

NOTICE: THIS IS A LEGALLY BINDING AGREEMENT BETWEEN THE RECIPIENT OF THE PRODUCTS (THE “CUSTOMER”) AND AVEVA SOFTWARE, LLC (“AVEVA”) (COLLECTIVELY, THE “PARTIES” AND EACH, A “PARTY”). PLEASE READ IT CAREFULLY.

IF YOU CLICK THE “I AGREE” BUTTON:

- 1. YOU AGREE THAT CUSTOMER WILL BE BOUND TO THE TERMS OF THIS END USER LICENSE AGREEMENT (THE “AGREEMENT”);**
- 2. YOU REPRESENT AND WARRANT THAT YOU HAVE AUTHORITY TO ENTER INTO THIS AGREEMENT ON BEHALF OF CUSTOMER; AND**
- 3. YOU REPRESENT AND WARRANT THAT YOU HAVE READ AND AGREED TO THE TERMS OF THIS AGREEMENT. ALTERNATIVELY, BY USING THE PRODUCTS, YOU CONFIRM THAT CUSTOMER AGREES TO BE BOUND BY THESE TERMS.**

IF YOU DO NOT AGREE WITH THE TERMS OF THIS AGREEMENT, DO NOT CLICK “I AGREE” AND DO NOT USE THE PRODUCTS. YOU MUST THEN PROMPTLY DELETE THE LICENSE FILES AND SOFTWARE FROM YOUR COMPUTER AND RETURN THE LICENSE FILE MEDIA, THE ENTIRE MEDIA PACKAGE, AND ALL OTHER ITEMS (INCLUDING DOCUMENTATION AND PACKAGING) WITHIN THIRTY (“30”) DAYS OF PURCHASE TO THE PLACE FROM WHICH YOU OBTAINED IT.

IF A SYSTEM INTEGRATOR, CONTRACTOR, CONSULTANT, OR ANY OTHER PARTY INSTALLS OR USES THE SOFTWARE ON YOUR BEHALF PRIOR TO YOUR USE OF THE SOFTWARE, SUCH PARTY WILL BE DEEMED TO BE YOUR AGENT ACTING ON YOUR BEHALF, AND YOU WILL BE DEEMED TO HAVE ACCEPTED ALL OF THE TERMS AND CONDITIONS CONTAINED IN THIS EULA AS IF YOU HAD INSTALLED OR USED THE SOFTWARE YOURSELF.

AVEVA GENERAL TERMS AND CONDITIONS

1. STRUCTURE AND ORDER OF PRIORITY.

- 1.1 Structure of the Agreement.** The Agreement consists of the following: (a) these GTCs and the attached Exhibit A (Definitions); (b) any Transaction Documents entered into in accordance with these GTCs; and (c) the Software and Support Addendum set forth below, which Software and Support Addendum is incorporated into these GTCs by reference; and (d) the AVEVA Software Schedule P&O APM M&C (Excluding Process Optimization and Spiral) (“Software Schedule”) set forth below.
- 1.2 Order of Priority.** In the event of a conflict between provisions in any documents relating to the Agreement, the documents shall be given precedence in the following order: (a) Transaction Document; (b) Software Schedule (except for express deviations from the Transaction Document which are identified in the Software Schedule); (c) Software and Support Addendum; and (d) GTCs.
- 1.3 References.** Except where otherwise specified, all dollar amounts are expressed in United States dollars (US\$).

2. USE OF PRODUCTS.

- 2.1 Right to Use.** In accordance with the terms of the Agreement, AVEVA will deliver and make the Products listed in the Transaction Document available to Customer. Customer has the right to use the Products as set forth in the Transaction Document, Software and Support Addendum, and Software Schedule, as applicable.
- 2.2 Transaction Documents.** Customer may purchase Products from time to time by entering into a Transaction Document. Depending on which Products that Customer purchases in the Transaction Documents, Customer may be subject to and shall comply with any and all additional terms included in the Software Addendum, which is set forth below and made a part of these GTCs.

3. PAYMENTS AND TAXES.

- 3.1 Payment. Upon credit approval, unless otherwise agreed in the applicable Transaction Document, Customer shall pay all fees specified in the applicable invoice for the Products and Support Services within thirty (30) days from the invoice date. Customer shall pay a late charge of 1.5% per month on all payments which are not paid when due.
- 3.2 Taxes. Fees and other charges described in the Agreement do not include taxes. Unless otherwise agreed in the applicable Transaction Document, Customer will pay any sales, value-added or other similar taxes imposed by applicable law based on the Products and Support Services that Customer ordered, except for taxes based on AVEVA's income. If AVEVA is required to pay taxes (other than taxes based on AVEVA's income), Customer shall reimburse AVEVA for such amounts. If Customer is required by law to make any tax withholding from amounts paid or payable to AVEVA under the Agreement, (i) the amount paid or payable shall be increased to the extent necessary to ensure that AVEVA receives a net amount equal to the amount that it would have received had no taxes been withheld and (ii) Customer shall provide proof of such withholding to AVEVA.
- 3.3 Customer will provide proof of any exemption from sales taxes to AVEVA at least fifteen (15) Business Days before the due date for paying an invoice. If AVEVA does not collect the required sales from Customer but is subsequently required to remit the sales taxes to any taxing authority, Customer will promptly reimburse AVEVA for the sales taxes, including any accrued penalty or interest charges if the failure to timely collect and remit was not due to the fault of AVEVA.
- 3.4 Each party is responsible for its own income taxes or taxes based on gross revenues or gross receipts.
- 3.5 Non-Refundable Fees. Customer acknowledges and agrees that orders placed by Customer for Products and Support Services will be non-cancellable and the fees paid are non-refundable unless otherwise expressly stated in the Agreement.

4. INTELLECTUAL PROPERTY RIGHTS.

- 4.1 AVEVA Ownership. All Intellectual Property Rights in and to the Products, Support Services, design contributions, related knowledge or processes, and any update, upgrade, modification, enhancement or derivative works of the foregoing, regardless of whether or not solely created by AVEVA or jointly with the Customer, shall belong to, and vest in, AVEVA or, as applicable, its licensors. All rights not expressly granted to Customer are reserved to AVEVA or, as applicable, its licensors.
- 4.2 Rights to Customer Content. Customer retains all right, title, and interest in and to the Customer Content. During the Term, Customer hereby grants to AVEVA and its Affiliates a global, royalty-free, irrevocable, sub-licensable, non-exclusive license to use, copy, distribute, modify, display, and perform the Customer Content as necessary for AVEVA to perform its obligations under the Agreement.
- 4.3 Non-Assertion of Rights. Customer covenants, on behalf of itself and its successors and assigns, not to assert against AVEVA, its Affiliates or licensors, any rights, or any claims of any rights, in any Products, Documentation or Support Services, and Customer hereby voluntarily waives any right to demand from AVEVA, its Affiliates or licensors any rights to any Products, Documentation or Support Services, except the rights which are expressly granted to Customer under the Agreement.
- 4.4 Suggestions and Residual Knowledge. AVEVA shall have all right, title and interest, including, without limitation, all Intellectual Property Rights, in and to, and the unrestricted royalty-free right to use and incorporate into the Products and Support Services, any suggestions, enhancement requests, recommendations or other feedback provided by Customer, relating to the Products and Support Services. Furthermore, Customer acknowledges and agrees that AVEVA is free to use its general knowledge, skills and experience, and any ideas, concepts, know-how and techniques, related to or derived from the performance of the Agreement.
- 4.5 AVEVA Trademarks. Unless otherwise expressly stated in this Agreement, AVEVA retains all goodwill in and Customer has no rights in any trademark owned by AVEVA, whether registered or unregistered, including but not limited to the following: AVEVA, the AVEVA logo, Wonderware and InTouch. A list of AVEVA trademarks can be found at <https://sw.aveva.com/legal/trademarks>

5. CONFIDENTIALITY.

- 5.1 Confidential Information. From time to time, either Party (the "Disclosing Party") may disclose or make available to the other Party (the "Receiving Party"), whether orally or in physical form, confidential or proprietary information of or in the possession of the Disclosing Party (including confidential or proprietary

information of a third party that is in the possession of the Disclosing Party) in connection with the Agreement. The term “Confidential Information” means any and all information in any form that Disclosing Party provides to Receiving Party in the course of the Agreement and that either (i) has been marked as confidential; or (ii) is of such nature that a reasonable person would consider confidential under like circumstances. For the avoidance of doubt, Confidential Information includes any Products and Support Services and any information pertaining to such Products and Support Services (including, but not limited to, any user manuals, mathematical techniques, correlations, concepts, designs, specifications, listings, and other Documentation, whether or not embedded on a device or another form of media). Notwithstanding the foregoing, Confidential Information shall not include any information, however designated, which the Receiving Party can show (a) is or has become generally available to the public without breach of the Agreement by the Receiving Party, (b) became known to the Receiving Party prior to disclosure to the Receiving Party by the Disclosing Party, (c) was received from a third party without breach of any nondisclosure obligations to the Disclosing Party or otherwise in violation of the Disclosing Party’s rights, or (d) was developed by the Receiving Party independently of any Confidential Information received from the Disclosing Party.

5.2 Confidentiality Obligations. Each Party or third party whose Confidential Information has been disclosed retains ownership of its Confidential Information. Each Party agrees to (i) protect the Confidential Information received from the Disclosing Party in the same manner as it protects the confidentiality of its own proprietary and confidential materials but in no event with less than reasonable care; and (ii) use the Confidential Information received from the Disclosing Party solely for the purpose of the Agreement. Upon termination of the Agreement or upon written request submitted by the Disclosing Party, whichever comes first, the Receiving Party shall return or destroy, at the Disclosing Party’s choice, all of the Disclosing Party’s Confidential Information. Notwithstanding the foregoing, AVEVA shall not be required to return or destroy any such Confidential Information if such return or destruction is impracticable or technically infeasible. Except with respect to its Affiliates, employees, contractors, or agents who need to know Confidential Information in order to support the performance of such Party’s obligations related to the Agreement, and who are contractually bound by confidentiality obligations that are at least as protective as those contained in the Agreement, neither Party shall, disclose to any person any Confidential Information received from the Disclosing Party without the Disclosing Party’s prior written consent. The Receiving Party will be responsible for any breach of this Section 5 (Confidentiality) by its Affiliates, employees, contractors, and agents and any third party to whom it discloses Confidential Information in accordance with this Section 5 (Confidentiality). For Confidential Information that does not constitute a “trade secret” under applicable law, these confidentiality obligations will expire three (3) years after the termination or expiration of the Agreement. For Confidential Information that constitutes a “trade secret” under applicable law, these confidentiality obligations will continue until such information ceases to constitute a “trade secret” under such applicable law. However, the Receiving Party may disclose Confidential Information pursuant to an order of a court or governmental agency, provided, that, if permitted by applicable law, the Receiving Party shall first notify the Disclosing Party of such order and afford the Disclosing Party the opportunity to seek a protective order relating to such disclosure. Notwithstanding anything to the contrary contained in this Agreement, Customer authorizes AVEVA to collect, use, disclose, and modify in perpetuity information or data (including, but not limited to, general usage information and measurements) that is provided by Customer in connection with the use or receipt of the Products and Support Services (or generated or created in the course of AVEVA providing the Products and Support Services) for the purposes of developing, improving, optimizing, and delivering Products and Support Services; provided, however, that any disclosure of such data shall only include information or data that AVEVA develops or derives from such collected data or information (but such disclosure will not include the actual underlying Confidential Information of Customer).

5.3 Press Releases and Client List Reference. Neither Party shall issue any press release concerning the other Party’s work without the other Party’s consent. Notwithstanding the foregoing, AVEVA may identify Customer as a client of AVEVA and use Customer’s name and logo and release an announcement regarding the award of the Agreement and AVEVA is hereby granted a license for the term of the Agreement to use Customer’s name and logo for this purpose from time to time as needed. AVEVA may generally describe the nature of the work in AVEVA’s promotional materials, presentations, case studies, qualification statements, and proposals to current and prospective clients.

6. DATA PROTECTION.

6.1 Customer Content. Customer is responsible for the Customer Content and entering it into the Products. Customer has sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of Customer Content, and for obtaining all rights related to Customer Content required in connection with the performance, receipt or use of the Products or Support Services. Customer will collect and maintain all personal data contained in the Customer Content in compliance with applicable data privacy and protection laws.

6.2 Security. Customer will maintain reasonable security standards for the use of the Products by users. Customer is solely responsible for determining the suitability of the Products for Customer's business processes and for complying with all applicable legal requirements regarding Customer Content and its use of the Products. Customer will provide reasonable assistance required in connection with the provision of the Products and the support by AVEVA. Customer acknowledges and agrees that Customer's reasonable assistance is a necessary precondition for AVEVA's correct performance of its obligations under the Agreement. Customer bears all consequences and costs resulting from breach of its duties.

7. DISCLAIMER OF WARRANTIES.

EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES SET FORTH IN THE AGREEMENT (INCLUDING ANY APPLICABLE SCHEDULES AND/OR ANY APPLICABLE ADDENDA), AVEVA AND ITS LICENSORS DISCLAIM ALL OTHER WARRANTIES, REPRESENTATIONS, OR STATEMENTS, WHETHER EXPRESS, IMPLIED OR STATUTORY INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE EXCEPT TO THE EXTENT THAT ANY WARRANTIES IMPLIED BY LAW CANNOT BE VALIDLY WAIVED. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY AVEVA, ITS DEALERS, DISTRIBUTORS OR AGENTS OR EMPLOYEES SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF THE WARRANTIES SET FORTH IN THE AGREEMENT AND CUSTOMER MAY NOT RELY ON ANY SUCH INFORMATION OR ADVICE. AVEVA DOES NOT WARRANT THAT THE PRODUCTS OR SUPPORT SERVICES WILL MEET CUSTOMER'S REQUIREMENTS, THAT THE PRODUCTS OR SUPPORT SERVICES WILL OPERATE IN COMBINATIONS OTHER THAN AS SPECIFIED IN AVEVA'S DOCUMENTATION (AS APPLICABLE), THAT THE OPERATION OF THE PRODUCTS OR SUPPORT SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE OR THAT THE PRODUCTS OR SUPPORT SERVICES WILL PROTECT AGAINST ALL POSSIBLE SECURITY THREATS, INTERNET THREATS OR OTHER THREATS OR INTERRUPTIONS. THE PRODUCTS OR SUPPORT SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS AND MAY BE SUBJECT TO TRANSMISSION ERRORS, DELIVERY FAILURES, DELAYS AND OTHER LIMITATIONS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS.

8. LIMITATION OF LIABILITY.

8.1 CONSEQUENTIAL DAMAGES. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, IN NO EVENT SHALL AVEVA BE LIABLE FOR (A) ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, SPECIAL, PUNITIVE OR SIMILAR DAMAGES OR (B) LOSS OF BUSINESS, PROFITS, OR REVENUE, LOSS, CORRUPTION OR DESTRUCTION OF DATA, BUSINESS INTERRUPTION, OR DOWNTIME, IN EACH CASE ARISING OUT OF OR RELATED TO THE AGREEMENT, REGARDLESS OF THE CAUSE OF ACTION OR BASIS OF LIABILITY (WHETHER IN CONTRACT, TORT, INDEMNITY, OR OTHERWISE), AND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8.2 Damages Cap. Notwithstanding anything to the contrary herein, the aggregate liability of AVEVA to Customer for any loss or damage arising under or in relation to the Agreement, regardless of the basis of liability (whether arising out of liability under breach of contract (including under any indemnity), tort (including but not limited to negligence), misrepresentation, breach of statutory duty, breach of warranty or claims by third parties arising from any breach of the Agreement) shall not exceed the fees paid by Customer pursuant to the applicable Transaction Document for the specific Product or Support Services giving rise to such liability in the twelve (12) month period preceding the date of the incident giving rise to the claim. The provisions of this Section 8 allocate the risks between AVEVA and Customer, and AVEVA's pricing reflects this allocation of risk and the limitation of liability specified herein. Notwithstanding the foregoing, the limitations on amounts of damages set forth in this Section 8.2 shall not apply to AVEVA's intentional misconduct, fraud, or fraudulent misrepresentation, or to the extent prohibited by applicable law.

9. INDEMNIFICATION.

- 9.1 **Indemnification by AVEVA.** AVEVA shall defend, indemnify, and hold harmless Customer against claims brought against Customer by any third party alleging that Customer's use of the Products in accordance with the terms and conditions of the Agreement, constitutes an infringement of a patent or copyright, or misappropriation of a trade secret of a third party AVEVA will pay damages finally awarded to the third party (or the amount of any settlement AVEVA enters into) with respect to such claims. This obligation of AVEVA shall not apply if the alleged infringement or misappropriation results from: (a) use of the Products in conjunction or combination with any other software, services, or any product, data, item, or apparatus that AVEVA did not provide to Customer (including any third-party services or Third-Party Products); (b) anything Customer provides or designs including configurations, instructions, or specifications (including any Products that were provided pursuant to Customer's designs, drawings, or specifications); (c) a modification of a Product other than with AVEVA's prior written consent; (d) Customer's failure to use the latest release or version of a Product (including any corrections or enhancements) where such use would have prevented the infringement or misappropriation claim; or (e) any use, storage, distribution, reproduction, or maintenance not permitted by the Agreement. If AVEVA believes, in its reasonable opinion, that a claim under this Section 9.1 could or is likely to be made, AVEVA may cease to offer or deliver such Products without being in breach of the Agreement.
- 9.2 **Infringement Remedies.** In the event a claim under Section 9.1 is made and such Product is held to infringe a third-party's patent or copyright, or misappropriate a trade secret, then AVEVA may, at its sole option and expense: (a) procure for Customer the right to continue using the Product under the terms of the Agreement or (b) replace or modify the Product to be non-infringing without a material decrease in functionality. If these options are not reasonably available, AVEVA or Customer may terminate the Agreement upon written notice to the other and Customer shall immediately cease using or shall return the infringing Product. The provisions of this Section 9.2 state the sole, exclusive, and entire liability of AVEVA to Customer, and is Customer's sole remedy, with respect to third-party claims covered by Section 9.1.
- 9.3 **Indemnification by Customer.** Customer shall defend, indemnify, and hold harmless AVEVA and its Affiliates (and each of their licensors), and each of their respective officers, directors, contractors, agents, and employees ("AVEVA Indemnitees") against claims brought against AVEVA Indemnitees by any third party arising from or related to: (a) any use of the Products or Support Services by Customer in violation of the Agreement or any applicable law or regulation; (b) any Customer Content; and (c) an allegation that any material provided by Customer violates, infringes, or misappropriates the Intellectual Property Rights of a third party. The foregoing shall apply regardless of whether such damage is caused by the conduct of Customer and/or its named users or by the conduct of a third party using Customer's access credentials.
- 9.4 **Indemnification Requirements.** The indemnification obligations under this Section 9 are conditioned on: (a) the Party against whom a third-party claim is brought timely notifying the other Party in writing of any such claim, provided however that a Party's failure to provide or delay in providing such notice shall not relieve a Party of its obligations under this Section 9 except to the extent such failure or delay prejudices the defense; (b) the Party who is obligated to defend a claim having the right to fully control the defense of such claim; (c) the Party against whom a third-party claim is brought reasonably cooperating in the defense of such claim; and (d) Customer complying with AVEVA's direction to cease any use of the Products which in AVEVA's reasonable opinion, is likely to constitute an infringement or misappropriation. Any settlement of any claim shall not include a financial or specific performance obligation on or admission of liability by the Party against whom the claim is brought, provided however that AVEVA may settle any claim on a basis requiring AVEVA to substitute for the Products any alternative substantially equivalent non-infringing products. AVEVA shall not be responsible for any settlement made without its consent. The Party against whom a third-party claim is brought may appear, at its own expense, through counsel reasonably acceptable to the Party obligated to defend claims. Neither Party shall undertake any action in response to any infringement or misappropriation, or alleged infringement or misappropriation that is prejudicial to the other Party's rights.

10. TERM AND TERMINATION.

- 10.1 **Term of GTCs.** The term of these GTCs begins on the Effective Date and shall continue thereafter for the duration of the term of any Transaction Document entered into between the Parties ("Term").
- 10.2 **Transaction Document Term.** The initial term of each Transaction Document shall commence on the effective date specified in the Transaction Document (the "TD Effective Date") and continue thereafter until:

(a) the end of the term of the Transaction Document as specified in the Transaction Document; (b) if specified in the Transaction Document, delivery of the Products in accordance with the Transaction Document; or (c) earlier termination by either Party in accordance with this Section 10 (Term and Termination) (the “TD Term”).

10.3 **Termination for Material Breach.** Either Party may terminate these GTCs or a Transaction Document for cause if the other Party commits a material breach of the GTCs or Transaction Document (including, without limitation, a delay in Customer’s payment of any money due under these GTCs or any Transaction Document) and fails to cure such breach within thirty (30) days (or with respect to Customer’s payment failure, within ten (10) days) of receipt of a notice of default from the non-defaulting Party. Termination will not relieve Customer of its obligations specified in Section 10.5 and will not entitle Customer to a refund of any license fees (or any applicable Software support fees) previously paid.

10.4 **Termination for Financial Deterioration.** Either Party may terminate these GTCs or a Transaction Document immediately if the other Party files for bankruptcy, ceases or threatens to cease carrying on business, becomes insolvent, or makes an appointment, assignment or novation for the benefit of creditors.

10.5 **Effect of Termination.** If these GTCs are terminated prior to the completion of one (1) or more Transaction Documents, then the Transaction Documents that are not terminated shall continue to be governed by the GTCs for the remainder of the applicable TD Term. Upon termination or expiration of these GTCs or any Transaction Document, Customer will cease using the applicable Software, will delete the Software, including the license file(s), from its computer and will either return to AVEVA or destroy the Software, including the license file(s), Documentation, packaging and all copies thereof. If Customer elects to destroy the Software then Licensee will certify in writing to AVEVA the destruction of the Software. Termination of these GTCs or any Transaction Document and return or destruction of the Software will not limit either party from pursuing other remedies available to it, including injunctive relief, nor will such termination relieve Customer’s obligation to pay all fees and expenses that have accrued or are otherwise owed by Customer under these GTCs or a Transaction Document, and/or any purchase order from Customer that has been received and accepted by AVEVA.

11. **INSURANCE.**

For as long as any Transaction Document remains in effect, AVEVA will maintain, at its sole cost and expense, comprehensive general liability and property damage insurance in an amount not less than \$1 million in the aggregate. Additionally, AVEVA will maintain, at its sole cost and expense, workers’ compensation insurance in accordance with statutory requirements.

12. **THIRD-PARTY PRODUCTS.**

12.1 **Third-Party Products.** Unless otherwise agreed in writing by AVEVA, if Third-Party Products are supplied by AVEVA to Customer, such Third-Party Products are provided on a “pass-through” basis only and are subject to the terms and conditions of the third-party vendor, including but not limited to warranties, licenses, indemnities, limitation of liability, prices and changes thereto.

13. **TRADE CONTROL.**

13.1 The Customer will not, directly or indirectly, export, re-export, transfer or otherwise make available, or use the Product to any person or in any manner, or be involved in any act, that could result in AVEVA or its Affiliates being in violation of, or being subject to negative consequences under, Trade Control Laws.

13.2 AVEVA shall have the right to suspend its obligations under, or terminate, this Agreement with immediate effect in the event that:

13.2.1. AVEVA determines that, in its reasonable opinion, the Customer has breached or is likely to breach Section 13.1; or

13.2.2. the Customer or the Product becomes subject to Trade Control Laws and, as a result, AVEVA determines that, in its reasonable opinion, the continued performance of its obligations under this Agreement could result in AVEVA or its Affiliates being in violation of, or being subject to negative consequences under, Trade Control Laws.

14. **MISCELLANEOUS.**

14.1 **Assignment.** The Agreement shall extend to and be binding upon the Parties to the Agreement, their successors, and assigns, provided, however, that neither Party shall assign or transfer the Agreement

without the other Party's prior written consent, which shall not be unreasonably withheld, delayed or conditioned. Notwithstanding the foregoing limitation, AVEVA may assign or transfer the Agreement, in whole or in part, without obtaining the consent of Customer, to a parent company or subsidiary or in connection with the transfer or sale of its entire business or sale of all or substantially all of its assets, or in the event of a merger, divestiture, internal reorganization or consolidation with another company.

- 14.2 Independent Contractor. AVEVA is an independent contractor, and each Party agrees that no partnership, joint venture, agency, fiduciary, or employment relationship exists between the Parties.
- 14.3 Force Majeure. Except for Customer's payment obligations, neither Party shall be liable for delays caused by conditions beyond their reasonable control, ("Force Majeure"), provided that notice thereof is given to the other Party as soon as practicable. All such Force Majeure conditions preventing performance shall entitle the Party hindered in the performance of its obligations under the Agreement to an extension of the date of delivery of the Products or completion of the Support Services by a period of time equal to the period of delay incurred as a result of the Force Majeure or to any other period as the Parties may agree in writing.
- 14.4 Waiver. The waiver (whether express or implied) by either Party of a breach or default of any of the provisions of the Agreement (including any Transaction Document) by the other Party shall not be construed as a waiver of any succeeding breach of the same or other provisions nor shall any delay or omission on the part of either Party to exercise or avail itself of any right power or privilege that it has or may have hereunder operate as a waiver of any breach or default by the other Party.
- 14.5 Notices. All notices and other communications required or permitted under the Agreement will be in writing and delivered by confirmed transmission, by courier or overnight delivery service with written verification of receipt, or by registered or certified mail, return receipt requested, postage prepaid, and in each instance, will be deemed given upon receipt. All such notices, approvals, consents and other communications will be sent to the addresses provided in the Transaction Documents or to such other address as may be specified in writing by either Party to the other in accordance with this Section 14.5.
- 14.6 Invalidity and Severability. If any provision of the Agreement (including any Transaction Document) shall be found by any court to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect the other provisions of the Agreement and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The Parties hereby agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the economic, legal and commercial objectives of the invalid or unenforceable provision.
- 14.7 Negotiated Terms. The Parties agree that the terms and conditions of the Agreement are the result of negotiations between the Parties and that the Agreement shall not be construed in favor of or against either Party by reason of the extent to which such Party or its professional advisors participated in the preparation of the Agreement.
- 14.8 Survival of Provisions. The provisions of the Agreement that by their nature survive expiration or termination of the Agreement will survive expiration or termination of the Agreement, including, but not limited to, the following Sections of these GTCs: 3 (Payments and Invoicing), 4 (Intellectual Property Rights), 5 (Confidentiality), 7 (Disclaimer of Warranties), 8 (Limitation of Liability), 9.3 (Indemnification by Customer), 10 (Term and Termination), 12 (Third-Party Products), 14 (Miscellaneous), and Exhibit A (Definitions).
- 14.9 Governing Law and Jurisdiction. The validity of the Agreement and the rights, obligations and relations of the Parties under the Agreement and in any dispute between them will be construed and determined under and in accordance with the substantive laws of the State of Texas, without regard to such state's principles of conflicts of law. If a court must enter or enforce an arbitration award, if a party applies solely for preliminary or injunctive relief, or if the binding arbitration provision set forth in Section 14.10 (Binding Arbitration) is deemed invalid or ineffective, then each Party irrevocably agrees to submit to the exclusive jurisdiction of (and waives any objection to the venue of) the federal or state courts located in Harris County, Texas to enter or enforce such award, to determine such preliminary or injunctive relief, or to determine such claim or matter arising out of or in connection with this Agreement, as applicable. To the extent otherwise applicable, the Parties hereto agree that the United Nations Convention on the International Sale of Goods will not apply to this Agreement.
- 14.10 Binding Arbitration. Any controversy or claim arising out of or relating to the Agreement, including any breach of the Agreement, shall be determined by final and binding arbitration administered by JAMS under its Streamlined Arbitration Rules and Procedures ("Streamlined Rules"). The award rendered by the arbitrator shall be final, non-reviewable, and non-appealable and binding on the Parties and may be entered and enforced in any court having jurisdiction. There shall be one arbitrator agreed to by the Parties within twenty

(20) days of receipt by the respondent of the request for arbitration or in default thereof appointed by JAMS in accordance with the Streamlined Rules, which arbitrator shall have substantial experience in resolving business disputes involving similar products or support services. The place of arbitration shall be Harris County, Texas. The arbitrator will have no authority to award punitive, consequential, liquidated, or other damages waived, disclaimed, or otherwise prohibited by the Agreement and the award shall not exceed the applicable limitation of liability set forth in the Agreement. Neither Party has the right to act as a class representative or participate as a member of a class with respect to any arbitrated controversy or claim arising out of or relating to the Agreement (including any breach of the Agreement).

- 14.11 Waiver of Jury Trial. Each Party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any proceedings relating to the Agreement or any performance or failure to perform of any obligation under the Agreement.
- 14.12 Waiver of Right to Class Action. Each Party waives, to the fullest extent permitted by applicable law, any right it may have to participate in a class action in respect of any proceedings relating to the Agreement or any performance or failure to perform of any obligation under the Agreement. Each Party may only bring a claim against the other in an individual capacity and not as a plaintiff or class member in any purported class or representative proceeding.
- 14.13 Ethical Trading Policy. Customer shall comply with AVEVA's then-current ethical trading policy located at www.aveva.com/policies/ethical/en, which shall be incorporated herein by reference.
- 14.14 Third-Party Beneficiary. Except as expressly set forth in the Agreement, the Parties do not intend to create rights for any person as a third-party beneficiary of the Agreement.
- 14.15 Entire Agreement; Amendments. The Agreement constitutes the entire agreement between the Parties relating to its subject matter and supersedes all prior or contemporaneous representations, understandings or agreements whether written or oral, relating to that subject matter. The Agreement will prevail over any additional, conflicting, or inconsistent terms and conditions that may be contained in any purchase order or other document furnished by Customer to AVEVA. Any signed General Terms and Conditions and accompanying addenda executed between the Parties on or after 1 January 2019 will prevail over any additional, conflicting, or inconsistent terms and conditions in this Agreement, and will prevail over any purchase order or other document furnished by Customer to AVEVA. The Agreement may be amended or modified only by a writing that is signed by or on behalf of both Parties.

* * * *

Exhibit A Definitions

The following capitalized terms used in these GTCs shall have the respective meanings specified below:

“**Affiliates**” means as to any entity, any other entity that, directly or indirectly, Controls, is Controlled by or is under common Control with such entity. To avoid misunderstanding, for AVEVA “Affiliates” means any direct or indirect wholly-owned subsidiary of AVEVA Group plc.

“**Agreement**” means these GTCs, the Transaction Document(s), and all documents incorporated into such GTCs and Transaction Document(s) (including, but not limited to, the Software and Support Addenda and Software Schedule).

“**AVEVA**” has the meaning set forth in the Preamble.

“**AVEVA Indemnitees**” has the meaning set forth in Section 9.3 (Indemnification by Customer).

“**Confidential Information**” has the meaning set forth in Section 5.1 (Confidential Information).

“**Control**” means with respect to any entity, the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such entity, whether through the ownership of voting securities (or other ownership interest), by contract or otherwise.

“**Customer**” has the meaning set forth in the Preamble.

“**Customer Content**” means all software, data (including personal data), information, text, images, audio, video, photographs, non-AVEVA or third-party applications, and other content and material, in any format, provided by Customer, any of Customer’s users, or on behalf of Customer that is stored in, or run on or through, the Products and Support Services.

“**Disclosing Party**” has the meaning set forth in Section 5.1 (Confidential Information).

“**Documentation**” has the meaning set forth in the applicable Addenda or Software Schedule, as applicable and as the context may require.

“**Effective Date**” means the earliest to occur of the following: (i) Customer clicks “I Agree”; or (ii) Customer uses any Products.

“**Export Control Laws**” means any laws that control, restrict, or impose licensing requirements on export, re-export or transfer of goods, software, technology, or services, issued or adopted by any government, state or regulatory authority of any country in which obligations under this Agreement are to be performed, or in which AVEVA or any of its Affiliates are incorporated or operate, including without limitation the United States of America, the United Kingdom, and the European Union or of any of its Member States.

“**Force Majeure**” has the meaning set forth in Section 14.3 (Force Majeure).

“**GTCs**” means these AVEVA General Terms and Conditions, which includes those terms and conditions set forth in the main body of the GTCs, and all of the various exhibits, addenda, and other documents incorporated into the GTCs.

“**Intellectual Property Rights**” means any patent rights, copyrights, trademarks, trade secrets, moral rights, and other proprietary or intellectual property rights worldwide.

“**Order Form**” means the document issued by AVEVA or an authorized AVEVA distributor or authorized AVEVA reseller in hard or electronic copy which, among other things, may identify (i) the particular Software ordered by or for Customer, (ii) the location of the designated Device(s) or Named Users, (iii) the duration or term of the Software license granted to Customer, (iv) the license fees and any applicable Software support fees owed by Customer and/or (v) the payment schedule means any order form entered into by the Parties pursuant to which AVEVA provides Products and certain Services to Customer in accordance with this Agreement.

“**Party**” means AVEVA or Customer individually and “Parties” means AVEVA and Customer collectively.

“**Products**” means the Software Products that AVEVA lists on a Transaction Document and makes available to Customer.

“**Receiving Party**” has the meaning set forth in Section 5.1 (Confidential Information).

“**Sanctions Laws**” means any economic, financial, trade or other, sanction, restriction, embargo, import or export ban, prohibition on transfer of funds or assets or on performing services, or equivalent measure imposed by any government, state or regulatory authority of any country in which obligations under this Agreement are to be performed, or in which AVEVA or any of its Affiliates are incorporated or operate, including without limitation the United States of America, the United Kingdom, and the European Union or of any of its Member States.

“**Software**” means the software products (in object code (machine-readable) format only) licensed to Customer by AVEVA pursuant to a Transaction Document, including any new releases, updates, or versions that AVEVA may make available.

“**Software Schedule**” means the Software Schedule below.

“**Streamlined Rules**” has the meaning set forth in Section 14.10 (Binding Arbitration).

“**TD Effective Date**” has the meaning set forth in Section 10.2 (Transaction Document Term).

“**TD Term**” has the meaning set forth in Section 10.2 (Transaction Document Term).

“**Term**” has the meaning set forth in Section 10.1 (Term of GTCs).

“**Third-Party Products**” means products (including any software-as-a-service products) and software of a third-party vendor supplied by AVEVA or incorporated by AVEVA into its Products.

“**Trade Control Laws**” means Export Control Laws and Sanctions Laws.

“**Transaction Document**” or “**TD**” means any Order Form entered into pursuant to this Agreement and any schedules or other attachments thereto.

“**\$**” shall mean lawful money of the United States.

AVEVA SOFTWARE AND SUPPORT ADDENDUM

1. **ADDITIONAL DEFINITIONS.**

- 1.1 **"AVEVA Proposal"** means the AVEVA document that may describe, among other things, the specific (i) support level chosen by Customer, (ii) Support Services to be provided by AVEVA, (iii) any Support Services fee (if applicable), (iv) payment terms (if applicable), (v) Support Term, and (vi) the Goods and/or Supported Software for which support is being provided under the Agreement.
- 1.2 **"CFP User Guide"** means the Customer FIRST Program User Guide provided by AVEVA. A "CFP User Guide" may not be provided or available to Customer for all Supported Services.
- 1.3 **"Documentation"** either (i) has the meaning set forth in the applicable Software Schedule or (ii) if no meaning is set forth in the applicable Software Schedule, "Documentation" means the then-current technical and functional documentation provided by AVEVA to Customer for the Software, including, but not limited to, the technical documentation, program specifications, and operations manual, as applicable.
- 1.4 **"Goods"** means all products, equipment, materials, spare parts, hardware, supplies, and accessories for which support has been purchased under the applicable Transaction Document.
- 1.5 **"High Risk Use"** shall have the meaning set forth in Section 5.
- 1.6 **"Hot Fix"** means unreleased Software which has not been processed through a full QA cycle and which is designed to correct a specific defect in the Software.
- 1.7 **"Normal Workday"** or **"Normal Working Hours"** means 9:00 a.m. to 5:00 p.m. on any business day in the location where on-site Support Services are being performed (excluding any public holidays in such location where such on-site Support Services are being performed).
- 1.8 **"Overtime Rates"** means (i) for any on-site Support Services performed on a public holiday in the location where such on-site Support Services are being performed, twice (2x) the standard rate, (ii) for the first twenty (20) hours of on-site Support Services performed outside of Normal Working Hours during a calendar week (other than those performed on public holiday), one and one-half times (1.5x) the standard rate, and (iii) for all on-site Support Services performed outside of Normal Working Hours during a calendar week in excess of twenty (20) hours (other than those performed on public holiday), twice (2x) the standard rate.
- 1.9 **"Pre-Production Release"** means Software which has not completed AVEVA's formal release requirements and includes beta software, Hot Fixes and SUPs.
- 1.10 **"Product Term"** means the initial term and any subsequent renewal term(s) for the Software, as set forth in the applicable Transaction Document.
- 1.11 **"SUP"** (Single User Product) means modifications to the Software made for a specific licensee.
- 1.12 **"Support Services"** means the support services described in the AVEVA Proposal (or CFP User Guide, as applicable).
- 1.13 **"Supported Software"** means Software for which Support Services were purchased, but always excluding Third-Party Products, their related instruction manuals and documentation.
- 1.14 **"Support Term"** means (i) for Support Services that are included for Software at no additional cost, the Product Term for such Software, and (ii) for Support Services that are not included for Software at no additional cost, the initial term and any subsequent renewal term(s) for the Support Services as set forth in the applicable Transaction Document.
- 1.15 **"Supporting Hardware"** means any dongles or other physical devices supplied by AVEVA to Customer for use with Software.
- 1.16 **"Trial Software"** means Software that has been licensed to Customer solely for the purposes of evaluation or that is supplied for the purposes of training, beta testing, or other non-commercial use.
- 1.17 **"Use"** means utilization of the Software by copying, transmitting, or loading the same into the temporary memory (RAM) or installing into the permanent memory (e.g. hard disk, DVD ROM or other storage device) of the Customer's hardware for the processing of the system instructions or statements contained in such Software, subject to any limitations set forth in an applicable Software Schedule or Transaction Document.
- 1.18 **"Updates"** means any upgrades, updates, enhancements, improvements, or modifications to the Software generally made available by AVEVA as part of any support services but does not include any new version of the Software that may be separately offered by AVEVA.
- 1.19 **"Work Product"** means any art, discovery, improvement, deliverable, process, customization, report, documentation, invention, modification, enhancement, product, software or other item developed,

created, or provided in connection with the Support Services, whether or not copyrightable or patentable, inclusive of all related know-how, trade secrets, and any other tangible or intangible technical material or information.

1.20 Capitalized terms used in this Software and Support Addendum without definition shall have the same meanings ascribed to them in the GTCs.

2. PURCHASE OF SOFTWARE.

2.1 Provision of Software. From time to time, Customer may purchase or license Software by executing a Transaction Document with AVEVA. Any additional Software purchased or licensed by Customer will be at the then-current price. AVEVA will provide the Software in accordance with the GTCs and the applicable Transaction Document.

2.2 Installation of Software. Except as otherwise stated in an applicable Transaction Document, Customer will be responsible for installing the Software on Customer's information technology devices (e.g., hard disks and processing units) at Customer's designated locations in accordance with any installation restrictions set forth in the applicable Transaction Document.

2.3 Updates for Software. If AVEVA releases any Updates to the Software (including, but not limited to, any error corrections or patches), then Customer shall install such Updates as soon as reasonably practicable and in no event more than seven (7) calendar days after receiving notice that such Updates have been issued to correct infringement or misappropriation of a third-party's Intellectual Property Rights.

2.4 Life Cycle for Software. AVEVA reserves the right to "end of life" any Software in accordance with its then-current end of life policy, which is located at www.aveva.com/policies/eol/en.

3. LICENSE RIGHTS.

3.1 Grant of License. In consideration of full payment of the fees for the Software and subject to Customer's compliance with its obligations under the Agreement, AVEVA grants to Customer a personal, non-transferable, non-exclusive, non-sublicensable, limited license to Use the Software described in the Transaction Document for the Product Term and in accordance with the license model identified in such Transaction Document. The Software may only be used for purposes of Customer's ordinary internal business purposes by the particular user(s), in the particular location(s), on the particular device(s) and/or on the particular system(s) for which Customer licensed such Software, as those user(s), location(s), device(s) and/or system(s) are identified in the applicable Software Schedule or Transaction Document. If the Transaction Document fails to state a duration/term of the license granted under the Agreement then such duration/term shall be deemed to be one (1) year from the date the Software is delivered to Customer. For the avoidance of doubt, Customer shall not permit any third parties (except those that are expressly identified as permitted user(s) in a Transaction Document) to access or use the Software without AVEVA's prior written consent and Customer shall be liable for any such unauthorized usage.

3.2 License Restrictions.

(a) Copy Restrictions. Copyright laws and international treaties protect the Software, including the Documentation. Unauthorized copying of the Software, the Documentation or any part thereof, is expressly prohibited. Customer shall reproduce all titles, trademarks, and copyright and restricted rights notices in all copies of the Software.

(b) Use Restrictions. The Agreement only gives Customer some rights to use the Software as expressly permitted in this Agreement and AVEVA and its licensors reserve all other rights. Customer does not acquire any rights, express or implied, other than those expressly granted in the Agreement. Unless applicable law gives Customer more rights despite this limitation, Customer may use the Software only as expressly permitted in the Agreement. In doing so, Customer agrees that it will comply with any technical limitations in the Software that only allow Customer to use the Software in certain ways. Customer agrees that it will not, nor will Customer permit others to:

(i) reverse engineer, reproduce, decompile, recompile, disassemble, merge, modify, adapt or translate the Software or Documentation or any component thereof, or create derivative works based on the Software or Documentation, except and only to the extent that (a) applicable law expressly permits, despite this limitation, (b) AVEVA gives it prior written consent, or (c) the Documentation accompanying the Software expressly permits;

- (ii) incorporate the Software into any other software program not provided by AVEVA, except (a) for incorporation of such Software with application program interfaces that AVEVA makes publicly available for such Software or (b) to the extent permitted to customize the Software in accordance with the accompanying Documentation;
 - (iii) remove, obliterate, destroy, minimize, block or modify any logos, trademarks, copyright, digital watermarks, or other notices of AVEVA or its licensors that are included in the Software, except as may be permitted when using application program interfaces that AVEVA makes publicly available for such Software;
 - (iv) work around any technical limitations in the Software;
 - (v) make more copies of the Software or Documentation than as allowed in the Agreement or by applicable law, despite this limitation;
 - (vi) publish the Software, including any application programming interfaces included in the Software, for others to copy;
 - (vii) transfer, sublicense, rent, lease, sell, lend, distribute, outsource, permit timesharing or service bureau use of, commercially exploit, make available, or assign the Software or any part thereof to any other person or entity (except as expressly permitted by the Agreement);
 - (viii) transfer the Software to another location or to other equipment without the prior written consent of AVEVA (except as otherwise expressly permitted pursuant to the Agreement);
 - (ix) use the Software to store or transmit infringing, libelous, or otherwise unlawful or tortious material (or to store or transmit material in violation of law or third-party privacy rights);
 - (x) use the Software in a way intended to avoid incurring fees or exceed usage limitations; or
 - (xi) use the Software to build or support, directly or indirectly, products or services competitive to the Software or any other products or services of AVEVA.
- (c) **Return or Destruction of Software.** Upon termination or expiration of the Product Term, Customer shall destroy or return at AVEVA's discretion to AVEVA the Software (regardless of the media upon which such Software is fixed) and any related software install kits, licenses, or licensing management software. In addition to any other remedies available to AVEVA, if Customer files for bankruptcy, becomes insolvent, or makes an assignment or novation for the benefit of creditors, then Customer automatically and without further action grants to AVEVA the right to enter Customer's premises to destroy, take possession of, or remove the Software that is in Customer's possession (including deletion of such Software from any devices on which such Software is installed).

4. RECORD KEEPING, AUDITS, AND COMPLIANCE CERTIFICATES.

- 4.1 **Record Keeping.** During the Product Term and for a period of two (2) years thereafter, Customer shall maintain complete and accurate records documenting the location and use of the Software in a manner sufficient to permit AVEVA to conduct an audit in accordance with Section 4.2 of this Software and Support Addendum.
- 4.2 **Audit Right.** During the Product Term and for a period of two (2) years thereafter, AVEVA shall be permitted to audit and/or shall be permitted to have its designee audit (at least once annually and in accordance with AVEVA's standard procedures, which may include on-site and/or remote audits of facilities, systems, records, and personnel) the usage of the Software and Customer's compliance with the Agreement. AVEVA will conduct any such audit during regular business hours. Customer shall cooperate reasonably in the conduct of such audits. Any reasonable and actual costs incurred by AVEVA for such audit shall be paid by Customer if the audit results indicate usage in excess of the licensed quantities or levels, underpayment of any fees, or breach of the Agreement.
- 4.3 **Compliance Certificate.** Within thirty (30) days of receipt of AVEVA's written request, Customer shall provide AVEVA with a signed certification of compliance with the Software licensing conditions; provided, however, that AVEVA shall not request more than one compliance certificate annually.
- 4.4 **Excess Use.** If Customer's use of any Product exceeds the permitted usage metrics, then Customer will be subject to additional fees for such excess usage at AVEVA's then-current rates. Customer will execute an additional Order Form or amendment to this Order Form for such additional usage and the fees for such additional usage will accrue from the date the excess usage began (together with an interest rate of one and one-half percent (1.5%) per month or partial month from the date such excess

usage began until payment). The assessment of additional fees shall be without prejudice to AVEVA's other rights and remedies with respect to such excess usage.

5. HIGH RISK USE AND INDUSTRY AND CATEGORICAL RESTRICTIONS.

5.1 High Risk Use. The Software is not fault-tolerant and is not guaranteed to be error free or to operate uninterrupted. Unless AVEVA gives its prior written consent and is consulted regarding the specific deployment, system set-up and Software support plan, Customer has no right to use (and must not use) the Software in any application or situation where the failure of the Software could lead to death or serious bodily injury of any person, or to severe physical or environmental damage ("High Risk Use"). High Risk Use does not include utilization of the Software for administrative purposes, to store configuration data, engineering and/or configuration tools, or other applications, the failure of which would not result in death, personal injury, or severe physical or environmental damage.

5.2 Industry and Categorical Restrictions. **THE FOLLOWING CLAUSE APPLIES ONLY TO AVEVA'S BOCAD AND FABTROL PRODUCTS.** Customer shall not use the Software in connection with aircraft or other modes of human mass transportation, nuclear or chemical facilities, or medical life support devices unless Customer has provided full details of such proposed use to AVEVA and has received prior written approval for such use from AVEVA. In addition to Customer's indemnification obligations set forth in Section 9.3 (Indemnification by Customer) of the GTCs, if Customer does not provide such details and receive such prior written approval, then Customer will indemnify, defend, and hold harmless AVEVA and its Affiliates for any claims or liability that results from or is related to Customer's use of the Software in such areas.

6. LICENSE COMPLIANCE MEASURES.

6.1 AVEVA takes all legal steps to monitor Customer's and third-parties' compliance with any license and usage restrictions for AVEVA's software products (and those software products of its Affiliates). In this context, the Software may include a security mechanism (or security mechanisms) that can detect the installation or use of illegal copies of the Software, and collect and transmit data about those illegal copies. By using the Software, Customer consents to the detection, collection, transmission and processing of data and personal data by AVEVA, including but not limited to IP addresses, Email Domain and WIFI geolocation, if an illegal copy is detected. AVEVA reserves the right to use a hardware lock device, license administration software, and/or a license authorization key to control access to the Software. Customer may not take any steps to avoid or defeat the purpose of any such measures. Use of any Software without any required lock device or authorization key provided by AVEVA is prohibited. For the avoidance of doubt, Customer shall be solely responsible for its failure to comply with any license and usage restrictions for AVEVA's software products.

7. SUPPORTING HARDWARE.

Customer must use any Supporting Hardware in accordance with AVEVA's instructions. AVEVA reserves the right to withdraw or change any Supporting Hardware in its sole discretion and at any time.

8. GOVERNMENT CONTRACTS.

If the Software is licensed for use in the performance of a U.S. Government prime contract or subcontract, Customer agrees that, consistent with FAR 12.211 and 12.212, commercial computer software, computer software documentation and technical data for commercial items are licensed under AVEVA's standard commercial license.

9. SUPPORT SERVICES (CUSTOMER FIRST SUPPORT PROGRAM).

9.1 AVEVA Proposal. This Software and Support Addendum incorporates by reference all of the terms and conditions contained in the AVEVA Proposal and CFP User Guide, as applicable.

9.2 Support Term. Subject to Customer's payment of all applicable fees (including, but not limited to, any license fees for the Software and any fees for the Support Services), AVEVA will provide the Support Services during the Support Term. If additional Supported Software or Goods are purchased, licensed, or leased by Customer during the Support Term, then AVEVA may require that Customer obtain Support Services for such additional Supported Software or Goods either (a) with a term prorated to expire at the same time as the Support Term or (b) for a different specified term. If Support Services are not

included with the Software and Customer has not purchased Support Services, then AVEVA shall not provide to Customer any Support Services.

- 9.3 Expense Reimbursement. Except as otherwise agreed in writing by Customer and AVEVA, Customer shall reimburse AVEVA for expenses incurred by AVEVA to perform the Support Services, including but not limited to travel and living expenses.
- 9.4 Version Upgrade. The software version upgrade entitlement is a benefit to customers that enroll in the Support Services (Standard, Premium and Elite levels) and are currently licensing the most current version of software (or another preferred minimum version level). If Customer is running a non-current or non-preferred version of the Supported Software, Customer must first purchase an upgrade to the current or preferred version to access this benefit in a new agreement. AVEVA may offer incentives for Customer to purchase version upgrades.
- 9.5 Non-Refundable Support Fee. Customer acknowledges and agrees that any fees paid for Support Services (if any) will be non-refundable and that such fees must be paid for the full Support Term in accordance with the payment schedule set forth in the applicable Transaction Document (or AVEVA Proposal, as applicable).
- 9.6 Support Reinstatement for Lapsed Enrollment. If a lapse in enrollment in the Support Services occurs, then Customer may be assessed a reinstatement fee. The amount of the reinstatement fee may increase the longer the enrollment has lapsed.
- 9.7 Support Program Levels. The Customer FIRST Program portfolio offers a wide choice of offerings to meet Customer's business requirements. Specific program level benefits are described in the AVEVA Proposal and CFP User Guide, as applicable.
- 9.8 Scope of Support. AVEVA provides Support Services in accordance with the AVEVA lifecycle support policy applicable to the Supported Software and Goods. The applicable AVEVA lifecycle policy is published on the AVEVA brand support websites and may be referenced in the AVEVA Proposal or CFP User Guide. Although AVEVA and its "Certified Support Providers" (which are third parties retained by AVEVA to provide Support Services to Customer, including but not limited to authorized distributors and other support providers) may attempt to resolve issues arising in earlier AVEVA goods or software versions, they do not have any obligation to do so under any support level in the Support Services unless extended support for retired versions is available and purchased on a product by product basis.
- 9.9 Support Exclusions.
- (a) Unless otherwise agreed in writing by AVEVA, AVEVA does NOT provide Support Services for Third-Party Products, including but not limited to Crystal Reports. If AVEVA does provide Support Services for Third-Party Products at Customer's written request, AVEVA's Support Services for such Third-Party Products shall be rendered "AS-IS" and without warranty of any kind and such Support Services shall be for an additional fee at AVEVA's then-current service rates.
 - (b) Customer shall be responsible for payment for AVEVA equipment and materials if Customer's employees, agents, consultants or contractors working on AVEVA equipment or materials causes malfunction or failure of such equipment or materials. If such an event occurs, AVEVA equipment and materials will be billed to Customer at the then-current rates for such equipment and materials and Customer shall also pay AVEVA for any associated services as a result of such malfunction or failure.
 - (c) AVEVA and non-AVEVA system goods and software not specifically listed in the AVEVA Proposal or CFP User Guide as covered under the support level purchased by Customer are NOT covered under the Support Services. Technical assistance rendered via any means of personal communication (including but not limited to telephone, facsimile, postal mail, email, texting, and web-enabled chat), remote connection and diagnosis, material, labor or other support assistance provided by AVEVA to resolve an issue involving non-listed goods, software, or equipment is chargeable to Customer at the then-current AVEVA service rates.
 - (d) AVEVA will NOT provide Support Services on AVEVA software or goods from or repaired by a non-AVEVA-authorized agent, distributor, reseller or other third party. If any issues occur that are attributable to third-party procured material or services, all work performed by AVEVA will be subject to invoicing at the then-current AVEVA service rates.
 - (e) Unless specifically purchased as an option under a Transaction Document and described in the AVEVA Proposal (or CFP User Guide), planning, installation, testing, and documentation of

expansions, modifications and software upgrades of custom application or Third-Party Programs are NOT covered by the Support Services.

- (f) Unless otherwise agreed in writing by AVEVA, Goods identified as retired phase or due to become retired under the AVEVA lifecycle support policy during the Support Term will be excluded and will NOT be supported.
- (g) Supported Software identified as mature phase under the AVEVA lifecycle support policy will be supported for a maximum of one (1) year.
- (h) All decisions made by Customer relating to the implementation of AVEVA's advice and recommendations are the sole responsibility of Customer. To the extent Support Services are of an advisory nature, no specific business result is assured or guaranteed.

9.10 Access to Facilities and Equipment. Customer will furnish at no cost to AVEVA suitable and safe working space, storage space, adequate telephone, light, ventilation, regulated electric power, and outlets for testing purposes. These facilities will be within a reasonable distance from Goods or Supported Software covered under the Support Services. AVEVA shall have full and free access to the Goods and Supported Software in order to provide any on-site corrective Support Services. Customer will identify person(s) who will interface with AVEVA or other designated support center under the terms of the Agreement. Any maintenance or repair services performed on the Goods or Supported Software by Customer or third-party personnel resulting in additional material or corrective support service requirements by AVEVA will be invoiced at then-current time and material service rates.

9.11 Remote Support Services Security. Remote Support Services communication will be conducted only by AVEVA trained specialists working in a secured area using authorized connectivity equipment with security and auto log-on features. Any work accomplished on a Customer system must be authorized by a Customer representative. Communication processors, routers, modems and other equipment used in conjunction with remote Support Services that are the property of AVEVA shall be returned to AVEVA upon termination or expiration of the Support Term.

9.12 On-Site Support Services.

- (a) Support Services or travel in excess of a Normal Workday shall be invoiced at the Overtime Rate.
- (b) Unless otherwise agreed in writing by AVEVA and Customer, all on-site Support Services will be billed to Customer at the then-current AVEVA service rates. Customer agrees that a minimum of four (4) hours will be charged by AVEVA where hourly rates are applicable and a minimum of one (1) day will be charged by AVEVA where daily rates are applicable for service and travel time.
- (c) When shift work other than the Normal Workday is required, the Overtime Rate shall apply.
- (d) Support Service time committed in advance by AVEVA on the basis of pre-specified number of days shall not be deemed to include overtime or shift work. If overtime or shift work is required on such commitments, the pre-specified time so committed in advance shall be appropriately reduced.
- (e) Unless the AVEVA representative has been released from the job site, or has completed his assignment, the Customer will pay AVEVA charges computed as if the AVEVA representative was working a normal work week (five Normal Workdays), regardless of whether or not the representative is prevented from working due to delays beyond his control.
- (f) Release from the job site shall entitle the representative to return to his point of origin, with travel time and expenses chargeable to Customer.
- (g) Standby time is defined as that time during which an AVEVA representative is requested to remain in readiness and available for Support Services commencing at the convenience of the Customer. Such time shall be considered as time worked, whether or not the representative is at the job site, and Customer will be billed accordingly. If standby time is outside of Normal Working Hours, the Overtime Rate will apply. Standby time will be added to time actually worked for the computation of overtime charges, etc.
- (h) AVEVA representatives reserve the right to refuse to work under hazardous conditions. All staging and rigging required for access to equipment to be serviced shall be erected by and at the expenses of Customer or third parties and shall comply with reasonable safety requirements. AVEVA representatives shall comply with all reasonable policies, procedures, and rules given to such representatives in writing. However, any protective clothing or equipment, except the standard safety hat, required by Customer regulations shall be provided by Customer at

Customer's sole cost. Additionally, AVEVA reserves the right in its sole discretion to remove or replace representatives performing on-site Support Services.

- (i) AVEVA representatives are authorized to act only in a consulting capacity and are not authorized or licensed to operate equipment. All responsibility for operating equipment shall rest with Customer or third parties.
- (j) Unless otherwise agreed in writing by AVEVA, all parts identified as requiring replacement during a non-warranty related service call shall be invoiced at AVEVA's then-current list prices.

9.13 Support for Brands. All software licenses and Goods for a given AVEVA brand (including but not limited to Avantis, Citect, SimSci, Wonderware, OASyS DNA and SimSuite Pipeline) at a participating site must be covered under the Support Services during the entire license term.

9.14 Customer Approval. If the Support Services require AVEVA or its representatives to update, modify, or otherwise interact with Customer's sensitive or critical systems, equipment, software, or programs, then Customer, at AVEVA's request, must approve any updates, modifications, or interactions with such systems, equipment, software, or programs.

10. TERMINATION AND SUSPENSION OF SUPPORT SERVICES.

10.1 Additional Termination Rights. In addition to the termination rights set forth in

10.2 AVEVA may terminate the Support Services and the Transaction Document under which such Support Services are provided if:

- (a) Customer has breached any of its material obligations under any agreement relating to the Supported Software or Goods and Customer has not cured such breach within thirty (30) days of receipt of a notice of breach or default from AVEVA; or
- (b) Customer uses the Support Services other than for its own internal business purposes or uses the Support Services to provide similar services related to the Supported Software or Goods to any third party.

10.3 Suspension of Support Services. Without prejudice to other remedies available by law, AVEVA reserves the right to suspend the Support Services if Customer does not comply with its obligations under the Agreement.

11. INTELLECTUAL PROPERTY RIGHTS.

AVEVA owns all Intellectual Property Rights in and to the Work Product, including techniques, knowledge or processes associated with the Work Product, regardless whether or not solely created by AVEVA or jointly with the Customer. Customer agrees to execute and to ensure its third parties execute any such documentation as reasonably necessary to secure AVEVA's rights in such Work Product. For the avoidance of doubt, Customer and AVEVA agree and acknowledge that all Work Product will not be considered "work made for hire" under the Copyright Act of 1976, 17 U.S.C. § 101 et seq., as may be modified, amended, or supplemented from time to time.

12. WARRANTIES.

12.1 Limited Software Warranty. AVEVA warrants for a period of ninety (90) days following delivery of the Software that the Software will be free from material error that would substantially affect Customer's Use of the Software. During the warranty period and without charge to Customer, AVEVA may: (i) replace defective media and/or (ii) use commercially reasonable efforts to provide modifications or fixes with respect to any material error in the Software in a reasonably timely manner (or provide Customer with alternative Software that does not contain the material error). However, if AVEVA is unable to make the Software operate as warranted and does not provide Customer with alternative Software, then AVEVA will refund the unused portion of the license fees paid to AVEVA for the defective Software and the license for such defective Software will terminate. This is Customer's sole and exclusive remedy for a breach of this warranty. Notwithstanding the foregoing, this warranty shall not apply if such material error was caused or arises from: (i) Customer's installation of the Software or misuse of the Software; (ii) modification or repair to the Software other than as expressly permitted by the Agreement; (iii) use or maintenance of the Software in a manner or environment inconsistent with the Documentation; (iv) anything Customer provides or designs including configurations, instructions, or specifications; or (v) the combination of the Software with a product, software, service, or technology not authorized by AVEVA.

12.2 Limited Support Warranty. AVEVA will perform the Support Services in a professional manner and warranted for a period of ninety (90) days from the date of Support Service. AVEVA warrants that any parts for Goods which are supplied while performing Support Services under the Agreement, will be free from material defects for a period of ninety (90) days following delivery of such parts. Additionally, AVEVA warrants that any Supported Software upgrades, patches, service packs, quick fix, quick custom, or corrective fixes which are supplied while performing Support Services under the Agreement, will be free from material defects for a period of ninety (90) days following delivery of such Supported Software upgrades, patches, service packs, quick fix, quick custom or corrective fixes. For any breach of these warranties, Customer's exclusive remedy, and AVEVA's entire liability, shall be the reperformance of the Support Services or repair or replacement of such parts, Supported Software upgrades, patches, service packs, quick fix, quick custom, or corrective fixes.

12.3 Pre-Production Releases and Trial Software. As an accommodation to Customer, AVEVA may provide Customer from time to time a Pre-Production Release of the Software or Trial Software. All such Pre-Production Releases and Trial Software are provided strictly on an "as-is" basis and for internal, non-commercial purposes and AVEVA disclaims all warranties, express or implied, for all Pre-Production Releases and Trial Software (including the warranty set forth in Section 12.1 or Section 12.2 above). If AVEVA provides Customer with Trial Software, Customer may not use the Trial Software for more than thirty (30) days from the date of delivery of the license file for such Trial Software and must delete such Trial Software following such thirty (30) day period (and such license to use the Trial Software shall cease).

12.4 DISCLAIMER OF ALL OTHER WARRANTIES. FOR THE AVOIDANCE OF DOUBT, THE DISCLAIMER OF WARRANTIES SET FORTH IN SECTION 7 (DISCLAIMER OF WARRANTIES) OF THE GTCS IS INCORPORATED INTO THIS SOFTWARE AND SUPPORT ADDENDUM BY REFERENCE.

13. ADDITIONAL INDEMNIFICATION.

In addition to Customer's indemnification obligations set forth in the GTCs, Customer shall defend, indemnify, and hold harmless AVEVA and its Affiliates against (a) claims, brought against AVEVA by any third party arising (i) from or related to AVEVA's use of or access to Third-Party Products or Customer's software, machines, equipment, systems, information technology environment, or premises in connection with the provision of the Support Services; and (ii) out of Customer's use of the Software in connection with any High Risk Use; and (b) all costs, damages, liabilities, and expenses incurred by AVEVA if Malicious Code is transmitted by or through Customer to AVEVA.

14. CUSTOMER OBLIGATIONS.

14.1 Cooperation of Customer. AVEVA's performance depends upon Customer's timely and effective cooperation, including providing AVEVA with reasonable facilities, timely access to appropriate data and information, timely decisions and approvals and appropriately skilled Customer personnel. AVEVA will not be liable for any failure to perform Support Services under the Agreement to the extent that the failure is caused by Customer's lack of cooperation. AVEVA may rely upon the accuracy and completeness of data, material, and other information furnished by Customer, without any independent investigation or verification.

14.2 Malicious Code. Customer (i) will use commercially reasonable efforts to ensure that Customer's computer systems and information technology environment are free of viruses, adware, spyware, malware, rootkits, keyloggers, time or logic bombs, trojan horses, worms, or other computer instructions, devices, or techniques that erase data or programming, infect, disrupt, damage, disable, or shut down a computer system or any component of such system ("Malicious Code") and (ii) will not transmit any Malicious Code to AVEVA during any electronic interconnection by any means.

15. BENCHMARKS.

Customer will not disclose the results of any benchmark tests on the Software run by Customer outside of Customer's organization without the prior written consent of AVEVA.

AVEVA SOFTWARE SCHEDULE ENGINEERING (INCLUDING SIMSCI AND PROCESS OPTIMIZATION)

1. APPLICABILITY.

- 1.1 This Software Schedule governs the use of the Software licensed or purchased by Customer as specified in the Transaction Document.
- 1.2 Any terms in this Software Schedule apply solely to the Software listed above and prevail over any conflicting terms in the GTCs.
- 1.3 The Software Products can be ordered individually or collectively on a Transaction Document, and each Software Product is subject to the terms of the Transaction Document in which the Software Schedule is referenced.

2. ADDITIONAL DEFINITIONS. The following capitalized terms used in this Software Schedule shall have the respective meanings specified below:

- 2.1 “**Day**” means a 24-hour period of time commencing at 00:00 (12:00 a.m.) and continuing until 23:59 (11:59 p.m.) in the time zone where the Designated Server hosting the relevant Software resides, or the remaining portion of such period when a License Key that is measured in whole or in part in a number of Days is effective for use on the day it is generated and generation occurs at a time other than 12:00 a.m.
- 2.2 “**Designated Server**” means the server identified as the “Designated Server” in the applicable Transaction Document.
- 2.3 “**Documentation**” means any documentation provided by AVEVA for the Software, in machine readable form, including, but not limited to, the technical documentation, program specification and operations manual, as applicable.
- 2.4 “**Dual Redundant**” means:
 - (a) In the case of a bundled RealTime Services/Historical Services license, a configuration in which AVEVA’s RealTime Services, Historical Services and applications software are installed on each of two servers forming part of Customer’s System, with one server being the “hot” or operational server and the other acting as a standby, so that only one copy of the RealTime Services, Historical Services and applications software will be accessed by the licensed Seats indicated in Transaction Document at any particular point in time.
 - (b) In the case where Customer has purchased individual (unbundled) licenses for RealTime Services and Historical Services, a configuration in which the RealTime Services, Historical Services and applications software are installed on two separate “hot” or operational servers (RealTime Services on one and Historical Services on the other) with a copy of the RealTime Services, Historical Services and applications software each installed in the same manner on two separate additional servers acting as a standby, so that only one copy of the RealTime Services, Historical Services and applications software will be accessed by the licensed Seats indicated in Transaction Document at any particular point in time.
- 2.5 “**License File**” means a security mechanism relating to the Software that enables one or more components of the Software.
- 2.6 “**License Key**” means an alpha-numerical code required to activate the Software.
- 2.7 “**License Period**” means in relation to any Software, the period for which Customer is permitted to Use the Software, as specified by AVEVA (including as may be set forth in a Transaction Document).
- 2.8 “**Licensing System**” means AVEVA’s licensing management software which is software separate from AVEVA’s production software and is required for AVEVA’s production software to run.
- 2.9 “**Log Agent**” means the tool within AVEVA’s Licensing System that is responsible for collating non-personal information solely regarding the use of AVEVA’s production software installed on the applicable server by the customer.
- 2.10 “**Month**” means a period of time commencing at 00:00 (12:00 a.m.) on the first day of a calendar month and terminating at 23:59 (11:59 p.m.) on the final day of the same calendar month, based on the local time zone where the Designated Server hosting the relevant Software resides.
- 2.11 “**Notice File**” means the notice file within (or included with) the Software.
- 2.12 “**Seats**” means the ezXOS, ES stations and non-XOS computers (if any), described in Transaction Document with access to the RealTime Services, Historical Services and applications software installed on the servers forming part of the System.
- 2.13 “**SimSci Token**” means a token under AVEVA’s SimSci token-based security structure. The value of a “Token” as it relates to the Software will be as specified in the Transaction Document

- 2.14 **“Site(s)”** means those locations at which the Software will run or be stored as backup as listed in the Transaction Document.
- 2.15 **“System”** means the system as identified and described in the Transaction Document and consisting of the control centers, servers and work stations as shown in the system configuration diagram in the Transaction Document.
- 2.16 **“Token”** (i) for purposes of the CALM model, means a notional unit that provides access to the Software when redeemed through creation of a License Key and (ii) for purposes of the Usage Based Licensing Model, means the virtual Tokens purchased by Customer which may be redeemed to create a License File allowing access and Use of the Software for the Token Access Period.
- 2.17 **“Token Access Period”** for purposes of the Usage Based Licensing Model, means the period of twelve hours during which a User may access multiple instances of each listed Software product from one workstation. The User may log in and out of the Software product at-will for the entire Token Access Period. Each Token Access Period requires redemption of the number of Tokens shown for each Software product in the Token Weighting Table. If Customer desires the Software to be used by multiple Users, it must purchase a Token Access Period for each User.
- 2.18 **“Token Weighting Table”** means the “Token Weighting Table” included in the applicable Transaction Document.
- 2.19 **“Top-Up Tokens”** means additional Tokens purchased at any time other than on an anniversary of the Transaction Document.
- 2.20 **“Triple Redundant”** means a Dual Redundant configuration in which an additional copy of the RealTime Services and Historical Services software is installed on a server located at a separate off-site location acting as an emergency/contingency backup, so that only one copy of the RealTime Services, Historical Services and applications software will be accessed by the licensed Seats indicated in the applicable Transaction Document at any particular point in time.
- 2.21 **“User”** means a single user running one or more instances of a licensed Software product from a single workstation.
- 2.22 **“Website”** for purposes of the CALM model, means the website operated by AVEVA at <https://calm.aveva.com/> which allows Customer to view the number of unused Tokens available for redemption and to manage and create its CALM-generated License Keys.

3. ADDITIONAL REQUIREMENTS AND RESTRICTIONS.

- 3.1 **Designated Systems.** Customer must operate the Software on computers operating under the Microsoft Windows environment with hardware configuration and systems software compatible with the current release of the Software.
- 3.2 **Notice File.** Customer agrees to comply with the terms and conditions contained in any Notice Files.
- 3.3 **Product Sales Codes.** Customer acknowledges and agrees that AVEVA may vary, amend, modify, or delete any product sales codes assigned to the Software for identification and/or inventory purposes.
- 3.4 **Additional Restrictions.** Customer shall not transfer the Software to another location or to other equipment without AVEVA’s prior written consent.
- 3.5 The Software may only be used in the locations set forth in the applicable Transaction Document.
- 3.6 **AVEVA Trademarks.** Unless otherwise expressly stated in this Agreement, AVEVA retains all goodwill in and Customer has no rights in any trademark owned by AVEVA, whether registered or unregistered, including but not limited to the following: AVEVA, the AVEVA logo, Bocad and FabTrol. A list of AVEVA trademarks can be found at <https://sw.aveva.com/legal/trademarks>

4. NEW FEATURE, FUNCTIONALITY, OR CAPABILITY.

If AVEVA creates any new feature, functionality, or capability for the Software, then AVEVA may make such new feature, functionality, or capability available to Customer. AVEVA reserves the right to charge an incremental license fee for any such feature, functionality, or capability (and also may require that Customer has purchased Support Services during the entire Product Term).

- 5. **PROGRAMS AND DATA FILES.** If permitted by the Documentation, certain of AVEVA’s software may allow Customer to write and integrate its subroutines, customizations, and component library data files. Customer acknowledges and agrees that from time to time AVEVA may create new versions of software (including, but not limited to, as part of any Updates) and such new versions may not be compatible with

Customer's subroutines and data file structures previously created. Customer agrees and acknowledges that AVEVA shall have no responsibility for any incompatibilities and Customer accepts that it may occur.

6. **LICENSE MODEL SPECIFIC PROVISIONS.**

If any of the below license models are specified as applicable to the Software in the Transaction Document, then the terms and conditions set forth below relating to such license model shall also apply to the Software. Not all types of license modes are available to all software products, some are software specific, in some case licensing mechanisms need to be combined for the better solution to customer needs:

6.1 **Initial/Annual.** If Customer licenses the Software on an "Initial/Annual" basis, then the license will be on a per User basis for the Product Term and Customer will be required to pay an initial license fee and term license fee(s), each as set forth in the applicable Transaction Document.

6.2 **Rental.** If Customer licenses the Software on a "Rental" basis, then the license will be on a per User basis for the Product Term and Customer will be required to pay the license fees during the Product Term as set forth in the applicable Transaction Document. For clarity, the "Rental" model involves a license for a specified number of months without automatic renewal.

6.3 **Client Activated License Management Model (CALM).**

(a) **Website Access.** Within a reasonable period following execution of the Transaction Document, AVEVA will provide Customer with access to the Website, which shall be configured with the number of Tokens set forth in the Transaction Document. Customer may redeem the Tokens to create a License Key enabling Use of the licensed Software for a given period of time at the exchange rate established for the Software product in the Agreement.

(b) **Assigned Token Value.** The assigned Token value represents the use of the Software product by a single User for a certain period of time. This period of time is called the "License Access Unit" ("LAU"), which may occur as a Day or a Month, or a combination of Days and Months as determined to be most efficient based on the data Customer provides on the Website. When creating a License Key for Software for a given period, AVEVA combines LAUs in the most cost-effective manner. The Token cost for any product is calculated as follows: Number of Tokens per License Access Unit for the relevant Software, as specified in the Transaction Document x Number of such License Access Units within the relevant License Period as specified by customer or calculated in accordance with this Section x number of "Simultaneous Users" as specified by Customer.

(c) **Registration of Users.** Customer will register its "Designated Users" at AVEVA's website and these Designated Users will be authorized to call off Tokens.

(d) **Client Activated License Management System.** The below terms and conditions apply to AVEVA's provision of the Client Activated License Management System: (i) A valid License Key is necessary in order to use the Software. Customer is responsible for generating all required License Keys by redeeming Tokens via the Website; (ii) Customer must notify AVEVA of the details of all required servers. The Customer will not be able to generate a License Key in relation to a particular server until AVEVA has received and entered the relevant details on the Website; (iii) Customer may redeem Tokens against any Software product. When generating License Keys, Customer must specify the following information: (a) the required server; (b) the relevant Software; (c) the required License Access Units or the effective and end dates if choosing to enter dates; (d) the required quantity of consecutive License Access Units or the required end date of the License Period (which shall not be a date after the expiration of the Transaction Document) for the relevant License Period, as appropriate; and (e) the required number of "Simultaneous Users." (iv) Customer will be provided with a License Key only following: (a) correct entry of all necessary information; and (b) deduction from Customer's total Tokens of the appropriate number of Tokens calculated in accordance with the Agreement. Customer will not be provided with a License Key for the Software if it has insufficient Tokens; (v) If any amounts are due and payable pursuant to the Agreement, Customer will not be entitled to generate License Keys for a License Period extending beyond a period of sixty (60) days from the relevant due date for such payment until such time as the relevant payment is received in full by AVEVA; (vi) Customer may not generate a License Key with a Month LAU within the final month of the term of the Transaction Document; (vii) Each License Key will expire at midnight on the last day of the relevant License Period and Customer will not be able to use the Software thereafter unless a further appropriate License Key is generated; (viii) Unless otherwise

agreed, Customer will not be entitled to any refund of Tokens in the event that Customer has generated a License Key in error; (ix) AVEVA shall use commercially reasonable efforts to ensure that the Website is available for use by Customer to generate License Keys and that Customer receives generated License Keys by email. However, Customer acknowledges and agrees that AVEVA cannot guarantee that the Website will be available at all times or that Customer will receive all emails containing License Keys; (x) If Customer continues to hold Tokens on the date of termination or expiration of the applicable Transaction Document, such Tokens shall expire and Customer will not be entitled to redeem the Tokens against any Software or to receive any refund of fees or any credit against any fees in relation to such unused Tokens.

6.4 USAGE BASED LICENSING MODEL (UBL).

(a) Purchase and Use of Tokens.

- (i) Under the Usage Based Licensing Model, Customer purchases Tokens that may be exchanged for use of the Software for the duration of a Token Access Period. The exchange rate will be set forth in the "Token Weighting Table" set forth in the Transaction Document.
- (ii) Customer shall purchase Tokens on the date of the Transaction Document and on each anniversary thereafter. Except in relation to any 'carry-over' agreement recorded in writing, Customer's right to use such Tokens will expire on the anniversary following the purchased date of the Tokens.
- (iii) If Customer purchases Top-up Tokens, such Top-up Tokens may be purchased at the Fee per Top-up Token established in the Transaction Document. Except on advance written agreement with AVEVA, Top-up Tokens will expire on the anniversary of the Transaction Document immediately following the purchase date.
- (iv) Where the Customer's use of the Software exhausts and exceeds its available Tokens, AVEVA may charge at its standard rates for the extra use.

(b) Recording Use of Tokens.

- (i) The AVEVA Licensing System on each server running AVEVA Software contains a Log Agent for the purposes of recording Customer's use of the Software to assist in the calculation of Token expenditure. The Log Agent will automatically send daily Usage Logs to AVEVA containing encrypted details of this use. Customer acknowledges the presence of such Usage Logs and will comply with such procedures as AVEVA may request to enable the Log Agent to function correctly.
- (ii) In the event of an error in the operation of the Log Agent, Customer will allow AVEVA immediate access to the Log Agent for the purposes of restoring its functionality, and will comply with any request made by AVEVA to allow AVEVA to monitor Customer's usage during the error including, without limitation, manually sending the Usage Logs to AVEVA. A breach of Section 4.4(b)(i) or this Section 4.4(b)(ii) shall be deemed to be a material breach of the Agreement and AVEVA shall have the right to immediately terminate the Agreement.
- (iii) In the event that Customer does not send AVEVA a copy of Usage Log, or if the Usage Log is or appears to be corrupt, AVEVA reserves the right to estimate the number of Tokens used by Customer taking into account Customer's Token commitment and usage to date.
- (iv) The Parties acknowledge that the data transmitted by the Log Agent may include personal data relating to Customer's employees. Prior to such data being transmitted, Customer shall anonymize it so that any personal data included in the transmitted data is anonymized. Customer hereby indemnifies and will keep indemnified AVEVA against any damages that are awarded to be paid to any such third party in respect of a claim and any losses, costs and expenses resulting from Customer's breach of this Section 4.4(b)(iv).

6.5 Simulation and Optimization Special Licensing Modes.

Simulation and optimization products have special licensing modes not available for other products.

- (a) "SimSci Network License" If customer licenses the Software on a "SimSci Network license basis", then the license will be for computers networked to a designated licensed server to use up to the number of concurrent instances of Software specified in a Transaction Document. The Network License requires that the Customer obtain a License File for the licensed server and install such License File on the designated licensed server.
- (b) "SimSci Node-Lock License" If customer license the software on a "SimSci Network License" then the license is to be used as one local instance of the Software on a single computer, all as specified

in the Transaction Document. A Node-Lock License requires that the Customer obtain a License File for the licensed computer and install such License File on the licensed computer.

- (c) “SimSci Token License”
- (i) If the customer licenses the software on a “SimSci Token Licenses” then the license will be for computers networked to a designated server up to the number of concurrent SimSci tokens of software specified on the transaction document. This is a licensing methodology where Customer’s usage of Software on a computer networked to a licensed server is determined by the number of unused SimSci Tokens available to Customer. Customer will be permitted to use an instance of Software on a computer networked to a licensed server if Customer has a sufficient number of unused SimSci Tokens (with the requisite maximum concurrent SimSci Token amount for such Software set forth in the Transaction Document). When a Customer uses an instance of Software, the SimSci Tokens required for such use will be deemed used and unavailable for further usage until Customer exits such instance of Software. Once Customer exits such instance of Software, the previously used SimSci Tokens will be deemed available again for further use. A SimSci Token License may permit Customer to use multiple Software offerings (or multiple Software instances) concurrently if Customer has sufficient SimSci Tokens. All SimSci Token Licenses will require Customer to obtain a License File for the licensed server and to install such License File on the designated licensed server, which licensed server will only permit Customer’s computers connected to such server to access the Software in accordance with the SimSci Token License requirements and in accordance with any other requirements or restrictions set forth in the Transaction Document. For illustrative purposes, if Customer purchased seventy (70) SimSci Tokens and Software A requires twenty (20) SimSci Tokens per instance, Software B requires fifty (50) SimSci Tokens per instance, and Software C requires seventy (70) SimSci Tokens per instance, then Customer could (a) use three (3) concurrent instances of Software A (and sixty (60) SimSci Tokens would be deemed used with ten (10) SimSci Tokens still available for use), (b) use one (1) instance of Software A and one (1) instance of Software B (and seventy (70) SimSci Tokens would be deemed used with zero (0) Tokens still available for use), or (c) use one (1) instance of Software C (and seventy (70) SimSci Tokens would be deemed used with zero (0) SimSci Tokens still available for use). For the avoidance of doubt, once the Customer in this example exits an instance of used Software, then the previously used SimSci Token amount is deemed available for Customer’s further use (e.g., if Customer exited one (1) instance of Software A, twenty (20) SimSci Tokens would become available for further use).
 - (ii) The SimSci Token system will allow Customer unlimited interchange use of the Software. SimSci Tokens will be allocated according to Customer’s real-time use of the Software. SimSci Tokens will not limit use of the Software either jointly or individually; however, overall concurrent use by Customer of any Software may not exceed the total number of SimSci Tokens available to Customer under the Agreement.
 - (iii) Usage Log. For audit and reporting purposes, at the end of each calendar quarter, Customer shall provide AVEVA a copy of the usage log generated through the SimSci Token system. Such usage log shall be delivered to AVEVA electronically by the tenth (10th) day of the month following the end of each calendar quarter and addressed to: AVEVA Software, LLC, 26561 Rancho Parkway South, Suite 100, Lake Forest, CA 92630, SimSciTokens@aveva.com
 - (iv) “USB Key License” is a hardware device that contains a License File to enable the Software. A USB Key shall only be used by Customer in one computer at a time and will only permit access to one local instance of the Software on such computer. This license methodology is being phased out and only available in special renewals.

6.6 AVEVA Pipeline Simulation.

- (a) Software License.
- (i) Customer’s license allows Customer to install and use AVEVA Pipeline Simulation Software solely on the System described in the Transaction Document for Customer’s ordinary internal business, under the terms and conditions herein.
 - (ii) In addition to any other license restrictions set forth in the Agreement for the Software, Customer’s license of the Software will be limited to the number of computers or work stations set forth in the applicable Transaction Document.

(b) License Restrictions.

- (i) Customer shall not copy the Software except to copy it onto the System and to make copies solely for backup purposes (with the inclusion of AVEVA's copyright and/or proprietary notice). However, Customer may make copies of the documentation provided to Customer by AVEVA with the Software provided that such copies are for internal use only and include all of AVEVA's copyright and/or proprietary notices. Customer shall keep accurate records of the number and location of each copy and shall ensure that no copies of the Software are removed to anywhere other than a Site.
- (ii) This License granted by AVEVA to Customer is a network license. AVEVA's Pipeline Simulation Services software will be installed on servers forming part of Customer's System in the configuration as shown in Transaction Document (i.e. single, Dual Redundant or Triple Redundant). The AVEVA Pipeline Simulation Services, Historical Services and application Software may be accessed by the number of Seats specified in Transaction Document.
- (iii) Customer shall have the right to transfer, with AVEVA's prior written consent (such consent not to be unreasonably withheld), use of the Software to a location other than a Site by sending prior written notice of the new location. Once such transfer has been made, the new location shall become included in the definition of "Site(s)". Customer shall have the right to use the Software without charge or prior consent at another location on a temporary basis if computer equipment at any Site becomes inoperative. Once the equipment at the original Site becomes operational, then Customer shall promptly return the Software to the original Site and shall discontinue use elsewhere.
- (iv) Customer shall not use the Software for acquisition or processing of data on behalf of any Third Party outside permitted Customer's ordinary internal business use without the consent of AVEVA.

7. ADDITIONAL SOFTWARE MAINTENANCE SPECIFIC TERMS.

The below terms and conditions shall apply to the below listed Software in addition to (and not in lieu of) any other terms and conditions set forth in the Agreement. If any terms in this Software Schedule that are not included in this Section 7 conflict with the terms contained in this Section 7, then the conflicting terms in this Section 7 shall govern.

7.1 AVEVA Simulation, AVEVA Dynamic Simulation and Optimization Software.

- (i) If Customer licenses any AVEVA Simulation, AVEVA Dynamic Simulation or Optimization Software, Customer must also purchase Support Services during the entire Product Term for such Software licensed for less than twenty (20) years.
- (ii) If Customer licenses any AVEVA Dynamic Simulation or Optimization Software for a license term of twenty (20) years or more, then Customer must also purchase Support Services during the first (1st) year of such license term for such Software (and any additional Support Services will be optional).

7.2 AVEVA Dynamic Simulation.

- (i) If Customer licenses any AVEVA Dynamic Simulation Software for a license term of twenty (20) years or more and such AVEVA Dynamic Simulation Software was included as part of professional services performed by AVEVA, then Customer's usage of such AVEVA Dynamic Simulation Software pursuant to such license shall only be used for the purpose set forth in the applicable Transaction Document. Without obtaining AVEVA's prior written consent, Customer is prohibited from using such AVEVA Dynamic Simulation Software for any other purpose.

7.3 AVEVA APC.

- (i) If Customer licenses any AVEVA APC Software for a license term of less than twenty (20) years, then Customer must also purchase Support Services during such license term for such Software.
- (ii) If Customer licenses any AVEVA APC Software for a license term of twenty (20) years or more, then Customer must also purchase Support Services during the first (1st) year of such license term for such Software (and any additional Support Services will be optional).