

# 技术协议

## Technical Agreement

XXXXXXXX

生效日期:

### Effective Date

**AVEVA 公司:**

剑维软件技术（上海）有限公司

**AVEVA Company**

**AVEVA Solutions (Shanghai) Co., Ltd.**

统一社会信用代码

9131011558874611XG

Unified Social Credit Code

9131011558874611XG

注册地址:

上海市浦东新区浦建路 76 号由由国际广场 1507

单元

Registered Address

Unit 1507, You You International Plaza, No.76,

Pujian Rd, Pudong, Shanghai

电话号码:

+86-21-60722999

Telephone Number

+86-21-60722999

主要联系人:

Principal Contact

通讯地址（如与上述地址不同）:

上海市浦东新区银城路 88 号中国人寿金融中心 37

楼 03-07 单元

Correspondence Address (if different)

Unit 03-07, 37th Floor, China Life Financial

Center, No.88, Yincheng Road, Pudong New

Area, Shanghai

主要联系人电话号码:

Principal Contact Telephone Number

主要联系人电子邮件:

Principal Contact Email

市场部联系人:

陈琳虹

Marketing Contact:

Ryana Chen

**最终用户:**

**End User**

统一社会信用代码

Unified Social Credit Code

注册地址:

Registered Address

电话号码:

Telephone Number

主要联系人:

Principal Contact

通讯地址（如与上述地址不同）:

Correspondence Address (if different)

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主要联系人电话号码:

Principal Contact Telephone Number

主要联系人电子邮件:

Principal Contact Email

市场部联系人:

Marketing Contact:

任何一方均可在书面通知另一方之后变更主要联系人。

Either party may change the Principal Contact upon written notification to the other party.

剑维软件技术（上海）有限公司

**AVEVA Solutions (Shanghai) Co., Ltd.**

.....

(授权签字人)  
(Authorised Signature)

姓名: .....

Name

职务: .....

Position

日期: .....

Date

.....

(授权签字人)  
(Authorised Signature)

姓名: .....

Name

职务: .....

Position

日期: .....

Date

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鉴于：AVEVA 与经销商（XXXXXXXXXX）（以下简称“经销商”）签订了编号为 XXXXXXXX 的协议（以下简称“经销协议”），根据经销协议，AVEVA 向经销商所指定的最终用户就下列软件履行相应义务。

WHEREAS, AVEVA has entered into Distributor Agreement with reference number XXXXXXXX with Distributor XXXXXXXX, and according to Distributor Agreement, AVEVA shall carry out obligation hereinafter to End User which Distributor appoints.

经销协议有关内容摘录如下：

The content of Distributor Agreement is summarized as below:

初始/年度模式 (Initial/Annual Model)

<b>软件 Software</b>	<p>软件列表/Software list</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: center;">软件编号 Software Code</th> <th style="text-align: center;">软件名称 Software Name</th> <th style="text-align: center;">并发用户数 Number of simultaneous users</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table> <p>连同安装和使用软件所必需的文档。 Together with the necessary Documentation to install and use the Software.</p> <p>软件的使用受软件保安控制系统设置及 AVEVA 许可电子文件行政管理限制。 Security system will be set accordingly and AVEVA license file administration control shall be applied.最终用户 End User 最终用户 End User</p>	软件编号 Software Code	软件名称 Software Name	并发用户数 Number of simultaneous users						
软件编号 Software Code	软件名称 Software Name	并发用户数 Number of simultaneous users								
<b>指定系统 Designated System</b>	<p>在 Windows 环境下运行的个人电脑，该电脑须配备与该软件的商用版本兼容的硬件配置和系统软件。 Personal computer operating under the WINDOWS environment with hardware configuration and systems software compatible with a commercially available release of the software.</p>									
<b>服务器的 ID 和地点 Identification and Location of Server</b>	<p>许可权利管理程序（定义见第 1 条）将会安装于位于以下地点的一台服务器上： The Licence Entitlement Manager (as defined in clause 1) will sit on a server located at:</p> <p>最终用户应向 AVEVA 提供该服务器特有的 ID 属性。 End User will provide AVEVA with unique identification attributes of the server.</p>									
<b>最终用户的 ID 和地点 Identification and Location of End Users</b>										
<b>年度升级维护服务费（年费）：</b> 系指本协议生效之时以及之后本协议每一周年日支付的年费，作为该等年费的对价，AVEVA 将会授予客户一项在每个	<p><b>年费</b> <u>Annual Fees</u></p> <p>上述软件的年费为人民币       元(包含 6%增值税)。 Annual Fee for the Software listed above is RMB       (inclusive of 6% applicable value added tax).</p>									

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<p>期间为期十二（12）个月的连续期间内使用软件的持续权利。</p> <p><b>Annual Upgrade Maintenance Service Fee (Annual Fee) :</b> means the annual fee paid upon signature of this Agreement and each anniversary of this Agreement thereafter in consideration for which, AVEVA will grant Customer a continued right to Use the Software for successive periods of twelve (12) months.</p>	<p>对于软件列表中的软件，客户必须于每年 月 日之前向 AVEVA 缴纳下一年度的年费。</p> <p>Regarding the software listed in Software List, Customer shall pay Annual Fee of next year to AVEVA before of each year.</p> <p>除非本协议有相反约定，从本协议生效日的第一个周年日（年费起算日）起，客户在每个为期十二个月的连续期间内，持续使用软件及支持、维护、升级服务的权利取决于客户按照本协议约定支付上述年费。若客户未能及时支付约定年费，则无权使用软件且无权享受任何现场或远程咨询、培训、支持、维护升级等服务。</p> <p>Unless explicitly provided herein otherwise, from the first anniversary date of the effective date of this Agreement (Annual Fee Commence Date), Customer's entitlement of right to use the Software and services of support, maintenance and upgrade in each continuous period of twelve months depends on Customer's payment of above Annual Fee according to this Agreement. If Customer fails to pay the Annual License Fee, then it shall not be entitled to use the software or to enjoy any site or remote consultation, training, support, maintenance or upgrade services etc.</p> <p>软件的年费将在每个为期十二个月的连续期间开始时以 3%/年的比率自动增加。</p> <p>The Annual Fee for the software shall automatically increase at a rate of three percent (3%) per year at the beginning of each continuous period of twelve months.</p>
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在此双方同意，若上述 AVEVA 与经销商之间编号为 XXXXX 的协议履行后，最终用户收到相应软件及其他交付物后，最终用户应遵守本协议下列条款。

**Therefore**, the Parties confirm that after the performance of the contract between AVEVA and Distributor with reference number XXXXX, End User will receive Software and other deliveries, and End User shall comply with following clauses.

最终用户在此确认并同意，本协议有关软件的许可费通过经销商 根据编号为 的经销协议支付。如果上述经销商未能按编号为 的经销协议履行相应付款义务，或者经销协议中的最终用户发生变更，最终用户可能将无法收到相应软件或者其他交付物或者无法继续使用有关软件或者本协议将相应立即终止。

End user hereby confirms and agrees that Software Licence Fees of this Agreement shall be paid to AVEVA through the distributor according to the Distributor Agreement with reference number . If the distributor does not perform the obligation of the payment according to the Distributor Agreement with reference number or End User in the Distributor Agreement has been changed, End User may not receive Software or other deliveries or won't be able to use Software or this Agreement will be terminated immediately.

最终用户在此确认并同意，将与 AVEVA 就编号为 XXXXXX 的经销协议项下有关权利义务达成直销合同关系，否则从上述协议第二年度开始之日起，最终用户将无权使用相应软件。

End user hereby confirms and agrees to directly enter into a contract with AVEVA regarding the rights and obligations under the Distributor Agreement with reference number , or End User will have no entitlement of corresponding Software since the beginning of the second year under above-mentioned agreement.

### 1. 软件和支持硬件的发放和使用/Issue and Use of Software and Supporting Hardware

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**许可权利管理程序:** 系指允许在最终用户网络范围内同时使用软件和/或在特定服务器（例如单台笔记本电脑）而非网络上同时使用软件的应用程序。

**Licence Entitlement Manager:** Means the application(s) enabling simultaneous use of the Software across End User's network and/or simultaneous use of the Software on a specific server, such as an individual laptop, not on a network.

**许可期限:** 就任何软件而言，系指许可权利管理程序允许使用该软件的期限。

**Licence Period:** in relation to any Software, the period for which the Licence Entitlement Manager permits use of the Software.

**维护版本:** 系指对软件作出的任何升级、更新、增强、改进或修改，包括但不限于纠错和补丁，但不应包括 AVEVA 在其正常经营过程中不时公开营销和提供以便他人购买的任何新版本的软件。

**Maintenance Release:** means any upgrade, update, enhancement, improvement or modification to the Software including without limitation error corrections and patches, but shall not include any new version of the Software which from time to time is publicly marketed and offered for purchase by AVEVA in the course of its normal business.

**通知文件（用户须知）:** 系指软件中的文件。

**Notice File:** means the file within the Software.

**服务器:** 系指一项特定的许可权利管理程序从中允许使用一项软件的硬件。

**Server:** the hardware from which a particular Licence Entitlement Manager enables use of a Software.

**并发用户:** 系指在任何单一时间点可能使用软件的用户数量。

**Simultaneous User:** means the number of Users who may Use the Software at any one time.

**使用:** 系指通过以下方式使用软件：将软件拷贝、传输或上传到最终用户硬件的临时存储器（RAM）当中或者安装到最终用户硬件的永久存储器（例如硬盘、DVD ROM 或其他存储装置）当中以便处理该等软件中包含的系统指令或语句，以及出于备份目的拷贝软件（但该等拷贝应以最终用户运行安全及在本协议范围内使用所合理必需的为限，并且未经 AVEVA 事先书面同意，在任何单一时间点在任何许可项下存在的拷贝数量不得超过二（2）份（但适用法律另行允许的除外），以及使用文档（但是最终用户不得拷贝全部或任何部分的文档，并且不得将任何商标、著作权或所有权通知从文档中移除）。

**Use:** means utilisation 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 End User's hardware for the processing of the system instructions or statements contained in such Software and copying the Software for back-up purposes to the extent that such copies are reasonably necessary for the End User's operational security and Use within the scope of this Agreement provided that no more than two (2) copies will be in existence under any licence at any one time without AVEVA's prior written consent except as otherwise permitted by the applicable law and utilising the Documentation provided that the End User shall not copy the whole or any part of the Documentation and shall not remove any trademark, copyright or proprietary notices from the Documentation.

**用户:** 系指在一台个人电脑上运行一项或多项软件的单个用户。

**User:** A single user running one or more sessions of the Software on a personal computer.

1.1 AVEVA 应向最终用户授予一项在整个许可期限内使用软件并且使用文档的非独占、不可转让、不可出让并且不可分许可的许可。

AVEVA shall issue to the End User a non-exclusive, non-transferable, non-assignable and non-sub-licensable, licence to Use the Software and to make use of the Documentation for the duration of the Licence Period.

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1.2 最终用户不得超出本协议列明的并发用户数量。如实际并发用户数量超过上述约定的，**AVEVA** 将按最终用户在支付软件许可费时最初支付的用户单价的双倍价格，向最终用户收取额外用户使用软件的使用费。

The End User shall not exceed the number of Simultaneous Users specified in this Agreement. If the number of Simultaneous Users exceeds that as provided above, the End User shall be charged by **AVEVA** for the use of the Software by additional Users at a price that is 200% of the price per User originally paid by the End User when paying the Software Licence Fee.

1.3 最终用户只可将许可权利管理程序上传至本协议列明的服务器。未经 **AVEVA** 事先书面同意，最终用户不得转移或变更装有许可权利管理程序的服务器。因该等移动或变更导致软件无法正常使用的，**AVEVA** 不承担任何责任。未经 **AVEVA** 事先书面同意，最终用户不得将许可权利管理程序安装于新的服务器。如果最终用户进行该等安装，最终用户应按双方约定的许可费之双倍价格，向 **AVEVA** 支付增加之服务器使用软件的费用。

The End User shall only upload the License Entitlement Manager to the Server/s specified in this Agreement. Without **AVEVA**'s prior written consent, the End User shall not remove or change the Server on which the Licence Entitlement Manager is installed. **AVEVA** will not be liable for any failure of normal use of the Software due to such removal or change. Without **AVEVA**'s prior written consent, the End User shall not install the Licence Entitlement Manager on new servers. Where the End User does so, it shall pay to AVEVA for the use of the Software by added servers at a price twice as much as the licence fee provided by the parties.

1.4 最终用户理解 AVEVA PDMS 12 版、AVEVA PDMS 简体中文版以及 AVEVA PDMS 繁体中文版的许可管理程序须安装在不同的服务器上。

End User understands that AVEVA PDMS version 12 may not be installed on the same licence server together with AVEVA PDMS simplified Chinese version and AVEVA PDMS traditional version.

1.5 除另有规定外，最终用户及其用户仅可在附件 1 规定的地点使用软件。

Except as otherwise herein provided, the End User and its Users may only Use the Software at the Locations specified in Schedule 1.

1.6 对于软件所有拷贝的数量、位置和创建日期，最终用户应维持准确而且最新的记录，并采取一切必需的措施防止发生未经授权的拷贝行为。应 **AVEVA** 要求，最终用户应向 **AVEVA** 提供上述记录。

The End User shall maintain accurate and up-to-date records of the number, location and date of creation of all copies of the Software and take all necessary steps to prevent unauthorised copying. The End User shall provide such records to AVEVA at AVEVA's request.

1.7 除根据软件附带的文档中规定的对软件进行定制的权利之外，最终用户不得复制、修改、适配、合并、翻译、拆解、反编译或重新编译软件，对之进行反向工程或实施其他试图从软件导出程序源代码的行为，不得基于全部或任何部分的软件创造衍生作品，或者将软件纳入非由 **AVEVA** 提供的任何其他软件程序，也不得限制、破坏或绕过软件附带的加密附件或 **AVEVA** 提供的其他确保软件正确使用的限制性措施。

Other than in accordance with the rights to customise the Software which are set out in the accompanying Documentation the End User shall not reproduce, modify, adapt, merge, translate, disassemble, decompile, recompile or reverse engineer the Software, conduct any other operation which is intended for the output of the program source code from the Software, or create derivative works based on the whole or any part of the Software or incorporate the Software into any other software program not provided by **AVEVA**, or restrict, damage or go around the encrypted attachment of the Software or other restrictive measures provided by **AVEVA** that ensure the correct use of the Software.

1.8 最终用户仅应将软件用于其内部业务目的，并且未经 **AVEVA** 事先书面同意，最终用户不得将软件和/或文档提供给任何第三方使用。未经 **AVEVA** 同意（但 **AVEVA** 不应不合理地拒绝、延迟或附条件给予该等同意），最终用户不得将软件转移至任何其他地点或其他设备。

The End User shall use the Software only for its internal business purposes and shall not make the Software and/or the Documentation available for use to any third party without **AVEVA**'s prior written

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consent. It shall not transfer the Software to another location or to other equipment without the consent of **AVEVA** such consent not to be unreasonably withheld, delayed or conditioned.

1.9 如果最终用户怀疑或获悉第三方在未从 **AVEVA** 获得有效许可的情况下正在使用 **AVEVA** 的软件，最终用户应在合理可行的范围内尽快将此怀疑通知 **AVEVA**。

In the event that the End User suspects or becomes aware of third parties using **AVEVA**'s software without a valid licence from **AVEVA** then it shall as soon as reasonably practical notify **AVEVA** of its suspicions.

1.10 **AVEVA** 保留以其认为适当的方式更改、修订、修改或删除为软件分配的仅仅用于识别和/或库存目的的任何软件销售代码的权利。

**AVEVA** reserves the right to vary, amend, modify or delete any Software sales codes assigned to the Software for identification and/or inventory purposes only.

1.11 最终用户同意受通知文件包含的各项条款和通知约束。

End User agrees to be bound by the terms and notices contained in the Notice File.

1.12 如果 **AVEVA** 通知最终用户其已发行任何维护版本以纠正对任何第三方知识产权的侵权或者软件运行中的任何错误，最终用户应在收到之后在合理可行的范围内尽快（但应在七天之内）安装该维护版本。

End User shall install all Maintenance Releases as soon as reasonably practicable after receipt and within seven days where **AVEVA** has notified End User that the Maintenance Release has been issued to correct an infringement of a third party's Intellectual Property Rights, or an error in the functionality of the Software.

1.13 最终用户会得到跟软件有关的标准支持(见 [www.aveva.com/policies](http://www.aveva.com/policies))。如果最终用户需要的服务超出了标准支持的范围，则需另外签署一份扩展支持服务协议。

End User will receive standard support in relation to the Software ([www.aveva.com/policies](http://www.aveva.com/policies)). If the End User requires services which are outside the scope of the standard support, it shall enter into a separate extended support services agreement.

1.14 **AVEVA** 保留根据其停供政策（end of life policy）（该政策可从 **AVEVA** 网站上获取（参见 [www.aveva.com/policies/eol/en](http://www.aveva.com/policies/eol/en)））“停供”任何软件的权利。

**AVEVA** reserves the right to “end of life” any Software in accordance with its end of life policy which can be located on its website (see [www.aveva.com/policies/eol/en](http://www.aveva.com/policies/eol/en)).

## 2. 文档/Documentation

**文档：**系指 **AVEVA** 以可机读格式就软件提供的文档，包括但不限于技术文档、程序规范和操作手册。

**Documentation:** the documentation provided by **AVEVA** for the Software, in machine readable form, including but not limited to the technical documentation, program specification and operations manual.

2.1 最终用户被允许制作合理数量的文档副本仅供其内部使用。

The End User is allowed to make a reasonable number of copies of the Documentation for its internal use only.

## 3. 硬件/Hardware

**支持硬件：**系指 **AVEVA** 提供给最终用户以便与软件一同使用的任何软件保护器或其他物理设备。

**Supporting Hardware:** means any dongles, or other physical devices supplied by **AVEVA** to the End User for use with the Software.

3.1 最终用户应根据 **AVEVA** 的指示使用任何支持硬件。

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The End User shall use any Supporting Hardware in accordance with AVEVA's instructions.

3.2 AVEVA 提供的支持硬件仍应属于 AVEVA 的财产，AVEVA 有权要求最终用户在支持硬件的明显位置标注 AVEVA 的所有权标识。未经 AVEVA 事先书面同意，最终用户不得损毁、覆盖、移除上述标识或以任何方式隐藏 AVEVA 的所有权人身份。AVEVA 保留在其认为适当的情形下撤回或更换支持硬件的权利。

The Supporting Hardware provided by AVEVA shall remain AVEVA's property. AVEVA has the right to request the End User to have AVEVA's ownership tag obviously marked on the Supporting Hardware. The End User shall not, without AVEVA's prior written consent, damage, cover, remove such tag, or hide AVEVA's identity as the owner in any measure. AVEVA reserves the right to withdraw or change the Supporting Hardware as it sees fit.

3.3 支持硬件应置于 AVEVA 认可的场所并与软件一同使用，未经 AVEVA 事先书面同意，最终用户不得将支持硬件用于本协议之外的任何目的，也不得搬离 AVEVA 认可的场所。

The Supporting Hardware shall be placed at the locations recognized by AVEVA and used together with the Software. The End User, without AVEVA's prior written consent, shall not use the Supporting Hardware for any purpose other than this Agreement, or remove the Supporting Hardware from the locations recognized by AVEVA.

3.4 最终用户不得将支持硬件出借、让与、出质、出卖、提供担保或作出其他任何处分。

The End User shall not loan, relinquish, pledge, sell, or make lien or any other disposition on the Supporting Hardware.

3.5 在最终用户占有和管理支持硬件期间，支持硬件发生的一切损毁灭失风险应由最终用户承担。

Any risk of damage and loss of the Supporting Hardware shall be borne by the End User when such supporting hardware is in the possession and under the management of the End User.

3.6 无论本协议因何种原因而终止，最终用户均应立即返还支持硬件，不得以任何理由行使留置权。

In the event that this Agreement terminates for any reason, the End User shall immediately return the Supporting Hardware without exercise of any lien for any reason.

#### 4. 保密/Confidentiality

**关联公司：**就任何一方而言，包括该方的每一家和任何子公司或控股公司，以及任何该等控股公司的每一家和任何子公司。

**Affiliate/s:** includes in relation to either party each and any subsidiary or holding company of that party and each and any subsidiary of a holding company of that party.

**保密信息：**系指一方或其关联公司、雇员、管理人员、代表或顾问（统称“代表”）向另一方及其代表披露的与以下任何信息有关的所有信息（无论是如何记录或保存的）：任何会被理性的商人视为保密的与以下各项有关的信息，即(i) 披露方的业务、事务、最终用户、顾客和计划、定价；以及(ii) 披露方（或披露方所属集团公司的任何成员）的经营、流程、软件信息、专有技术、设计、商业秘密或软件。

**Confidential Information:** means all information (however recorded or preserved) disclosed by a party or its Affiliates, its employees, officers, representatives or advisers (together its "Representatives") to the other party and that party's Representatives concerning: any information that would be regarded as confidential by a reasonable business person relating to: (i) the business, affairs, End Users, clients and plans, pricing of the disclosing party; and (ii) the operations, processes, Software information, know-how, designs, trade secrets or software of the disclosing party (or of any member of the group of companies to which the disclosing party belongs).

4.1 每一方均承诺不会在本协议期限内的任何时候以及本协议终止之后的五年期间内向任何人披露另一方的任何保密信息，但下文第 4.2 条允许的除外。



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Each party undertakes that it shall not at any time during the term of this Agreement, and for a period of five years after termination of the Agreement, disclose to any person any Confidential Information of the other party except as permitted by clause 4.2 below.

4.2 每一方均可：

Each party may disclose the other party's Confidential Information:

(a) 将另一方的保密信息披露给为履行接收方在本协议项下的义务之目的以及（就 AVEVA 而言）为协助 AVEVA 确保最终用户遵守本协议之目的而需要知悉该等信息的该方雇员、管理人员、代表或顾问。每一方均应确保其接受其披露的另一方的保密信息的雇员、管理人员、代表或顾问遵守上文第 4.1 条；以及

(b) 根据法律、法院命令或任何政府部门或监管部门可能作出的要求，披露另一方的保密信息。

(a) to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the receiving party's obligations under this Agreement, and in the case of AVEVA, for the purposes of assisting AVEVA to ensure End User's compliance with this Agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's Confidential Information comply with clause 4.1 above; and

(b) as may be required by law, court order or any governmental or regulatory authority.

4.3 任何一方不得将另一方的保密信息用于除履行其在本协议项下的义务以外的其他任何目的。

No party shall use any other party's Confidential Information for any purpose other than to perform its obligations under this Agreement.

## 5. 保证/Warranty

5.1 **AVEVA** 不保证使用软件不会发生中断或者不存在错误或病毒。存在任何错误或病毒不应构成违反本协议。

**AVEVA** does not warrant that the use of the Software will be uninterrupted, error-free or free from viruses. The existence of any errors or viruses shall not constitute a breach of this Agreement.

5.2 如果最终用户发现了任何对其使用软件具有重大影响的材料错误，并在本协议生效之日起的九十日内将此错误通知了 **AVEVA**，**AVEVA** 应（按其自行选择）：

In the event that the End User discovers a material error which substantially affects its Use of the Software and **AVEVA** is notified of the error within ninety days from the effective date of this Agreement **AVEVA** shall at its sole option either:

(a) 尽一切合理努力通过补丁或维护版本（具体由 **AVEVA** 选择）更正显示有重大错误的那部分软件；或者

(b) 更换软件；或者

(c) 经书面通知最终用户后立即终止本协议，并在最终用户返还软件及其所有拷贝之后退还最终用户截至协议终止之日已经支付的任何软件许可费（须减去最终用户截至协议终止之日使用软件所发生的合理费用金额），前提是 i) 造成该项重大错误的原因并非任何非由 **AVEVA** 对软件作出的任何修改、更改或增加，或者最终用户不正确地使用软件、非按本协议条款使用软件或者计划对软件所作的使用，软件的不当使用或软件被破坏，或者将软件同其他软件一起使用，或者在与软件不兼容的设备上使用软件；并且 ii) 最终用户提供了协助 **AVEVA** 解决上述缺陷或故障可能必需的一切信息，包括使 **AVEVA** 能够重现上述缺陷或故障的充足信息。为避免产生疑问，为本条之目的，**AVEVA** 尚未明确说明予以支持的所有硬件均被 **AVEVA** 视为“不兼容”，即使软件碰巧全部或部分地能在该等硬件上工作。

(a) use all reasonable endeavours to correct by patch or Maintenance Release (at **AVEVA**'s option) that part of the Software exhibiting a material error; or

(b) replace the Software; or

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(c) terminate this Agreement immediately by notice in writing to the End User and refund any of the Software Licence Fee paid by the End User as at the date of termination (less a reasonable sum in respect of the End User's use of the Software to the date of termination) on return of the Software and all copies thereof, PROVIDED THAT i) such material error has not been caused by any modification, variation or addition to the Software not performed by **AVEVA** or caused by its incorrect use, use outside the terms of this Agreement or intended use of the Software, abuse or corruption of the Software or by use of the Software with other software or on equipment with which it is incompatible; and ii) the End User provides all the information that may be necessary to assist **AVEVA** in resolving the defect or fault, including sufficient information to enable **AVEVA** to re-create the defect or fault. For the avoidance of doubt for the purpose of this clause **AVEVA** shall consider as "incompatible" all hardware which it has not specifically stated that it will support even if the Software happens to work in whole or in part on such hardware.

5.3 除本协议明确约定的之外，与软件、文档和提供支持有关的一切条件、保证、条款和承诺，无论是明示的或默示的（无论是法律、普通法、贸易惯例、习惯惯例、交易过程或另行默示的）（包括但不限于与质量、性能或适合或适宜用于任何目的有关的条件、保证、条款和承诺）在此在法律允许的最大范围内予以排除。

EXCEPT AS EXPRESSLY SET OUT IN THIS AGREEMENT, ALL CONDITIONS, WARRANTIES, TERMS AND UNDERTAKINGS, EXPRESS OR IMPLIED, WHETHER BY STATUTE, COMMON LAW, TRADE PRACTICE, CUSTOM, COURSE OF DEALING OR OTHERWISE (INCLUDING WITHOUT LIMITATION AS TO QUALITY, PERFORMANCE OR FITNESS OR SUITABILITY FOR PURPOSE) IN RESPECT OF THE SOFTWARE, THE DOCUMENTATION AND THE PROVISION OF SUPPORT ARE HEREBY EXCLUDED TO THE FULLEST EXTENT PERMISSIBLE BY LAW.

### 6. 知识产权/Intellectual Property Rights

**知识产权：**系指世界上任何地方的一切专利、著作权、设计权利、商标、服务商标、商业秘密、专有技术、数据库权利以及其他具有知识产权性质的权利（无论上述各项是否已经注册登记），以及上述权利的一切申请。

**Intellectual Property Rights** means all patents, copyrights, design rights, trademarks, service marks, trade secrets, know-how, database rights and other rights in the nature of intellectual property rights (whether registered or unregistered) and all applications for the same, anywhere in the world.

6.1 **AVEVA** 拥有或被许可使用与软件和文档（包括但不限于源代码、目标代码、文档资料以及任何由 **AVEVA** 在提供任何后续维护或技术支持过程中提供的软件、资料）有关的一切著作权及其他知识产权。除本协议另有约定外，**AVEVA** 未向最终用户许可与软件或文档有关的任何著作权、专利权、商标权、商业秘密及其他任何相关权利。本条中的任何内容并未转移属于最终用户或与上传至软件的或使用软件创造的数据有关的任何第三方拥有的任何知识产权的所有权。

**AVEVA** owns or is licensed to use all copyright and other Intellectual Property Rights relating to the Software and Documentation (including but not limited to source code, object code, documentation and any software or material provided by **AVEVA** in the provision of any subsequent maintenance or technical support). Unless otherwise provided in this Agreement, **AVEVA** has not licensed to the End User any copyright, patent, trademark right, trade secrets or any other relevant right relating to the Software or Documentation. Nothing in this clause transfers ownership of any Intellectual Property Rights subsisting in an End User or third party which relates to data uploaded onto or created using the Software.

6.2 就软件而言，以最大责任与 **AVEVA** 就权利主张提出之前的十二个月内根据经销协议从经销商所收到的软件许可费相当为限，**AVEVA** 在此向最终用户赔偿最终用户就任何主张软件侵犯任何第三方知识产权的胜诉权利主张（“侵权主张”）而被任何具有适当管辖权的法院判决向任何该等第三方支付的任何损害赔偿、损失、成本或费用，并应使得最终用户就之获得赔偿，但前提是，最终用户：

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In relation to the Software and subject to a maximum liability equivalent to the Software Licence Fees received from Distributor according to Distributor Agreement by **AVEVA** in the twelve months preceding the claim being brought, **AVEVA** hereby indemnifies and will keep indemnified the End User against any damages, losses, costs or expenses that are awarded by a competent court to be paid by the End User to a third party in respect of a successful claim that the Software infringes a third party's Intellectual Property Rights ("Infringement Claim"). PROVIDED THAT the End User:

- (a) 未曾采取过，亦未曾允许或容许采取任何可能已经侵犯任何第三方著作权的行动；
- (b) 正在使用软件的最新维护版本（若此等使用本会防止发生上述侵权主张）。
- (c) 在七日内将任何该等权利主张书面通知了 **AVEVA**；
- (d) 未承认任何责任或就任何权利主张达成妥协或任何和解（但经 **AVEVA** 事先书面同意的除外），或者另行对 **AVEVA** 造成损害或者对任何其他第三方抗辩任何权利主张造成损害；
- (e) 使得 **AVEVA** 或 **AVEVA** 指示的任何人直接、立即并且完全控制因任何权利主张而引起的一切协商和诉讼；并且
- (f) 向 **AVEVA** 及其指示的其他第三方提供一切合理协助，协助进行任何该等协商或和解任何该等诉讼。

- (a) has not done, permitted or suffered to be done anything which may have been an infringement of the copyright of a third party;
- (b) is using the latest Maintenance Release of the Software, where such use would have prevented the Infringement Claim.
- (c) notifies **AVEVA** in writing within seven days of any such claim;
- (d) does not make any admission as to liability or compromise or agree any settlement of any claim without **AVEVA**'s prior written consent, or otherwise prejudices **AVEVA** or any other third party's defence of any claim;
- (e) give **AVEVA**, or such person as **AVEVA** shall direct, immediate and complete control of all negotiations and litigation arising from any claim; and
- (f) give **AVEVA** and such other third parties as **AVEVA** shall direct all reasonable assistance with the conduct or settlement of any such negotiations or litigation.

6.3 如果 **AVEVA** 认为软件侵犯了任何第三方的著作权，或者有可能会侵犯任何第三方的著作权，**AVEVA** 应有权依其绝对裁量：

If in **AVEVA**'s opinion the Software infringes the copyright of a third party, or is likely to infringe the copyright of a third party, **AVEVA** shall have the right in its absolute discretion to:

- (a) 为最终用户获得根据本协议条款继续使用软件的权利；
- (b) 对软件作出更改、修改或调整使之不再侵权；
- (c) 将软件更换为并不侵权的软件；或者
- (d) 终止本协议，并将最终用户已经支付的任何软件许可费（视适用情形而定）之未用部分退还给最终用户。

(a) procure the right for the End User to continue using the Software in accordance with the terms of this Agreement;

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- (b) make such alterations, modifications or adjustments to the Software so that it becomes non-infringing;
- (c) replace the Software with non-infringing software; or
- (d) terminate this Agreement and refund to the End User the unused proportion of any Software Licence Fees as applicable paid by the End User.

6.4 最终用户应向 **AVEVA** 赔偿 **AVEVA** 由于任何可归因于上传至软件的或使用软件创造的数据的权利主张以及最终用户未按本协议规定使用或占有软件和文档可能发生的一切责任、成本和费用（包括但不限于一切律师费）。

The End User shall indemnify **AVEVA** against all liabilities, costs and expenses (including without limitation all legal fees) which **AVEVA** may incur as a result of any claim attributable to data uploaded onto or created using the Software and the use or possession by the End User of the Software and Documentation other than in accordance with the provisions of this Agreement.

6.5 如果最终用户提出任何权利主张，主张软件侵犯了任何现有专利，本协议以及最终用户使用软件的权利应立即自动终止。

If the End User brings any claim that the Software infringes an existing patent, this Agreement and the End User's right to the use the Software shall automatically terminate immediately.

6.6 如果最终用户享有拷贝软件的明示权利，必须在软件的每一份拷贝或部分拷贝上复制所有的著作权通知及其他一切所有权图例。

Where the End User has the express right to make copies of the Software, all copyright notices and all other legends of ownership must be reproduced on each copy or partial copy of the Software.

## 7. 责任限制/Limitation of Liability

7.1 **AVEVA** 不对最终用户（或声称根据最终用户指示或通过最终用户行事的任何人）可能蒙受的以下任何损失（包括但不限于最终用户（或声称根据最终用户指示或通过最终用户行事的任何人）由于软件创造的任何数据不准确或无效而蒙受的任何损失）承担任何责任，即使 **AVEVA** 知悉可能发生该等损失的该等情形：利润损失、业务损失、商誉减损和/或类似损失、预期节约的损失、货物损失、合同损失、使用损失、数据或信息被破坏的损失，任何特殊的、间接的、随附发生的或者纯粹经济性的损失、成本、损害、收费或费用。

**AVEVA** shall not be liable for: loss of profits; loss of business; depletion of goodwill and/or similar losses; loss of anticipated savings; loss of goods; loss of contract; loss of use; loss of corruption of data or information; any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses which may be suffered by the End User (or any person claiming under or through the End User), including but not limited to, any loss suffered by the End User (or any person claiming under or through the End User) resulting from the inaccuracy or invalidity of any data created by the Software even if **AVEVA** was aware of such circumstances in which such losses could arise.

7.2 **AVEVA** 与软件的性能或拟定性能有关而产生的全部责任，无论是基于合同、侵权（包括过失或违反法定义务）、虚假陈述、恢复原状或其他原因，应以就最终用户权利主张提出年度已支付的 100% 的软件许可费为限。

**AVEVA's** total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance, or contemplated performance of the Software shall be limited to 100% of the Software Licence Fees paid in the year in which the End User's claim is brought.

7.3 如果软件包含有任何第三方软件，该等第三方不对随附发生的损害承担任何责任，并且在法律允许的范围内，该等第三方在此不承担一切默示的保证（包括但不限于关于质量合格、适销性、不侵权以及适用于任何特定目的的默示保证）。

In the event that the Software contains software of any third-party, such third-parties shall not be liable for consequential damages and to the extent permitted by law, such third-parties hereby disclaim all

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implied warranties (including without limitation implied warranties of satisfactory quality, merchantability, non-infringement and fitness for a particular purpose).

7.4 第 7.1 条和第 7.2 条约定的限制应在法律允许的最大范围内适用。

The limitations set out in clauses 7.1 and 7.2 shall apply to the fullest extent permissible at law.

### 8. 审计权利/Audit Rights

8.1 **AVEVA** 应有权出于确定最终用户目前并且一直遵守本协议条款之目的，检查最终用户系统、簿册和记录与使用软件有关的部分。

**AVEVA** shall have the right to examine those parts of the End User's systems, books and records relating to the Use of the Software for the purposes of ascertaining that the End User is and has been complying with the terms of this Agreement.

8.2 最终用户在此承诺全面配合 **AVEVA** 及其专业顾问进行与使用软件和/或文档有关的任何审计。最终用户进一步承诺在合理可行的范围内尽快，但在任何情形下均应在要求提出之后的五日内向 **AVEVA** 及/或其专业顾问提供所有相关资料（包括但不限于其系统、簿册和记录中储存的信息）。

The End User hereby undertakes to cooperate fully with AVEVA and its professional advisers during any audit relating to the Use of the Software and/or Documentation. The End User further undertakes to deliver up to AVEVA and/or its professional advisers all relevant material (including but not limited to information stored on its systems, books, records) as soon as reasonably practical and in any event within five days of such request.

8.3 如果任何审计显示最终用户违反了本协议条款，则最终用户应向 **AVEVA** 支付一笔与该等少付款项或过度使用相当的款项，作为就该等违约应付的赔偿。最终用户还应支付该项审计及后续审计合理发生的一切实际费用。

If any of the audits reveal that the End User has breached the terms of this Agreement, then it shall pay to **AVEVA** an amount equivalent to such underpayment or overuse by way of the compensation payable for such breach. The End User shall also pay all actual and reasonable costs of the audit and the subsequent audit.

8.4 最终用户确认，软件可能包含有收集与最终用户所作使用有关的信息并将此信息发给 **AVEVA** 的电脑代码。

The End User acknowledges that the Software may contain computer code that collects information relating to End User usage and sends the information to **AVEVA**.

### 9. 中止与终止/Suspension and Termination

**控制权变更：** 如果控制任何法人的任何人或实体不再控制该法人，或者其他任何人或实体获得对该法人的控制，即为发生控制权变更。

**Change of Control:** occurs if a person or entity who Controls anybody corporate ceases to do so or if another person or entity acquires control of it.

**控制：** 就任何法人而言，系指任何人或实体通过以下任何方式使得该法人的事务根据该人或实体的意愿得到处理的权力：

**Control:** means in relation to a body corporate, the power of a person or entity to secure that the affairs of the body corporate are conducted in accordance with the wishes of that person or entity:

(a) 持有该法人或其他任何法人的股份或就之持有股份，或者拥有该法人或其他任何法人的表决权或就之拥有表决权；或者

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*(b) 基于规制该法人或其他任何法人的组织性文件或公司文件或其他任何文件赋予的任何权力。*

*(a) by means of the holding of shares, or the possession of voting power, in or in relation to, that or any other body corporate; or*

*(b) by virtue of any powers conferred by the constitutional or corporate documents, or any other document, regulating that or any other body corporate.*

9.1 如果发生以下任何情形，**AVEVA** 可以中止提供任何服务，包括提供任何软件或许可权利管理程序，或者在书面通知最终用户之后立即终止本协议：

**AVEVA** may suspend provision of any service, including the supply of any Software or Licence Entitlement Manager, or terminate this Agreement immediately on written notice to End User, where:

(a) 最终用户严重违反或屡次违反本协议任何条款（包括通过审计发现的任何违约），而且该项违约无法纠正，或者最终用户未能在收到要求其纠正该违约的书面通知之后的 30 日内纠正该违约；

(b) 最终用户或其任何关联公司发生任何控制权变更致使最终用户或其任何关联公司与 **AVEVA** 的市场竞争者之间形成任何直接或间接的关联关系；

(c) 最终用户无法偿还其债务或丧失清偿能力，或者受限于任何对最终用户进行清算的命令或决议，或者使其全部或任何重大部分的财产被任命了行政接管人或其他接管人、管理人、受托人、破产管理人或类似官员，与其债权人达成或提议达成任何债务和解协议或债务安排，或者在任何适用的司法管辖地受限于任何类似事件或程序。

(d) **AVEVA** 合理的认为最终用户的行为可能导致 **AVEVA** 违反任何出口控制法律和/或受到制裁。

(a) the End User is in material or persistent breach of any of the terms of this Agreement (including any breach identified as a result of an audit) and either that breach is incapable of remedy, or the End User fails to remedy that breach within 30 days after receiving written notice requiring it to remedy that breach;

(b) there is a Change of Control of the End User or in an Affiliate and such change makes the End User or its Affiliate directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with any **AVEVA's** competitor(s); or

(c) the End User is unable to pay its debts or becomes insolvent, or is subject to an order or a resolution for its liquidation, or has an administrative or other receiver, manager, trustee, administrator or similar officer appointed over all or any substantial part of its assets, or enters into or proposes any composition or arrangement with its creditors, or is subject to any analogous event or proceeding in any applicable jurisdiction.

(d) in the reasonable opinion of **AVEVA** the End User's actions may result in **AVEVA** being in breach of any Export Control Laws and/or sanctions.

9.2 协议终止不应影响在协议终止之前已经产生的任何权利或救济。

Termination shall not affect any rights or remedies that accrued prior to termination.

9.3 一旦本协议因任何原因终止：

On termination of this Agreement for any reason:

(a) 根据本协议授予最终用户的一切权利即应予以终止；

(b) 最终用户对 **AVEVA** 所欠的一切款项即应到期应付；以及

(c) 最终用户应立即销毁或向 **AVEVA** 归还（具体由 **AVEVA** 作出选择）其届时占有、保管或控制的一切软件和文档拷贝以及任何支持硬件并且（在予以销毁的情况下）向 **AVEVA** 证明其已经完成销毁。

(a) all rights granted to the End User under this Agreement shall cease;

(b) all amounts owed by End User to **AVEVA** shall become due and payable; and

(c) the End User shall immediately destroy or return to **AVEVA** (at **AVEVA's** option) all copies of the Software and Documentation and any Supporting Hardware then in its possession, custody or control and, in the case of destruction, certify to **AVEVA** that it has done so.

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9.4 本协议中旨在（无论是明示还是默示地）在本协议终止之时或之后生效或继续有效的任何规定仍应完全有效。

Any provision of this Agreement which expressly or by implication is intended to come into or continue in force on or after termination of this Agreement shall remain in full force and effect.

### 10. 争议解决/Dispute Resolution

10.1 双方的意图是通过协商友好地解决因本协议而引起的与履约、程序和管理事项有关的所有意见不一和意见分歧之处。因此，双方同意在送达终止本协议的书面通知之前，或者对于双方之间与履约、程序和管理有关的任何争议事项，均应遵守本第 10 条规定的程序。

It is the intention of the parties to settle amicably by negotiation all disagreements and differences of opinion on matters of performance, procedure and management arising out of this Agreement. Accordingly, it is agreed that the procedure set out in this clause 10 shall be followed before the serving of written notice terminating this Agreement, or in relation to any matter of dispute between the parties concerning performance, procedure or management.

10.2 如因本协议引起任何意见不一或意见分歧之处，此事项应按如下约定处理：

If any disagreement or difference of opinion arises out of this Agreement, the matter shall be disposed of as follows:

(a) 双方代表应召开会议来努力解决此事项。如果双方代表未在任何一方提议召开会议解决此事项之日以后的 14 日内召开会议，或者无法在首次会议之后的 14 日内解决此事项，则

(b) 双方应迅速将此事项提交最终用户的高级雇员和 **AVEVA** 内部的高级雇员予以立即解决。

(a) Representatives from either party shall meet to attempt resolution. Should they not meet within 14 days of the date on which either party proposes to convene a meeting to resolve the matter, or should they not be able to resolve the matter with 14 days of first meeting; then

(b) the matter shall promptly be referred by either party to a senior employee of the End User and within **AVEVA** for immediate resolution.

10.3 如果在此事项最初提交给双方高级雇员之后的 14 日内，仍未就此争议事项达成一致，则就此争议事项而言，第 10.1 条和第 10.2 条所列的争议解决流程应被视为已经穷尽，而且双方均可自由地就此事项行使本协议赋予该方的权利，无需进一步适用上述争议解决流程。

If, within 14 days of the matter first having been referred to the senior employees no agreement has been reached as to the matter in dispute, the dispute resolution process set out in clauses 10.1 and 10.2 shall be deemed to have been exhausted in respect of the matter in dispute, and each party shall be free to pursue the rights granted to it by this Agreement in respect of such matter without further reference to the dispute resolution process.

10.4 为避免产生疑问，本协议中的任何内容均不应阻止任何一方在另一方违反或可能违反任何保密义务或者侵犯该方知识产权的情况下寻求获得禁止令救济。

For the avoidance of doubt, nothing in this Agreement shall prevent either party from seeking injunctive relief in the case of any breach or threatened breach by the other of any obligation of confidentiality or any infringement by the other of the first-named party's Intellectual Property Rights.

### 11. 仲裁/Arbitration

11.1 通过第 10 条规定的程序仍未得到解决的任何争议、纠纷或权利主张均应通过仲裁解决，仲裁应由上海国际经济贸易仲裁委员会（“上海国际仲裁中心”）在上海市进行。仲裁员人数应为一。仲裁员指定机构应为上海国际仲裁中心。

Any dispute, controversy or claim that has not been settled through the procedures set forth in the above clause shall be settled by arbitration. The place of arbitration shall be in Shanghai at the Shanghai

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International Economic and Trade Arbitration Commission ("SHIAC"). There shall be only one arbitrator. The appointing authority shall be the SHIAC.

11.2 任何该等仲裁应由上海国际仲裁中心根据本协议签署之日其有效的仲裁规则实施。本协议以及因本协议或其主旨事项或成立而引起的或与之有关的任何争议或权利主张（包括非合同性质的争议或权利主张）应受中华人民共和国法律法规管辖并据其解释。

Any such arbitration shall be administered by SHIAC in accordance with the SHIAC Rules in force at the date of this Agreement. This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws and regulations of the People's Republic of China.

11.3 本协议以及双方的权利和义务在根据本条进行的任何仲裁程序作出裁决之前仍应完全有效。

This Agreement and the rights and obligations of the parties shall remain in full force and effect pending the passing of the award in any arbitration proceedings entered into under this clause.

11.4 双方应各自承担己方发生的仲裁成本和费用。但是，胜诉方有权从另一方获赔该等成本和费用，包括合理的律师费。仲裁裁决是终局的，对双方均有约束力。本条中的任何内容均不妨碍任何一方诉诸于任何具有适当管辖权的法院以(a) 执行本条的各项条款或根据本条作出的任何仲裁裁决；以及(b) 寻求获得保护己方利益所必需的临时性的衡平救济。

Each party shall bear its own costs and expenses of the arbitration. However, the prevailing party shall be entitled to recover such costs and expenses, including reasonable legal fees, from the other Party. The decision of the arbitrator shall be final and binding on both parties. Nothing in this clause will preclude a party's recourse to a court of competent jurisdiction to: (a) enforce the terms of, or an arbitration award under, this clause; or (b) seek temporary equitable relief necessary to protect its interests.

## 12. 不可抗力/Force Majeure

12.1 在第 12.2 条得到遵守的前提下，如果任何一方由于超出其合理控制的事件、情形或事由（“不可抗力事件”），履行其在本协议项下的任何义务出现延迟或未能履行任何该等义务，该方不应构成在本协议项下违约，亦不应就该等延迟或未能履行承担任何责任，并且在此情形下，受影响的一方有权就履行该等义务的期限获得合理延期，但若该等延迟或不履行持续长达三个月，未受影响的一方可以经提前十四天书面通知另一方终止本协议。

Subject to compliance with clause 12.2 neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure results from events, circumstances or causes beyond its reasonable control ("Force Majeure Event"), and in such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations, provided that if the period of delay or non-performance continues for three months, the party not affected may terminate this Agreement by giving fourteen days' written notice to the other party.

12.2 受影响的一方必须：

- (a) 迅速将上述造成其未能履行或履行延迟的不可抗力事件的性质和范围书面通知另一方；
- (b) 提供合理证据，证明其无法通过采取防范措施（而该等防范措施系在将其在上述不可抗力事件发生之前所知悉的一切事宜考虑在内的情况下合理应当采取的）避免受到上述不可抗力事件的影响；并且
- (c) 已经尽并须继续尽一切合理努力减轻上述不可抗力事件的影响以便使之能够以任何合理可行的方式履行其在本协议项下的义务并在合理范围内尽快恢复履行其义务。

The affected party must:

- (a) promptly notify the other party in writing of the nature and extent of the Force Majeure Event causing its failure or delay in performance;
- (b) provide reasonable evidence that it could not have avoided the effect of the Force Majeure Event by taking precautions which, having regard to all the matters known to it before the Force Majeure Event, it ought reasonably to have taken; and



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(c) have used, and continue to use, all reasonable endeavours to mitigate the effect of the Force Majeure Event to enable it to carry out its obligations under this Agreement in any way that is reasonably practicable and to resume the performance of its obligations as soon as reasonably possible.

### 13. 通知/Notice

13.1 本协议项下要求给予的任何通知均应采用书面形式，并应通过专人递送、邮资预付的一级邮件或者挂号信邮寄、电子邮件或者商业快递公司递送的方式，按照本协议首页所列的通知接收方地址或其通过书面通知另一方而指定的其他地址递送给接收方。

Any notice required to be given under this Agreement, shall be in writing and shall be delivered personally, or sent by pre-paid first-class post or recorded delivery or by commercial courier, to each party required to receive the notice at its address set out on the first page of this Agreement or via email to the email address of the Principal Contract set out on the first page of this Agreement or as otherwise specified by the relevant party by notice in writing to each other party.

13.2 任何通知应于以下时间视为已被适当收到：

Any notice shall be deemed to have been duly received:

- (a) 专人递送的，应于留置于本协议所述地址并说明交由本协议所述联系人之时视为适当收到；
- (b) 邮资预付的一级邮件或者挂号信邮寄的，寄出后第二个工作日上午 9 点视为适当收到
- (c) 商业快递公司递送的，应于快递公司的送件收据签署之日及之时视为适当收到；
- (d) 电子邮件发送的，应于邮件发出之后 1 小时视为适当收到，但前提是发件人未收到表明发送失败的信息。

(a)if delivered personally, when left at the address and for the contact referred to in this Agreement; or  
(b)if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting; or  
(c)if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or  
(d)if delivered by email, 1 hour after time sent, provided that no failure to deliver message has been received by the sender.

13.3 本条规定不适用于在任何法律诉讼中送达任何程序文书或其他文件。

The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

### 14 遵守法律/Compliance with Laws

14.1 双方陈述、保证并承诺，双方拥有并将维持遵守其在本协议项下的义务所必需的一切许可和授权。

Both parties represent, warrant and covenant that they possess and will maintain all licences and authorisations necessary to comply with their obligations under this Agreement.

14.2 最终用户应完全遵守最终用户所在国家以及软件使用所在国家的一切适用法律，包括与数据保护有关的任何法律。

End User shall comply fully with all applicable laws of the country in which it is located, and in which the Software is to be used including any laws relating to data protection.

14.3 最终用户确认迄今为止未曾违反过任何适用法律法规，并将立即报告任何违反适用法律法规的行为或者合理地表明存在该等违法行为的任何事件。

End User confirms that to date it has not breached any applicable laws and regulations and will promptly report any breach, or any event which reasonably suggests a breach, of the applicable laws and regulations.

### 15 出口/Export

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15.1 本协议中的软件适用英国、欧盟、美国以及相关地区的出口法律和法规。贵方同意相关出口控制法律适用于本协议项下的软件使用（包括技术数据）以及根据本协议提供的任何服务、交付，即使客户已经向 AVEVA 披露了最终使用地点，贵方仍然同意遵守所有相关的出口法律和法规（包括“视为出口”和视为“再出口”的规定）。贵方同意，任何服务的数据、信息、程序和/或材料（或由此产生的直接软件）不得直接或间接地违反这些出口法律，或被用于这些法律禁止的任何目的，包括但不限于用于核、化学或生物武器扩散，或用于发展导弹技术。贵方须对任何违反本条款的行为予以赔偿以确保 AVEVA 免受损害。

Export laws and regulations of the United Kingdom, European Union, the United States and any other relevant local export laws and regulations apply to the Software. You agree that such export control laws govern the use of the Software (including technical data) and any services, deliverables provided under this Licence, and regardless of any disclosure made by you to AVEVA of an ultimate destination of the Software, you agree to comply with all such export laws and regulations (including “deemed export” and “deemed “re-export” regulations). You agree that no data, information, program and/or materials resulting from services (or direct Software thereof) will be exported, directly or indirectly, in violation of these laws, or will be used for any purpose prohibited by these laws including, without limitation, nuclear, chemical or biological weapons proliferation, or development of missile technology. You shall indemnify, defend and hold AVEVA harmless for any breach of your obligations pursuant to this clause.

### 16 反贿赂/Anti-Bribery

16.1 双方同意在与对方进行交易、签订合同时，维持高标准的道德和诚信，并且同意遵守所有与贿赂、腐败和禁止采用的商业实践相关的法律和法规。每一方对另一方确认，其自身、关联公司、雇员和承包商未曾亦不会出于对作出有利于 Aveva 的决定施加影响或者诱使任何人施加影响之目的而直接或间接地：(a) 向任何政府官员（无论是选举产生的还是任命的）或为其利益提供、承诺或者作出或同意作出任何政治捐赠（无论是何种类的）或任何付款，(b) 为任何政府雇员或其家庭成员提供、承诺或者作出或同意作出任何关于礼物、宴请、旅行或其他价值的付款，或者(c) 向任何人提供、承诺或者作出或同意作出任何不成比例的付款或礼物（无论是以金钱还是任何有价物的形式）。

Both parties agree to maintain high standards of ethics and integrity in contracting with each other, and agree to comply with all relevant laws and regulations on bribery, corruption, and prohibited business practices. Each party confirms to the other that they, their affiliates, employees and contractors have not and will not, for the purpose of influencing or inducing anyone to influence decisions in favour of AVEVA, offer, promise or make or agree to make, directly or indirectly, (a) any political contributions of any kind or any payment to or for the benefit of any public official, whether elected or appointed, (b) any payments for gifts, meals, travel or other value for a government employee or his/her family members or (c) any disproportionate payments or gifts (of money or anything of value) to anyone.

### 17 弃权/Waiver

17.1 任何一方未能行使或延迟行使本协议或法律规定的任何权利或救济不应构成放弃该项权利或救济或者其他任何权利或救济，亦不应排除或限制进一步行使该项权利或救济或者其他任何权利或救济。单独或部分行使该项权利或救济不应排除或限制进一步行使该项权利或救济或者其他任何权利或救济。

No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

### 18 可分割性/Severance

18.1 如果任何法院或有权部门认定本协议任何规定（或其任何部分）无效、非法或不可强制执行，该项规定或部分规定应在要求的范围内视为已被删除，并且本协议剩余各项规定的有效性和可强制执行性不应受到任何影响。

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If any court or competent authority finds that any provision of this Agreement (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this Agreement shall not be affected.

18.2 双方应进行诚意协商以修订该等规定，使修订后的该等规定合法、有效且可强制执行，并在可能的最大范围内，实现双方原有的商业意图。

The parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the parties' original commercial intention.

### 19 变更/Variation

19.1 对本协议条款作出的任何变更只有以书面形式作出并由双方（或其授权代表）签署或盖章方为有效。No variation to the terms of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

### 20 第三方权利/Third party rights

20.1 除本协议双方及其各自的继承人和经允许的受让人之外的其他任何人均不享有任何执行本协议任何条款的权利。

No person other than a party to this Agreement, and their respective successors and permitted assigns, shall have any rights to enforce any term of this Agreement.

### 21 转让/Assignment

21.1 本协议对最终用户而言具有人身专属性，并且未经 **AVEVA** 事先书面同意，最终用户不得转让、出让、抵押、分许可或分包其在本协议项下的任何或所有权利和义务，在任何或所有该等权利和义务上创设担保，作出任何信托声明，或者以其他任何方式处置任何或所有该等权利和义务。**AVEVA** 有权转让或出让本协议。

This Agreement is personal to the End User which shall not assign, transfer, mortgage, charge, sub-licence, subcontract, declare a trust of or deal in any other manner with any or all of its rights and obligations under this Agreement without the prior written consent of **AVEVA**. **AVEVA** shall have the right to assign or transfer this Agreement.

21.2 每一方确认其系代表自己而非出于其他任何人的利益行事。

Each party confirms it is acting on its own behalf and not for the benefit of any other person.

### 22 完整协议/Entire Agreement

22.1 本协议构成双方之间与本协议主旨事项有关的完整协议，并且取代双方之间先前与本协议主旨事项有关的所有协议。

This Agreement constitutes the whole agreement between the parties and supersedes all previous agreements between the parties relating to its subject matter.

22.2 每一方确认其签订本协议未曾依赖于除本协议明确约定的声明、陈述、担保或保证之外的任何其他声明、陈述、担保或保证（无论是在过失的情形下或善意地作出的），亦不就该等其他声明、陈述、担保或保证享有任何权利或救济。

Each party acknowledges that, in entering into this Agreement, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) other than as expressly set out in this Agreement.

22.3 本条中的任何内容均不限制(排除)任何欺诈责任。

Nothing in this clause shall limit or exclude any liability for fraud.

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### 23 语言/Language

23.1 本协议以中英文起草。如果中英文文本之间有任何不一致之处，应以中文文本为准。

This Agreement is drafted in Chinese and English. In case of any discrepancy between the two language versions, the Chinese language text shall prevail.

23.2 根据本协议或就本协议给予的任何通知可以中文或以英文书写。

Any notice given under or in connection with this Agreement can be in either Chinese or English language.

### 24 公开/Publicity

24.1 **AVEVA** 及其关联公司有权公开说明最终用户系 **AVEVA** 的最终用户。在得到最终用户事先书面同意的前提下，**AVEVA** 可以就本协议发布一个公告或者其他公开声明。**AVEVA** 和最终用户应共同工作以对任何声明达成一致意见。除非另行通知，所有市场咨询应向本协议第一页所述之市场部联系人发出。

**AVEVA** and its Affiliates shall be entitled to state in the public domain that the End User is an End User of **AVEVA**'s. With End Users' prior written consent **AVEVA** may issue a press release or other public statement regarding this Agreement. **AVEVA** and the End User shall work together to agree any press statement. Unless notified otherwise, all marketing enquiries shall be sent to marketing contact details on the first page of this Agreement

### 25 缔约过失/Culpa in contrahendo

25.1 若本协议签署前，没有经过相关的法定招投标程序，则最终用户在此保证本协议项下的采购项目并不属于中华人民共和国招标投标法第三条所列的强制招标项目。若本协议被有权机关认为无效，则最终用户应承担全部缔约过失责任。

If the relevant tenders and bids process required by law is not conducted before the execution of this Agreement, End User hereby guarantee that the purchasing project hereunder does not belong to the mandatory tenders and bids projects listed under article 3 in Law of the People's Republic of China on Tenders and Bids. If this Agreement is deemed to be invalid by the authorities, End User shall take the liability for culpa in contrahendo.