 1.3 By installing or using any Software, using the hardware product in which it was pre-installed upon delivery or by using any Support Service You will be deemed to have accepted this Agreement.
- 1.4 If You have not received the Software from Waystream or a Waystream-authorized reseller (collectively "Approved Source") You have no license to install or use the Software or right to receive Support.
- 1.5 If You and Waystream have signed a separate written agreement covering Your rights and duties with respect to the Software, then that written agreement takes precedence over any conflicting terms of this Agreement.
- 1.6 This Agreement governs any future releases, revisions, updates, or enhancements to the Software. Unless terminated as provided herein or expressly set forth in the Confirmation of Permitted Usage, the duration of the License is perpetual.

2 DEFINITIONS

For the purposes of the Software License Agreement, the highlighted terms below shall have the following meaning:

“Approved Source” means Waystream or a reseller, distributor, partner or systems integrator authorized by Waystream to distribute / resell Waystream equipment, Software license, Support Service and other services within Your Territory.

“Confidential Information” means any and all non-public information whether in writing, verbally or by any other means and whether directly or indirectly, including but not limited to technical, practical, and commercial information.

“Documentation” means material that describes the design, functions, operation or use of the licensed Software, know-how, instructions, guides and manuals which is supplied to You by an Approved Source in any manner (including digital, on-line or hard-copy).

“Object Code” means computer software programs in machine-readable format.

“Open Source Software” means any software that is licensed under any license terms or other contract terms (“Open License Terms”) which require, as a condition of use, modification and/or distribution of such software and/or any other software incorporated into, derived from or distributed with such software (“Derivative Software”), any of the following:

- a) that the source code of such software and/or any Derivative Software be made available to third parties;
- b) that permission for creating derivative works of such software and/or any Derivative Software be granted to third parties; and/or
- c) that a royalty-free license be granted to third parties under any intellectual property rights contained in the software and/or any Derivative Software.

By means of example and without limitation, Open License Terms include the following licenses or distribution models: the GNU General Public License (GPL), the GNU Lesser or Library GPL (LGPL), or any similar open source, free software or community licenses.

“Purchase Order” means the purchase order, contract, framework agreement or other deed by which You order or purchases the license for the Software or the Documentation.

“Software” means iBOS specific Waystream program modules, feature set(s) or feature(s), or other software owned by Waystream or Waystream Licensors, back-up copies and, to the extent covered by a Support Agreement between Waystream and You, Updates

(all of the foregoing in Object Code only) and the Documentation accompanying such software.

- “Source Code”** means the underlying computer program which
- a) comprises a product or part of a product,
 - b) is readable by human beings when displayed on a monitor or printed on paper, and
 - c) must be interpreted or translated, by a process generally known as compiling, into Object Code.
- “Supplemental License Agreement”** means a license agreement for the Software that defines additional limitations to this Agreement. Where applicable the Supplemental License Agreement is accompanying the product, made available at the time of Your order, or posted on the Waystream website.
- “Support Agreement”** is a separate agreement with Waystream or an Approved Source to obtain support services for the Software which may include Updates to the Software.
- “Support Service”** means any service provided as part of a Support Agreement.
- “Territory”** means the country or state where the You have your principal office, if the parties do not extend or limit the territory.
- “Update”** means Software bug fixes, enhancements, upgrades, updates or modified versions if and when made generally available by Waystream.
- “Waystream Licensors”** means the from time to time existing licensors of Waystream, who licenses software, patents or other rights that are embedded or otherwise included in the Software or Documentation.

3 LICENSE GRANT

- 3.1 Except as otherwise provided in this Agreement, and subject to due payment by You to an Approved Source of all required fees, Waystream grants You a non-exclusive, personal and non-transferable license to, on the terms and conditions set forth in this Agreement and any applicable Supplemental License Agreement, use the Software on the equipment designated in the Documentation and only as authorized in this Software License Agreement. For embedded Software, You shall only use the Software in connection with the use of Waystream equipment purchased by You from an Approved Source. You may make one (1) archival copy of the Software for backup purposes provided that You affix to such copy all copyright, confidentiality, and proprietary notices that appear on the original. Except as authorized by this

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- 3.2 The Software and Documentation are protected under copyright laws. The title to Software and Documentation remain solely with Waystream and Waystream Licensors.
- 3.3 You acknowledge that the Software and Documentation contain trade secrets of Waystream or its suppliers or licensors, including but not limited to the specific internal design and structure of individual programs and associated interface information.
- 3.4 Except as authorized above, You shall not: copy, in whole or in part, the Software or the related Documentation; modify, reverse assemble, reverse compile, or otherwise translate, disassemble, or obtain source code for the Software or Documentation, in whole or in part, or permit a third party to do so; rent, lease, distribute, sell, or create derivative works of the Software; pledge, lease, rent, sublicense or share its rights under this License Agreement; or, without Waystream's prior written consent, assign or transfer its rights hereunder. Nor shall You use the Software on unauthorized or second-hand Waystream equipment or publish any results of benchmark tests run on the Software.
- 3.5 Your license to use the Software shall be limited to, and You shall not use the Software in excess of, a single hardware chassis or card or such other limitations as are set forth in the applicable Supplemental License Agreement or in the applicable Documentation for the Software.

4 LICENSE FEES AND REGISTRATION

- 4.1 The license fees paid by You are paid in consideration of the license granted under this License Agreement.
- 4.2 You agree to monitor Your use of all Software and generate accurate, complete and auditable records of levels of that use. If at any time Your maximum level of use of the Software exceeds the number or type of License You have purchased, then You shall order and purchase sufficient Licenses (in increments of the applicable minimum allowable number of Licenses) to meet or exceed the maximum level of use of the Software. Failure to timely purchase and pay for the required additional License shall be a material breach of this Agreement.
- 4.3 In order to use the Software, You may be required to input or upload a registration number, product authorization key or license file or connect the Software to a Waystream licensing server and register Your copy of the Software and the product. If the Software does not employ programmatic license enforcement ("Trust Based Licensing Model") it is Your responsibility to both monitor Your usage and purchase sufficient licenses to meet Your Software usage.

5 AUDIT

- 5.1 You shall allow Waystream and Waystream Licensors to verify Your compliance with this Agreement ("Audit") upon reasonable advance notice, You shall, throughout the term of this license and for three years thereafter, provide to Waystream,

Waystream Licensors, partners and its professional advisors access to such facilities, personnel, records and reports as reasonably necessary for it to validate compliance with this Agreement.

- 5.2 If such Audit discloses that You used the Software in excess of applicable and valid Licenses and failed timely purchase additional licenses upon notice of audit results, You shall immediately purchase and pay for sufficient additional Licenses (in increments of the applicable minimum allowable License) to meet or exceed Your maximum level of use of the Software found during the audit, pay late payment fees accruing on the purchase price of such additional Licenses at the highest rate permitted by law per month for each calendar month since the month on which Your use first exceeded Your License, and pay the reasonable costs incurred by Waystream in conducting the Audit.

6 UPDATES AND SUPPORT

You may obtain Support Services, including Updates, for the Software from an Approved Source but Such Support Services may require an additional fee. Updates are not supplied under this Agreement but form part of the Software and are thus subject to the conditions of this Agreement. Your right to receive and use Updates to the Software is dependent on You having a valid Support Agreement for the Software. You have no license or right to use any such Update unless You, at the time of acquiring the Update, already hold a valid license to the original Software and have paid the applicable fee for the Update and/or Support Service.

7 CONFIDENTIALITY

- 7.1 You agree that the Software and Documentation contain Waystream and Waystream Licensor confidential and proprietary intellectual property protected under copyright law, and in its nature Confidential Information. You agree to not copy, disclose, provide, or otherwise make available any Confidential Information. In addition, You shall not take any action to sublicense, assign or otherwise disclose information about the operation, design, performance or implementation of the Software to any third party.
- 7.2 Any Confidential Information shall be held by the You in trust and used only as necessary for the performance of this Agreement, and shall be treated with no less than a reasonable degree of care. By entering this You agree to implement all reasonable security measures to protect such confidential and proprietary information and copyrighted material.
- 7.3 Your obligations of confidentiality hereunder shall terminate when if You can demonstrate that the Confidential Information:
- a) was independently developed by You party without reliance on the Waystream's Confidential Information.
 - b) is already in the public domain or becomes generally known or published without breach of this Agreement; or
 - c) is legally required to be disclosed provided that the party so compelled shall promptly notify the other party so as to permit such other party to appear and object to the disclosure and further provided that such disclosure shall

not change or diminish the confidential and/or proprietary status of the Confidential Information.

8 TERM AND TERMINATION

8.1 This Agreement will become in effect when You obtain, download, install or use the Software or hardware in which the Software is installed and continues until terminated. You may terminate the Agreement and the license at any time by returning all copies or portions thereof of Software and Documentation to Waystream. Your rights under the Agreement will terminate immediately without notice from Waystream if You fail to comply with any provision of the Agreement. Upon such termination by Waystream You must return the Software and Documentation and all copies or portions thereof to Waystream. Termination of this Software License Agreement shall not prejudice Waystreams' right to damages or other available remedy.

8.2 Upon termination of the Agreement, You shall return all material, all information, and anything else which belongs to the other Party, with the exception of material which is necessary to exercise the rights which survive termination of the Agreement in accordance with this Agreement. Upon written request by a Waystream, the You shall permanently and irrevocably destroy all data related to the Agreement and the Software.

9 LIMITED WARRANTY

9.1 Waystream warrants that for a period of ninety (90) days from the date of shipment from Waystream that the Software substantially conforms to its published specifications.

9.2 The limited warranty extends only to You as the original licensee. Your exclusive remedy and the entire liability of Waystream under this limited warranty will be, at Waystreams sole discretion, to repair or replace the Software or to refund the amounts paid by You under this Software License Agreement. You accept that this is the sole and exclusive remedy for breach by Waystream or Waystream Licensors of any warranties made under this Agreement.

9.3 Waystream does not warrant:

- a) that the functions contained in the Software will meet Your requirements;
- b) that the Software will operate in the hardware or software combination that You may select;
- c) that the operation of the Software will be uninterrupted or error free; or
- d) that all defects in the operation of the Software will be corrected.

9.4 Neither the Software nor any Waystream hardware system on which it may be installed is designed or intended for

- a) use in the design, construction, operation or maintenance of any nuclear facility;
- b) navigating or operating aircraft; or
- c) operating life-support or life-critical medical equipment.

- 9.5 In addition, this warranty does not apply if the Software (or the hardware on which the Software operates); has been altered, except by Waystream; has not been installed, operated, repaired, or maintained in accordance with documentation and instructions supplied by Waystream; has been subject to unreasonable physical, thermal or electrical stress, misuse, negligence or accident; or has been licensed solely for research and development use, lab use, evaluation use or demonstration use or if the Software is beta software or otherwise not commercially released.
- 9.6 Except for the warranties set forth above, the software is licensed "as is," and Waystream disclaims any and all other representations, conditions, and warranties, whether express, implied, or statutory, including, without limitation, any implied warranties of merchantability or fitness for a particular purpose or any warranties for noninfringement or arising from a course of dealing, usage, or trade practice. Any and all such warranties are hereby excluded to the extent allowed by applicable law. Waystream's licensors do not make or pass on to you or any third party any express, implied, or statutory warranty or representation, including, but not limited to, implied warranties of merchantability or fitness for a particular purpose or any warranties for noninfringement. Waystream disclaims any warranty, representation or assurance that the software, or any equipment or network running the software, will operate without error or interruption, or will be free of vulnerability to intrusion or attack.

10 PROPRIETARY RIGHTS INDEMNIFICATION

- 10.1 Waystream shall at its expense defend You against and, subject to the limitations set forth elsewhere herein, pay all costs and damages made in settlement or awarded against You resulting from a claim that the Software as supplied by Waystream infringes a Swedish copyright or a patent, or misappropriates a Swedish trade secret, provided that You:
- a) provide prompt written notice of any such claim,
 - b) allow Waystream to direct the defense and settlement of the claim, and
 - c) provide Waystream with the authority, information, and assistance that Waystream reasonably deems necessary for the defense and settlement of the claim.
- 10.2 You shall not consent to any judgment or decree or do any other act in compromise of any such claim without first obtaining Waystream's written consent. In any action based on such a claim, Waystream may, at its sole option, either:
- a) obtain for You the right to continue using the Software,
 - b) replace or modify the Software to avoid the claim, or
 - c) if neither (a) nor (b) can reasonably be effected by Waystream, terminate the license granted hereunder and give You a pro rata refund of the license fee paid for such Software, calculated on the basis of straight-line depreciation over a five-year useful life.

- 10.3 Notwithstanding the preceding sentence, Waystream will have no liability for any infringement or misappropriation claim of any kind if such claim is based on:
- a) the use of other than the current unaltered release of the Software and Waystream has provided or offers to provide such release to You for its then current license fee, or
 - b) use or combination of the Software with programs or data not supplied or approved by Waystream if such use or combination caused the claim.

11 LIMITATION OF LIABILITY

Waystream shall not be responsible for any lost data, down-time, loss-of-profit, indirect, incidental, special, or consequential damages arising out of the licensing or use of the software or the documentation. Waystreams' cumulative liability shall never exceed the total fees paid to waystream for the software.

12 U.S. GOVERNMENT LICENSE RIGHTS

If any of the Software or the Documentation is acquired under the terms of a proposal or agreement with the U.S. Government or any contractor thereof, all such Software or Documentation is provided with the commercial license rights and restrictions described elsewhere herein.

13 GOVERNING LAW AND EXPORT

- 13.1 This agreement and any disputes hereunder shall be governed by and construed and enforced in accordance with the laws of Sweden, without reference to principles of conflict of laws. The United Nations Convention on the International Sale of Goods and the Uniform Computer Information Transactions Act shall not apply. If any portion of the Agreement is found to be void or unenforceable, the remaining provisions of the Agreement shall remain in full force and effect.
- 13.2 Any dispute, controversy or claim arising out of or in connection with this Agreement, or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the Rules of the Arbitration Institute of the Stockholm Chamber of Commerce. The place of arbitration shall be Stockholm and the language to be used in the arbitral proceedings shall be English. The parties shall share the procedural costs of arbitration equally, and each party shall pay its own attorneys' fees and other costs and expenses associated with the arbitration, unless the arbitrator decides otherwise. The arbitrator's award shall be in writing and shall include a statement of reasons, but the arbitrator shall not be permitted to award punitive or indirect damages. The arbitrator's decision and award shall be final and binding and may be entered in any court having jurisdiction. The terms of this section shall not prevent any party from seeking injunctive relief in any court of competent jurisdiction in order to protect its proprietary and confidential information. If any term or provision hereof is found to be void or unenforceable by a court of competent jurisdiction, the remaining provisions of this Software License Agreement shall remain in full force and effect.
- 13.3 The Software and Documentation may be subject to EU and U.S. export control laws, including but not limited to the U.S. Export Administration Act and its associated regulations and the International Traffic in Arms Regulations administered by the US

Department of State, and may be subject to export or import regulations in other countries. You agree to comply strictly with all such regulations and acknowledges that You have the responsibility to obtain licenses to export, re-export, or import the Software.

14 LICENSOR RIGHTS

Any licensor of Waystream whose software is embedded in the Software shall be a third party beneficiary with respect to this Agreement, and that licensor shall have the right to enforce this Agreement in its own name as if it were Waystream. In addition, certain third party software may be provided with the Software and is subject to the accompanying license(s), if any, of its respective owner(s). To the extent portions of the Software are distributed under and subject to open source licenses obligating Waystream to make the source code for those portions publicly available (such as the GNU General Public License ("GPL") or the GNU Lesser General Public License ("LGPL")), Waystream will make those source code portions (including Waystream modifications, as appropriate) available upon request for a period of up to three years from the date of distribution. Administrative costs for handling such requests will apply. You may obtain a copy of the GPL at <http://www.gnu.org/licenses/gpl.html>, and a copy of the LGPL at <http://www.gnu.org/licenses/lgpl.html>.

15 OTHER AGREEMENTS

15.1 If You and an authorized representative of Waystream have signed a valid separate written agreement governing Your use of any or all Software licensed from Waystream, then with respect to that Software that signed agreement will take precedence over any inconsistent terms of this Agreement.

15.2 For certain Software Waystream may publish a Supplemental License agreement on its website or provide as part of the product shipment. The terms of that Supplemental License Agreement are incorporated into the Agreement as to the Software addressed by that Supplemental License Agreement. The Supplemental License Agreement shall take precedence over any inconsistent term of this Agreement.

15.3 If You Licensed any Software from Waystream under a different Software License Agreement, then this Agreement shall apply to that Software if and when, following posting of this Agreement at Waystream website, You either purchase additional License of the Software, renew the license at the end of the license term, reinstate the license after the license expires or purchase or renew Support Service for the Software.

16 THE AGREEMENT

16.1 This Software License Agreement together with the applicable Supplemental License Agreement constitutes the entire agreement between the parties and supersedes all prior agreements between the parties concerning the Software. The pre-printed terms and conditions on any forms, purchase orders or confirmations of the parties shall be void and of no effect. No amendment, modification, or waiver of any provision of this Agreement will be valid unless in writing and signed by the

authorized representative of the party against which such amendment, modification, or waiver is sought to be enforced. The waiver by either party of any default or breach of this Agreement shall not constitute a waiver of any other or subsequent default or breach. This Agreement shall be binding upon the parties and their respective successors and permitted assigns.