NOTICE: THIS IS A LEGALLY BINDING AGREEMENT BETWEEN THE RECIPIENT OF THE PRODUCTS (THE "CUSTOMER") AND AVEVA SOFTWARE, LLC ("AVEVA"). PLEASE READ IT CAREFULLY.

IF YOU CLICK THE "I ACCEPT" 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, 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.

AVEVA GENERAL TERMS AND CONDITIONS

1.   STRUCTURE AND ORDER OF PRIORITY.

1.1.   <u>Structure of the Agreement</u>. 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 Addendum set forth below, which Software Addendum is incorporated into these GTCs by reference; and (d) the Software Schedule set forth below.

1.2.   <u>Order of Priority</u>. 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 Addendum; and (d) GTCs.

1.3.   <u>References</u>. Except where otherwise specified, all dollar amounts are expressed in United States dollars (US$).

2.   USE OF PRODUCTS.

2.1.   <u>Right to Use</u>. 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 Addendum, and Software Schedule, as applicable.

2.2.   <u>Transaction Documents</u>. Customer may purchase Products from time to time by entering into a Transaction Document. Each Transaction Document will refer to this Agreement. 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 INVOICING.

3.1.   <u>Invoicing</u>. In accordance with the invoicing schedule set forth in the applicable Transaction Document, AVEVA shall provide Customer with an invoice specifying the fees for each of the Products provided pursuant to the applicable Transaction Document.

3.2. <u>Payment</u>. Unless otherwise agreed in the applicable Transaction Document, Customer shall pay all fees specified in the applicable invoice for a Product within thirty (30) days from the invoice date. Customer shall pay a late charge of 1.5% per month on all payments that are not paid when due.

3.3. <u>Taxes</u>. Fees and other charges described in the Agreement do not include taxes. Customer will pay any sales, value-added or other similar taxes imposed by applicable law based on the Products 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.

3.4. <u>Non-Refundable Fees</u>. Customer acknowledges and agrees that orders placed by Customer for Products will be non-cancellable and the fees paid are non-refundable unless otherwise expressly stated in the Agreement.

4. INTELLECTUAL PROPERTY RIGHTS.

4.1. <u>AVEVA Ownership</u>. All Intellectual Property Rights in and to the Products, design contributions, related knowledge or processes, and any update, upgrade, modification, enhancement or derivative works of the foregoing, regardless 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. <u>Rights to Customer Content</u>. 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. <u>Non-Assertion of Rights</u>. 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 or Documentation, and Customer hereby voluntarily waives any right to demand from AVEVA, its Affiliates or licensors any rights to any Products or Documentation, except the rights which are expressly granted to Customer under the Agreement.

4.4. <u>Suggestions and Residual Knowledge</u>. 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, any suggestions, enhancement requests, recommendations or other feedback provided by Customer, relating to the Products. 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 (including any Products).

5. CONFIDENTIALITY.

5.1. <u>Confidential Information</u>. 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 any information pertaining to such Products (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. <u>Confidentiality Obligations</u>. 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 (or generated or created in the course of AVEVA providing the Products) for the purposes of developing, improving, optimizing, and delivering Products; 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. <u>Press Releases and Client List Reference</u>. 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. <u>Customer Content</u>. 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. Customer will collect and maintain all personal data contained in the Customer Content in compliance with applicable data privacy and protection laws.

6.2. <u>Security</u>. 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, 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 WILL MEET CUSTOMER'S REQUIREMENTS, THAT THE PRODUCTS WILL OPERATE IN COMBINATIONS OTHER THAN AS SPECIFIED IN AVEVA'S DOCUMENTATION (AS APPLICABLE), THAT THE OPERATION OF THE PRODUCTS WILL BE UNINTERRUPTED OR ERROR-FREE OR THAT THE PRODUCTS WILL PROTECT AGAINST ALL POSSIBLE SECURITY THREATS, INTERNET THREATS OR OTHER THREATS OR INTERRUPTIONS. THE PRODUCTS 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. <u>CONSEQUENTIAL DAMAGES.</u> 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. <u>Damages Cap</u>. 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

4

breach of the Agreement) shall not exceed the fees paid by Customer pursuant to the applicable Transaction Document for the specific Product 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. <u>Indemnification by AVEVA</u>. 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. <u>Infringement Remedies.</u> 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. <u>Indemnification by Customer</u>. 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 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. <u>Indemnification Requirements</u>. 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.

5

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 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 this 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.

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. MISCELLANEOUS.

13.1. 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.

13.2. 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.

13.3. 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 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.

13.4. 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.

13.5. 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 13.5.

13.6. 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.

13.7. 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.

13.8. 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).

13.9.   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 14.12 (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.

13.10. Export Restrictions. Customer agrees to comply fully with all applicable international and national export laws, regulations, orders, decrees, and lists (collectively, "**Export Control Laws**"), including, but not limited to, the U.S. Export Administration Regulations, the Office of Foreign Asset Control Regulations, and the EU Dual-Use Regulation 428/2009 (each as amended, updated, supplemented, or otherwise modified from time to time), as well as all applicable end-use and destination restrictions issued by the U.S., foreign governments, and supranational bodies to assure that no Product or Third-Party Products (or any product thereof) are (i) exported, directly or indirectly, in violation of any Export Control Laws or (ii) is intended to be used for any purpose prohibited by Export Control Laws. For the avoidance of doubt, Customer agrees that no data, information, or materials resulting from any Product or Third-Party Product will be exported, directly or indirectly, in violation of any applicable Export Control Laws.

13.11. Sanctions. Customer will comply with all UN, EU, US, UK and any other applicable jurisdiction's trade and economic sanctions laws, regulations, embargoes or similar restrictive measures ("**Sanctions Laws**"). Customer will ensure that it and any distributors appointed by the Customer will not resell any Product or Third-Party Product (or incorporate any Product or Third-Party Product in other products to be sold) to persons or entities (i) in violation of Sanctions Laws, (ii) added to US Treasury Department's Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (the "**OFAC SDN List**") or (iii) added to the EU Consolidated List or any other applicable sanctions list, including the UK's Consolidated List of Financial Sanctions Targets, each as amended, updated or restated from time to time. Furthermore, no member, employee, director or officer of Customer or, as far as Customer is aware, any person acting on its behalf, is in violation of Sanctions Laws or designated on a UN, EU, US, UK or other applicable sanctions list (a "**Restricted Person**") or controlled (directly or indirectly) by a Restricted Person.

13.12. 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. 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).

13.13. <u>Waiver of Jury Trial</u>. 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.

13.14. <u>Waiver of Right to Class Action</u>. 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.

13.15. <u>Ethical Trading Policy</u>. 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.

13.16. <u>Third-Party Beneficiary</u>. 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.

13.17. <u>Entire Agreement; Amendments</u>. The Agreement constitutes the entire agreement between the Parties relating to the subject matter of any Transaction Documents 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. The Agreement may be amended or modified only by a writing that is signed by or on behalf of both Parties.

*   *   *   *

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 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.

"**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**" has the meaning set forth in Section 14.10 (Export Restrictions).

"**Force Majeure**" has the meaning set forth in Section 13.3 (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.

"**OFAC SDN List**" has the meaning set forth in Section 14.11 (Sanctions).

"**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).

"**Restricted Person**" has the meaning set forth in Section 14.11 (Sanctions).

"**Sanctions Laws**" has the meaning set forth in Section 14.11 (Sanctions).

"**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 14.12 (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.

"**Transaction Document**" or "**TD**" means any order form entered into pursuant to this Agreement by the Parties, and any schedules or other attachments thereto.

"**$**" shall mean lawful money of the United States.

SOFTWARE ADDENDUM

1.0 ADDITIONAL DEFINITIONS.

1.1 "**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.

1.2 "**High Risk Use**" shall have the meaning set forth in Section 5.

1.3 "**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.

1.4 "**Pre-Production Release**" means Software which has not completed AVEVA's formal release requirements and includes beta software, Hot Fixes and SUPs.

1.5 "**Product Term**" means the initial term and any subsequent renewal term(s) for the Software, as set forth in the applicable Transaction Document.

1.6 "**SUP**" (Single User Product) means modifications to the Software made for a specific licensee.

1.7 "**Supporting Hardware**" means any dongles or other physical devices supplied by AVEVA to Customer for use with Software.

1.8 "**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.

1.9 "**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.

1.10 "**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.

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

2.0 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.

3.0   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 and the terms of the Software Schedule, which is attached hereto. 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 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;

12

(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 competitive to the Software or any other products of AVEVA.

3.3   <u>Return or Destruction of Software</u>. 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).

4.0   RECORD KEEPING, AUDITS, AND COMPLIANCE CERTIFICATES.

4.1   <u>Record Keeping</u>. 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 Addendum.

4.2   <u>Audit Right</u>. 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   <u>Compliance Certificate</u>. 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.

5.0   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.

6.0   LICENSE COMPLIANCE MEASURES.

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. Data collected will not include any customer personal data created with the Software. By using the Software, Customer consents to such detection and collection of data, as well as its transmission and use 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.

7.0   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.

8.0   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.

9.0   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.

10.0   WARRANTIES.

10.1   Limited 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.

10.2   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 10.1 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).

10.3   <u>DISCLAIMER OF ALL OTHER WARRANTIES</u>. 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 ADDENDUM BY REFERENCE.

11.0   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 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.

12.0   CUSTOMER OBLIGATIONS.

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.

SOFTWARE SCHEDULE

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. Capitalized terms used in this Software Schedule without definition shall have the same meanings ascribed to them in the GTCs or Software Addendum. The following capitalized terms used in this Software Schedule shall have the respective meanings specified below:

2.1   "**Application Name Space**" means a system of unique application objects (representing physical, logical, or graphical entities) that interact or are used with the Software.

2.2   "**Authorized Applications**" shall have the meaning set forth in Section 9.14(a)(iii)(a) or Section 9.15(b)(i), as applicable.

2.3   "**CAL**" (Client Access License) means a usage license required for each Client that runs, accesses or utilizes, directly or indirectly, Software (or other specified services) running on a Server.

2.4   "**Capacity**" means a specific licensed size criteria as described on the License Certificate and may include, among other measurements, unit counts, the number of Data Sources, Equipment counts, I/O Counts, Platform Counts, Session Counts, Tag Counts and Site Counts.

2.5   "**Client**" means a Device accessing or utilizing, directly or indirectly, Server Software.

2.6   "**Client Connection**" means a usage license required for a Client. For the avoidance of doubt, one Client will require multiple Client Connections (including the corresponding licenses) if the Client access, or utilizes, directly or indirectly, multiple instances of Software.

2.7   "**Concurrent User Logins**" means the number of concurrent user login connections to a designated system at a given time.

2.8   "**Core**" means one unit of a physical or virtual processor as detected by the operating system.

2.9   "**Data Sources**" means configurable data connectors used to connect to external data stores that are being monitored, processed, or utilized by the Software.

2.10   "**Device**" means any physical or virtual environment, node, Server, computer, or other digital workstation, edge device, electronic, cellular or smartphone, handheld computer, tablet PC, or computing equipment that runs, accesses, or utilizes the services of the Software.

2.11   "**Documentation**" means the user guides and manuals for the installation and use of the Software, whether provided in electronic, physical media, hard copy, or other form.

2.12   "**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.

2.13   "**Enterprise License**" means a license model that permits use of specified Software for a number of Customer's employees throughout Customer's organization and sites. An Enterprise License enables Customer to standardize all Customer sites on the specified Software.

2.14   "**Equipment**" means any physical asset, subcomponent or grouping for use by Software for which a functional requirement has been established.

2.15   "**Equipment Count**" means the number of Equipment.

2.16   "**Equipment/Segment**" means a software object configured with software information management and data collection functionality in a single software database instance.

2.17   "**Facility**" means the location(s) where the Software is installed.

2.18   "**Fixed Intelligence Model**" means the predefined Energy Performance Intelligence Model is not permitted to be modified.

2.19   "**I/O Count**" means the maximum number of unique external data points that the Software is licensed to monitor at any given time.

2.20   "**Intelligence Model**" means the collection of data sources, dimensions, and measures objects, which defined how source data will be transformed into Intelligence Data Store.

2.21   "**Label Assurance Line Client**" means a software program that accesses the service made available by a Label Assurance Server. One (1) Label Assurance Lien Client is required for scanning a set containing a label, a best-before date, and a lot code in a packaging line/equipment for any one time. Each Label Assurance Client allows one (1) instance of line side client to access the Label Assurance execution screen, and also three (3) concurrent web users to access Label Assurance web management client or reporting.

2.22   "**Label Assurance Server**" means a software program that provides Label Assurance functionality of a client program – Label Assurance Line Client. One (1) Label Assurance Server is required for production premise with a dedicated information technology and automation network. System Platform software is needed for Label Assurance Server and the licenses for Label Assurance may come with or without licenses for System Platform. Customer may choose to buy the Label Assurance Server licenses with

System Platform or may choose to buy the Label Assurance Server licenses without System Platform and to buy the System Platform license separately (or use an existing System Platform license).

2.23   "**License Certificate**" means a document included with the Software that may provide, among other things, specific information regarding Capacity, name of specified licensee and location where the Software is licensed for use, Device identification and Named Users (as applicable).

2.24   "**License File**" means a component of the Software that enables one or more components of the Software (for example, authorization keys) and may also specify, as applicable, (a) the location of the designated Device(s), Label Assurance Server, and/or Label Assurance Line Client, (b) the Named User(s), (c) the Intelligence Model, (d) the location for authorized use of the Software or of the users, and (e) the Customer. The License File may also specify the Capacity for the Software. Certain components of the Software may be licensed under the Agreement without a License File. If a License File is used, Customer's license of the Software will be subject to any restrictions set forth in the License File.

2.25   "**License Key**" means the software key code or a hardware key that is provided with the software product.

2.26   "**Megawatt Unit**" means a unit of electrical power equal to one million watts.

2.27   "**Named Device**" means a specified, individual Device.

2.28   "**Named User**" means a specified, individual person and is unique to the individual. A Named User is not a particular logon name, a group, an organization, part of a company or organization, or any other non-person entity.

2.29   "**Open Intelligence Model**" means the predefined Energy Performance Intelligence Model is open for modification to bring in more dimensions and measures.

2.30   "**Per Core Use**" means Server Software licensing wherein a separate license is required for each core that resides on a single Server.

2.31   "**Per Device Use**", also called "Per Seat Use" means Device licensing as specified in the Transaction Document, License File, or License Certificate wherein a Device is licensed to access or utilizes the services of the Server Software on an unlimited number of Servers running the Server Software. Customer must purchase a Per Device ("Per Seat") License for each Device licensed for Per Device Use. This type of license is installed locally on the Device.

2.32   "**Per Named Device**" means Server Software licensed wherein one Named Device is licensed to access or utilize the services of the Server Software on an unlimited number of Servers running the Server Software.

2.33   "**Per Named User**" means Server Software licensed wherein one Named User using any Device is licensed to access or utilizes the services of the Server Software on an unlimited number of Servers running the Server Software.

2.34   "**Per Server Use**", also called "concurrent use", means Software licensing wherein the Software may be installed on an unlimited number of Devices provided however that the number of Devices utilizing the services of the Software residing on a single Server is limited by the number of Per Server access licenses purchased as defined in the Transaction Document, License File, or License Certificate.

2.35   "**Per Session Count Use**" means Server licensing used in a Remote Desktop Server Edition technology environment wherein the number of Devices accessing or utilizing the services of the Software residing on a single Server at a given point in time is limited by the number of Sessions specified in the license

purchased as defined in the Transaction Document, License File, or License Certificate. Per Session Count Use applies to Remote Desktop Server Edition technology.

2.36   "**Platform**" means Software that is required in order for a Device to operate with Application Server Software.

2.37   "**Platform Count**" means the number of Devices which are licensed to host the "Platform".

2.38   "**Power Generation Unit**" means a group of equipment converting mechanical or renewable energy into a rated capacity of electric energy (electricity) as per design standards.

2.39   "**Replaced License**" means a License File and/or License Certificate that has been replaced or superseded by another License File and/or License Certificate for the purpose of direct substitution.

2.40   "**Reporting Point**" means an item that manages how and when data are captured from Customer's data sources. Client applications retrieve data from the reporting point based upon module selection and filter conditions.

2.41   "**Repository**" means a logical or physical database or means of grouping and/or storing workflows.

2.42   "**Runtime Report**" means a discrete report active in the Software.

2.43   "**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.

2.44   "**Server"** means any Device that hosts Server Software and can be run, accessed, or used by another Device.

2.45   "**Server Software**" means those components of, or programs in, the Software that provide services on a Device called a Server on which services may be run, accessed or used by another Device.

2.46   "**Session Count**" means the number of licensed AVEVA-based, Microsoft Remote Desktop Client (RDC) sessions.

2.47   "**Site License**" means a license model that permits use of specified Software for a number of Customer's employees at a specific Customer site/physical location.

2.48   "**Site(s)**" means those locations at which the Software will run or be stored as backup as listed in the Transaction Document.

2.49   "**Software Term**" means the initial term and any subsequent renewal term(s) for the Software, as set forth in the applicable Transaction Document.

2.50   **"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.

2.51   "**Tag**" means a representation of an internal or external data value or calculation result.

2.52   "**Tag Count**" means the number of internal or external data points or calculations resulting from the Tags that are being monitored, processed, or utilized by the Software.

2.53   "**Toolkit Software**" means Software designated by AVEVA on the Transaction Document and/or License File as a "toolkit" software product and which may include compiled computer code and portions of source code which may be used by Customer to extend the functionality of the Software.

2.54   "**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.

2.55   "**Water Flow Rate**" means the total water flow rate in cubic meters per hour in the scope of the Aquis Hydraulic model.

2.56   "**Wind River Marketplace**" shall have the meaning set forth in Section 9.13(b)(i).

2.57   "**Wind River**" shall have the meaning set forth in Section 9.13(b)(i).

3.   ADDITIONAL RESTRICTIONS.

3.1   Copying of License File. Unless specifically authorized in writing by AVEVA, copying of a License File using virtualization technology is prohibited.

3.2   Installation Limitations. The media upon which the Software resides may contain multiple copies of some of the components of the Software, each of which is compatible with different microprocessor architectures or different underlying operating systems. Customer may install the Software for use only with one architecture and one operating system at any given time, consistent with the restrictions in the Agreement (including any License File, License Certificate or Transaction Document).

3.3   Replaced License Restrictions. License Files and/or License Certificates may be replaced for various purposes as agreed to by AVEVA and Customer. A Replaced License must be removed from any Device and its original license file, license CD, and/or License Certificate must be destroyed or archived and clearly marked as "Inactivated" so that it cannot be used. The act of replacement includes but is not limited to:
   (a)   Version Upgrades – when an earlier or lower numbered version license is replaced by a newer or higher numbered version license. For example, a Product X license with version 6.0 is replaced with a Product X license with a version 6.5;

   (b)   Functional Upgrades – when a license with certain Capacity and functionality is replaced by a license with greater Capacity or different functionality. For example, an InTouch 3000 Tag Count license is replaced by an InTouch 60000 Tag Count license; or an Historian license is replaced by a System Platform license;

   (c)   Lost/Stolen/Failed Keys – when a license key is lost, stolen, or fails and a replacement license key is provided. If a lost/stolen key is found/recovered, it must be destroyed; or,

   (d)   Keyed License to Keyless License – when a license file locked to a hardware key/dongle is replaced by a license file only or visa-versa.

3.4   FactorySuite (FS) Gateway Software Restrictions. FS Gateway Software is an application that acts as a communications protocol converter in a single computer. FS Gateway Software may be licensed to Customer under the Agreement without a separate License File or License Certificate to link AVEVA application software to clients and data sources that communicate using the following protocols: OPC (OLE for Process Control), SuiteLink, DDE/FastDDE, as well as ArchestrA and InTouch data sources. If

licensed to Customer, FS Gateway Software can be used in conjunction with AVEVA software products. Use of FS Gateway Software solely with non-AVEVA products is prohibited.

3.5   Application Program Interface License. If any Software contains or is provided with an application program interface and Customer is expressly permitted to utilize such application program interface with other software, applications, or other interfaces pursuant to the Agreement (*e.g.*, with AVEVA's prior written consent or if expressly permitted by the Documentation), then Customer's use of such application program interface with such other software, applications, or other interfaces shall require Customer to obtain from AVEVA a separate license (*e.g.*, the appropriate CAL or Client Connection) for such usage of the application program interface.

4.   VERSION LIMITATIONS.

The Software, and various components thereof, contain certain version numbers (such as version "6.5"). The Agreement permits Customer to install one copy of the Software, whereas (i) some Software may allow the same version number as the Software version number listed on the Transaction Document (or in an Update that is part of the Software licensed) on the number of computers authorized hereunder (for example, if the version number listed for a particular component of the Software is "6.5", then Customer may install a copy of that component of the Software having a "6.5" version number, but not a "6.6" version number), and (ii) some Software may allow the same or lower version number as the Software version number listed on the License File or Transaction Document (or in an Update that is part of the Software licensed) on the number of computers authorized under the Agreement (for example, if the version number listed for a particular component of the Software is "6.5", then Customer may install a copy of that component of the Software having a "6.5" or "6.0" version number, but not a "6.6" version number).

5.   ADDITIONAL LICENSE PROVISIONS.

5.1   Per Server/Concurrent Use Basis. If the Software has been licensed on a Per Server/Concurrent Use basis, then the following additional terms and conditions shall apply:
(a)   If Customer has licensed the Software on a Per Server/Concurrent Use basis, then the Software may be installed on a single Server that will be the designated Device under the Agreement, and the maximum number of Devices that may access or utilize the services of the Server Software at a given point in time is limited by the number of concurrent sessions specified in the License File. The services of the Server Software are considered to be accessed or utilized when there is a direct or indirect connection between a Device and the Server Software running on the Server (regardless whether the Server Software is accessed or utilized using the Device Software, Third-Party Products or an application developed by Customer). For the avoidance of doubt, one Device will require multiple concurrent sessions (and corresponding licenses) if the Device accesses or utilizes, directly or indirectly, concurrent sessions of the services of the Server Software.

5.2   Per Device Use Basis. If the Server Software has been licensed on a Per Device Use basis, then the following additional terms and conditions shall apply:
(a)   If the Server Software is licensed on a Per Device Use basis, then a separate CAL must be purchased for each specific Device that accesses or utilizes Server Software (which may access or utilize the services of the Server Software on any number of Servers running the Server Software) and each Per Device CAL must be dedicated to a single Device. For the avoidance of doubt, one Device will require multiple CALs if the Device accesses or utilizes, directly or indirectly, concurrent sessions of the Server Software.

5.3   Per Named User Basis. If the Server Software has been licensed on a Per Named User basis, then the following additional terms and conditions shall apply:

(a) If the Server Software is licensed on a Per Named User basis, then the allocation and identification of the individual Named User must be maintained by Customer on file at Customer's location for a minimum of thirty (30) days before the allocation and identification of the Named User can be moved or transferred to a different, separate and unique individual. The identified Named User may activate only one instance of the services of a Server from any Device at any location at any given point in time with each Named User CAL purchased. Multiple simultaneous instance activations of the services of a Server by a Named User requires an equal multiple number of Named User CALs.

(b) CALs authorize access or use of only the specific Server Software associated with such CAL.

5.4 <u>Per Server Use Basis</u>. If the Server Software has been licensed on a Per Server Use basis, then the following additional terms and conditions shall apply:

(a) If the Server Software is licensed on a Per Server Use basis, then the maximum number of Devices that may access or utilize the services of the Server Software at a given point in time is equal to the number of Device CALs that have been purchased and designated for use for each Device with that Server. For the avoidance of doubt, one Device will require multiple CALs if the Device accesses or utilizes, directly or indirectly, concurrent sessions of the services of the Server Software. CALs authorize access or use of only the specific Server Software associated with such CAL. If any Software is licensed on a Per Server Use basis, and accesses any database or data source, then Customer must purchase the required access license for each database or data source accessed. Failure of Customer to purchase the required database or data source license is a material breach of the Agreement.

5.5 <u>Per Processor Use Basis</u>. If the Server Software has been licensed on a Per Processor Use basis, then the following additional terms and conditions shall apply:

(a) If the Server Software is licensed on a Per Processor Use basis, then for each processor residing on the Server, a separate Per Processor use license must be purchased. A Per Processor license will allow an unlimited number of Devices to accesses the services of the Server running the Server Software as long as a Per Processor license has been purchased, pursuant to the Transaction Document, License File, or License Certificate, for each processor running on the Server.

5.6 <u>Per Session Count Use Basis</u>. If the Software has been licensed on a Per Session Count Use basis, then the following additional terms and conditions shall apply:

(a) If the Software is licensed on a Per Session Count Use basis, then the maximum number of Devices that may access or utilize the services of the Server Software at a given point in time is limited by the number of Sessions specified in the License File. For the avoidance of doubt, one Device will require multiple sessions (and corresponding licenses) if the Device accesses or utilizes, directly or indirectly, concurrent sessions of the services of the Server Software.

5.7 <u>Per Core Use Basis</u>. If the Server Software has been licensed on a Per Core Use basis, then the following additional terms and conditions shall apply:

(a) If the Server Software is licensed on a Per Core Use basis, then for each processor residing on the Server, a separate Per Core use license must be purchased. A Per Core license will allow an unlimited number of Devices to access the services of the Server running the Server Software as long as a Per Core license has been purchased, pursuant to the Transaction Document, License File, or License Certificate, for each core running on the Server.

5.8 <u>Runtime Report Basis</u>. If the Software has been licensed on a Runtime Report basis, then the following additional terms and conditions shall apply:

(a) If the Software is licensed on a Runtime Report basis, the maximum number of Runtime Reports utilized by Customer per Server is limited to the Runtime Report count for the Software as specified in the License File, Transaction Document or License Certificate.

5.9   Single Facility/Single Device Basis. If the Software has been licensed on a Single Facility/Single Device basis, then the following additional terms and condition apply:

(a)   If the Software is licensed on a Single Facility/Single Device basis, then the Software may only be installed and used on a single Device, which Device must be located at the Facility specified in the applicable Transaction Document. The Single Facility/Single Device license may be subject to further restrictions as set forth in the applicable Transaction Document.

5.10   Enterprise License. If the Software has been licensed on an Enterprise License basis, then the following additional terms and conditions shall apply:

(a)   If the Software is licensed on an Enterprise License basis, the duration, scope and pricing of such Enterprise License will be determined on a case-by-case basis. An Enterprise License is granted upon Customer's receipt of a written authorization for such Enterprise License, which must be signed by AVEVA and also countersigned by Customer. Among other things, the signed written authorization will describe the duration, scope and license fees for the Enterprise License and Customer's Software support commitments under the Enterprise License.

5.11   Site License. If the Software has been licensed on a Site License basis, then the following additional terms and conditions shall apply:

(a)   If the Software is licensed on a Site License basis, the duration, scope and pricing of such Site License will be determined on a case-by-case basis. A Site License is granted upon Customer's receipt of a written authorization for such Site License, which must be signed by AVEVA and also countersigned by Customer. Among other things, the signed written authorization will describe the duration, scope and license fees for the Site License and Customer's Software support commitments under the Site License.

5.12   Facility License. If the Software has been licensed to a specified Facility, then the following additional terms and conditions shall apply:

(a)   If Customer's license of the Software is restricted to a specified Facility, then the Software may only be installed at the Facility specified in the applicable Transaction Document.

5.13   Educational license. If Customer wishes to acquire the Software for educational purpose only, please contact AVEVA's organization or its authorized reseller serving Customer country. In case the Software is identified as an academic or educational software, Customer must be a qualified educational user to be entitled to use said Software; if Customer is not a qualified educational user, Customer has no rights under this Agreement with respect to said academic or educational software. To determine whether Customer is a qualified educational user, please contact AVEVA's organization or its authorized reseller serving Customer country. Once licensed to use said academic or educational Software, Customer may not sell or transfer any such Software or sub-license Customer license right to use the same to anyone except to another person who is qualified by AVEVA as a qualified educational user. As used in this Agreement, the term 'person' shall be broadly interpreted to include without limitation any individual, any corporation, company or other legal entity.

5.14   License for Field-Test / Beta Version. If Customer has acquired a license for field-test / beta version purpose, Customer acknowledges and agrees that the Software licensed to Customer under such license is a pre-release software only. As such, said Software may not be fully functional and Customer assumes the entire risk as to the results and performance of the Software. Customer may install and use the Software licensed to Customer under a field-test / beta version license on computers in Customer's workplace for the only purpose of testing said Software before it is commercialized by AVEVA and potentially identifying any errors, bugs or defects in said Software. Customer also agrees to use reasonable efforts to provide feedback to AVEVA regarding Customer use of the Software, including a prompt report to AVEVA of errors, bugs or defects that Customer might find. Therefore, notwithstanding anything in this Agreement to the contrary, Customer may not distribute or transfer any applications

Customer creates with the Software licensed to Customer under a field-test/beta version license. AVEVA will not update the Software licensed to Customer under a field-test/beta version license, nor will AVEVA provide support in relation thereto. The Software licensed to Customer under a field-test/beta version license may contain code that will, after a certain time period, deactivate the Software and render it unusable. Although said Software may attempt to warn Customer of the time frame in which it will be disabled, Customer acknowledges and agrees that said Software may be deactivated or rendered unusable with or without warning. Upon such deactivation, this Agreement will be considered terminated. Prior to deactivation of the Software Product, Customer may contact AVEVA to convert Customer field-test/beta version license on the Software to a standard license governed by this Agreement on the final release of said Software if and when available from AVEVA by paying to AVEVA the applicable license fee (if any) and obtaining from AVEVA the relevant activation code(s).

6.   TOOLKIT SOFTWARE.

6.1   If the Software includes any Toolkit Software, such Toolkit Software may include limited portions in source code (human-readable) form for which modifications are not supported by AVEVA.

7.   TRANSFER OF SOFTWARE.

The below terms and conditions shall apply to (i) InTouch HMI, (ii) System Platform, (iii) Development Studio, (iv) Historian, (v) Historian Clients, (vi) Operations, (vii) Performance, (viii) Batch Management, (ix) IntelaTrac Mobile Operator Rounds, (x) Intelligence, (xi) QI Analyst, (xii) SmartGlance Mobile Reports, (xiii) InTouch Edge HMI, (xiv) Recipe Management, (xv) Workflow Management, and (xvi) Quality:

Software Transfer. Customer may transfer the Software from one designated Device or Application Name Space to another for application development or for operation of the Software provided that: (i) the Software (including the License Files) is completely removed from the initial designated Device or Application Name Space prior to installing the Software on the second computer or Application Name Space, and (ii) the end-user identification information (including the identification and location of the designated Device) contained within the License File remains accurate. The Software may only be used on one Device or Application Name Space at a time, and the component parts of the Software may not be separated for use on more than one Device.

8.   MULTIPLEXING AND POOLING.

The below terms and conditions shall apply to (i) System Platform, (ii) Historian, (iii) QI Analyst, (iv) Enterprise Integration, (v) Quality, (vi) Recipe Management, (vii) Workflow Management, (viii) Batch Management, (ix) Intelligence, (x) Operations, (xi) Performance; and (xii) OASyS:

Multiplexing and Pooling. Use of software or hardware that reduces the number of users or Seats directly or indirectly accessing or utilizing Server Software (sometimes called "multiplexing" or "pooling" software or hardware) does not reduce the number of CALs or Seats required. The required number of CALs or Seats would equal the number of distinct inputs to the multiplexing or pooling software or hardware "front end".

9.   ADDITIONAL SOFTWARE SPECIFIC TERMS AND CONDITIONS.

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 9 conflict with the terms contained in this Section 9, then the conflicting terms in this Section 9 shall govern.

9.1   WORKFLOW MANAGEMENT.

(a) Additional Use Restrictions.
    (i) Workflow Management Developer Edition Software Use and Restrictions.
        a. The Workflow Management Developer Edition license:
            i. is limited to one (1) developer;
            ii. is limited to a specified number of Client Connections;
            iii. is strictly limited to non-production purposes; and
            iv. allows only a specific number of concurrent active workflows to be executed. The Software stops accepting more workflows if concurrency limits are exceeded - i.e. if more than the allowed number of workflows are either waiting or running.
    (ii) Workflow Management Professional and Enterprise Software Use and Restrictions.
        a. For Core Based Server Licenses:
            i. an unlimited number of Client Connections can access the Server;
            ii. use of the Software is limited by the number of Cores as defined in the authorization key, Transaction Document or License File or as identified in the operating system; and
            iii. the Software must not be used as a hosting solution for third parties.

(b) Software License.
    (i) If Customer has licensed the Software on a Per Server/Core basis the Software may be installed on a single Server that will be the designated Device under the Agreement. The services of the Server Software are considered to be accessed or utilized when there is a direct or indirect connection between a Device and the Server Software running on the Server (regardless whether the Server Software is accessed or utilized using the Device Software, Third-Party Products or an application developed by Customer).
    (ii) Alternatively, if access to the Server Software is licensed for use on a Client Connection basis, then each Client Connection can access a single instance of the services of the Server from any Device.

9.2 INTOUCH HMI.
(a) Software License.
    (i) Equipment Count License Grant. Certain components of the Software are licensed according to the Equipment count. The maximum amount of Equipment that Customer may capture information about according to established functional requirements is limited to the number of Equipment specified for the Software licensed hereunder as specified in the License File, Transaction Document, or License Certificate.

(b) License Restrictions.
    (i) Remote Desktop Server Edition Technology. If Customer uses Remote Desktop Server Edition or other technology to run two or more instances (copies) of the same Software on a single Server or Device then a separate license must be purchased for each instance (copy) of the Software being run.
    (ii) Runtime Restriction. If the Software licensed under the Agreement is for "**Runtime**" use, then it may only be used to run a specific application, and may not be used either (a) to develop, and/or (b) in conjunction with, new applications, databases, or tables other than those contained in the specific application to which the "**Runtime**" license relates. This provision does not prohibit Customer from using a tool to run queries or reports from existing tables, or from using a separately licensed development environment to configure or extend such specific application.

9.3 SYSTEM PLATFORM.
(a) License Restrictions.
    (i) System Platform Software. A System Platform Software license is limited by (i) the size of the Application Name Space, which in turn is limited by the I/O Count, or the Site Count, as

25

defined in the License File, License Certificate or Transaction Document, and (ii) the number of separate Devices which the System Platform can be physically distributed across, which in turn is limited by the Platform Count as defined in the License File, License Certificate or Transaction Document, and (iii) the number of TS Sessions which the System Platform can be physically distributed across, which in turn is limited by the TS Session Count as defined in the License Certificate or Transaction Document. Additionally, (i) the System Platform license contains Software which can be installed on multiple computers, (ii) the Software contained in the license cannot be separated or upgraded separately from the System Platform license and (iii) the license must be used within a single Application Name Space.

(ii) <u>Operations (formerly SuiteVoyager™)</u>. If the Software licensed by Customer under the Agreement includes a license for Software known as Operations, then the Customer's access to Operations is limited by Per Server Use. Under Per Server Use then Customer must purchase an Operations CAL which limits the number of Devices and/or Users accessing or utilizing the services of Operations. If Customer's use of Operations requires the access of any database, then Customer must purchase the required access license for each database accessed.

(iii) <u>Galaxy Repository (GR) Access</u>. The use of the Galaxy Repository (GR) Access interface and associated. DLLs by a Non-AVEVA client application is restricted to the physical device where the Development Studio License is located.

9.4 <u>DEVELOPMENT STUDIO</u>.
    (a)   <u>License Restrictions.</u>
        (i)   <u>Toolkit Software Restrictions and Rights</u>. A Toolkit Software license provides the ability to extend Software within the limits of the specific Toolkit License as defined in the License Certificate. Subject to the then-current AVEVA licensing requirements, Customer may further distribute the application created with the Toolkit Software with other third-party users of Software provided that Customer: (i) includes AVEVA's copyright and other proprietary rights notices; (ii) indemnifies, holds harmless and defends AVEVA and its suppliers from and against any claims or lawsuits, including attorney's fees, that arise or result from the use or distribution of the I/O servers, Extension Tools, SDK Tools or Customer's products; (iii) agrees that all such items are provided "AS IS" without warranty of any kind, and (iv) otherwise comply with the terms and limitations of the Agreement.

        (ii)   <u>Remote Desktop Server Edition Technology</u>. If Customer uses Remote Desktop Server Edition or other technology to run two or more instances (copies) of the same Software on a single Server or Device then a separate license must be purchased for each instance (copy) of the Software being run.

        (iii)   <u>Runtime Restriction</u>. If the Software licensed hereunder is for "**Runtime**" use, then it may only be used to run a specific application, and may not be used either (a) to develop, and/or (b) in conjunction with, new applications, databases, or tables other than those contained in the specific application to which the "**Runtime**" license relates. This provision does not prohibit Customer from using a tool to run queries or reports from existing tables, or from using a separately licensed development environment to configure or extend such specific application.

        (iv)   <u>Development Studio and Advanced Development Studio Use and Restrictions</u>. Development Studio includes application development tools that are used to develop applications for deployment of the System Platform Software, InTouch HMI and other AVEVA runtime applications as well as tools to configure Historian. Development Studio Software is licensed solely on a Per Device basis. The Development Studio Software may only be used to develop a specific application, and may not be used to run the application in a production environment except for Historian, InTouch Runtime, ActiveFactory, and I/O Servers, if located on the same device as the Development License.

9.5 <u>HISTORIAN</u>.
    (a)   <u>License Restrictions.</u>

(i) <u>Information Server (formerly SuiteVoyager™)</u>. If the Software licensed by Customer hereunder includes a license for Software known as Information Server, then the Customer's access to Information Server is limited by Per Server Use. Under Per Server Use the Customer must purchase an Information Server CAL which limits the number of Devices and/or Users accessing or utilizing the services of Information Server. If Customer's use of Information Server requires the access of any database, Customer must purchase the required access license for each database accessed.

9.6   <u>HISTORIAN CLIENTS</u>.
(a)   <u>Information Server (formerly SuiteVoyager™)</u>. If the Software licensed by Customer hereunder includes a license for Software known as Information Server, then the Customer's access to Information Server is limited by Per Server Use. Under Per Server Use the Customer must purchase an Information Server CAL which limits the number of Devices and/or Users accessing or utilizing the services of Information Server. If Customer's use of Information Server requires the access of any database, Customer must purchase the required access license for each database accessed.

9.7   <u>OPERATIONS</u>.
(a)   <u>License Restrictions</u>.
(i)   <u>Equipment Count License Grant</u>. Certain components of the Software are licensed according to the Equipment count. The maximum amount of Equipment that Customer may capture information about according to established functional requirements is limited to the number of Equipment specified for the Software licensed under the Agreement as specified in the License File, Transaction Document or License Certificate.

9.8   <u>PERFORMANCE</u>.
(a)   <u>Software License</u>.
(i)   <u>Equipment Count License Grant</u>. Certain components of the Software are licensed according to the Equipment count. The maximum amount of Equipment that Customer may capture information about according to established functional requirements is limited to the number of Equipment specified for the Software licensed under the Agreement as specified in the License File, Transaction Document or License Certificate.

9.9   <u>INTELLIGENCE</u>.
(a)   <u>License Restrictions</u>.
(i)   <u>Intelligence Server</u>. If the Software licensed by Customer hereunder includes a license for Software known as Intelligence Server, then the Customer's access to Intelligence Server is limited by Per Server Use. Under Per Server Use, the Customer must purchase an Intelligence Server CAL which limits the number of Devices and/or Users accessing or utilizing the services of Intelligence Server. If Customer's use of Intelligence Server requires the access of any database, Customer must purchase the required access license for each database accessed.
(ii)   <u>OEM Version of Tableau Software. Intelligence Clients are provided using an OEM version of Tableau</u> software. Intelligence Clients allow connecting to a set of data sources as enabled in the Intelligence Analytics Client only if those data sources are configured in the Intelligence Server software. Standalone use of this OEM version of Tableau software to connect data sources that are not configured in Intelligence Server is strictly prohibited and is a breach of the Agreement.
(iii)   <u>Licensing Modes</u>. Customer cannot mix the licensing modes for Dashboard Users on the same License Certificate. Access to the Server may either be "**Per Named User**", or "**Per Server Use**", or "**Per Core Use**".

9.10   <u>ENTERPRISE INTEGRATION</u>.
(a)   <u>License Restrictions</u>.

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(i)   Use Restrictions. Customer may transfer the Software from one designated Device to another for application development or for operation of the Software provided that: (i) the Software (including the License Files) is completely removed from the initial designated Device prior to installing the Software on the second Device, and (ii) the end-user identification information (including the identification and location of the designated Device) contained within the License File remains accurate. Enterprise Integration Server is comprised of components in the form of services and .DLLs. Those components may be distributed across more than one Device but only one instance of each component can be installed and active on a Device per Enterprise Integration Server license.

9.11   QUALITY.
        (a)   Software License.
                (i)   Equipment Count License Grant.   Certain components of the Software are licensed according to the Equipment Count. The maximum amount of Equipment that Customer may capture information about according to established functional requirements is limited to the number of Equipment specified for the Software licensed under the Agreement as specified in the License File, Transaction Document or License Certificate.

9.12   INTOUCH EDGE HMI.
        (a)   Unless terminated in accordance with the Agreement, Customer's license for InTouch Edge HMI Software is a perpetual license. Such license allows Customer to install and use InTouch Edge HMI Software on a single Device.

9.13   INDUSOFT WEB EDITION.
        (a)   Unless terminated in accordance with the Agreement, Customer's license for InduSoft Web Edition Software is a perpetual license. Such license allows Customer to install and use InduSoft Web Edition Software on a single Device.

        (b)   The following provisions apply only if Customer obtained the Software from the Wind River Marketplace:
                (i)   "**Wind River Marketplace**" means the Wind River Marketplace web application operated by or for Wind River Systems, Inc. ("**Wind River**"), where Wind River may post and distribute partner products to Wind River Marketplace users.
                (ii)   Subject to Customer's compliance with its obligations under the Agreement, AVEVA grants to Customer a royalty free, personal, non-transferable, non-exclusive, non-sublicensable, worldwide, limited demonstration license to perform, display, and use the Software and any content contained in, accessed by, or transmitted through the Software for Customer's internal business use, solely to evaluate the features, functionality and performance of the Software and solely with the Wind River product VxWorks 7.
                (iii)   The following disclaimers on behalf of AVEVA and Wind River are in addition to and not in lieu of the disclaimers set forth in the Agreement:
                        a.   THE SOFTWARE IS PROVIDED AS-IS WITHOUT WARRANTIES OF ANY KIND AND AVEVA, FOR ITSELF AND ON BEHALF OF WIND RIVER, HEREBY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY AVEVA, ITS DEALERS, DISTRIBUTORS, OR AGENTS OR EMPLOYEES WILL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF THE WARRANTIES GIVEN IN THE AGREEMENT, AND CUSTOMER MAY NOT RELY ON ANY SUCH INFORMATION OR ADVICE. NEITHER AVEVA NOR WIND RIVER WARRANTS THAT THE SOFTWARE WILL MEET CUSTOMER'S REQUIREMENTS, THAT THE SOFTWARE WILL OPERATE IN COMBINATIONS OTHER THAN AS SPECIFIED IN THE DOCUMENTATION, THAT THE

OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE OR THAT THE SOFTWARE WILL PROTECT AGAINST ALL POSSIBLE SECURITY THREATS, INTERNET THREATS, OR OTHER THREATS OR INTERRUPTIONS.

    (iv)   The following limitation of liability on behalf of AVEVA and Wind River is in addition to and not in lieu of the limitation of liability set forth in the Agreement:

        a.   NEITHER AVEVA NOR WIND RIVER SHALL HAVE ANY LIABILITY FOR ANY DIRECT, SPECIAL, INDIRECT, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES INCURRED BY CUSTOMER OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT OR TORT, EVEN IF AVEVA OR WIND RIVER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF A REMEDY SET FORTH IN THIS SCHEDULE (OR THE AGREEMENT) IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

9.14   <u>CITECT HISTORIAN</u>.

    (a)   <u>Software License.</u>

        (i)   Unless terminated in accordance with the Agreement, Customer's license for CITECT HISTORIAN Software is a perpetual license. Such license allows Customer to install and use CITECT HISTORIAN Software solely on the System described in the Transaction Document for Customer's ordinary internal business, under the terms and conditions herein.

        (ii)   The Software is in "use" when loaded into temporary memory (i.e., RAM) or installed into permanent memory (e.g., hard disk, CD-ROM, DVD-ROM, network storage device, or other storage device).

        (iii)   Customer may need to activate the Software through the use of internet or telephone; toll charges may apply.

        (iv)   There are technological measures in this Software that are designed to prevent unlicensed or illegal use of the Software. Customer agree that AVEVA may use those measures and Customer agree to follow any requirements regarding such technological measures.

        (v)   Unless Customer has acquired a Corporate License as set forth in Section 10.14(f) below, floating, concurrent or shared use of the Software is not permitted under this Agreement and Customer's use of the Software that is licensed to Customer under this Agreement shall vary as Customer will have acquired a Single User License or a Multiple User License.

        (vi)   A Single User License can only be installed and used on a single personal computer at any given time and is prohibited from being installed and used on a network or any other multi-station computer system that allows simultaneous use by several users.

        (vii)   A Multiple User License allows concurrent and unrestricted number of installations of the corresponding Software on several personal computers, on a network or any other multi-station computer system, but a Multiple User License restricts the number of users to the number defined for the corresponding purchased and registered Software. Where Customer would use a Multiple User License via a network or any other multi-station computer system, it shall be Customer's responsibility to put in place such means as necessary to guarantee that all restrictions set forth in this Agreement are followed.

        (viii)   Additionally, the use of the Software is intended only for use with a content owned by the user, a public domain content or a properly licensed content. Customer may require a patent, copyright, or other license from a third party to create, copy, download, record or save content files for use with the Software or to serve or distribute such files to be used with the Software. Customer agrees that Customer shall only use the Software and its documentation in a manner that complies with all applicable laws in the jurisdictions in which Customer use or are downloading the Software and its documentation, including, but not limited to, applicable restrictions concerning copyright and other intellectual property rights. Customer may not use the Software in an attempt to, or in conjunction with any device, program or service designed to, circumvent technological measures employed to control access to, or the rights in, a content file or other work protected by the copyright laws of any jurisdiction.

(ix) Customer shall be responsible for the proper installation of the Software as per the terms of its documentation and Customer shall bear all expenses and costs in connection therewith. AVEVA provides no maintenance or support services in connection with the Software, other than those which may be defined by way of separate agreement.

(b) <u>License Restrictions.</u>
(i) <u>Not for Resale Software</u>. If the Software is labelled "Not For Resale", then, notwithstanding other sections of this Agreement, Customer's use of the Software is limited to use for demonstration, test or evaluation purposes and Customer may not resell, or otherwise transfer for value, said Software.

(c) <u>Authorized Applications.</u>
(i) For the purpose of the Agreement, 'Authorized Applications' shall mean those applications that Customer creates, develops or generates by using the Software (including its programming tool if any) or by loading in such applications, with or without modification, a library of the Software, provided that Customer has validly licensed said Software from AVEVA or its authorized resellers. Authorized Applications include, without this being limitative, applicable runtime engines for the Software and applicable driver interface that Customer may provide to Customer's own customers as part of or together with Customer's Authorized Applications.
(ii) Notwithstanding the foregoing, any application created with a Pre-Production Release or for demonstration, test or evaluation purposes, is not an Authorized Application.
(iii) Customer may distribute or otherwise make available Authorized Applications provided Customer complies with each of the requirements set forth below:
  a. Customer includes Customer's own valid copyright notice on Customer's Authorized Applications;
  b. Customer does not remove or obscure any notice of copyright, trademark, patent or other industrial or intellectual property rights that appear on the Software Product as delivered to Customer or as may appear concerning the Software in the Authorized Application's About Box and in any applicable written documentation distributed with each copy of Customer's Authorized Applications;
  c. Customer does not use AVEVA's name, logo or trademarks to market or identify Customer's Authorized Applications unless Customer is party to a separate agreement with AVEVA giving Customer such rights or AVEVA has given Customer its express prior written consent to do so;
  d. Customer indemnifies, holds harmless, and defends AVEVA from and against any claims (including based on warranty) or lawsuits, including attorneys' fees, that arise or result from the use or distribution of Customer's Authorized Applications, provided however that Customer's contractual obligation of indemnification shall not extend to the percentage of the claimant's damages or injuries or the settlement amount attributable to AVEVA's fault or to strict liability imposed upon AVEVA as a matter of law in any country (on either federal or state level, when applicable); the foregoing obligation of indemnification shall survive the expiry or termination of the Agreement;
  e. Customer does not permit further redistribution of the Software (including Customer's modifications thereto) by third parties except as part of Customer's Authorized Applications;
  f. Customer concludes Customer's own license agreement to grant the right to use Customer's Authorized Applications to any third party; and
  g. Customer otherwise comply with the terms of the Agreement.

(d) <u>Embedding the Software</u>. Customer may embed or otherwise integrate the Software within Customer's own product or a third-party product, provided that:
(i) Customer has validly licensed the Software from AVEVA or its authorized resellers;

(ii) Customer performs such embedding or integration in a manner that complies with the Software documentation to the extent said documentation contains any instructions or recommendations in relation therewith; and

(iii) Customer complies - with respect to Customer's own products and said Third Party-Products - with each of the same requirements as set forth hereinabove concerning Authorized Applications; said foregoing requirements shall apply mutatis mutandis to any of Customer's own products or Third-Party Products within which Customer embeds or otherwise integrates the Software, and any reference made to the term 'Authorized Application' in the foregoing provision shall be deemed for the purpose of this present section to be a reference to Customer's own products or Third-Party Products embedding or otherwise integrating the Software.

(iv) Where Software is embedded or otherwise integrated by Customer within Customer's own product or a third-party product, Customer then ceases all use of the Software, whether direct, indirect, concurrent or otherwise.

(e) <u>License Key</u>.
(i) Customer acknowledges that, if the Software is protected by a lock, the Software cannot be used except in conjunction with a valid software key code or a hardware key (the 'License Key') provided to Customer or to another person on Customer behalf by or on behalf of AVEVA or its authorised reseller.

(ii) Customer agrees that such License Key is to be used solely with the Software for which it is provided, unless otherwise indicated in writing by AVEVA. While AVEVA may, in its sole discretion, provide Customer with the License Key prior to receipt from Customer of the applicable license fees, Customer will remain obligated to pay such fees to AVEVA.

(iii) Risk in the media on which the Software and License Key are provided passes to Customer upon delivery. In the event that the Software or License Key is lost, stolen or destroyed after delivery, AVEVA will not be required to replace the Software or License Key.

(iv) In the event of a lost, stolen or destroyed License Key, and if AVEVA agrees to replace the License Key, prior to AVEVA providing a replacement License Key to Customer, Customer must:
   a. provide a statutory declaration signed by Customer to AVEVA that confirms Customer has permanently lost or destroyed the Software or License Key that is to be replaced and that Customer has not retained the Software or License Key in any form nor included it with any other software or system owned, operated or controlled by Customer; and
   b. comply with any other direction of AVEVA related to the replacement.

(v) If the License Key is faulty, and provided that such fault is attributable to an act or omission by AVEVA, AVEVA will replace the License Key if the faulty License Key is returned within the warranty period specified by AVEVA. Subject to Section 10 (Warranties) of the Software Addendum, if the faulty License Key is not returned within said warranty period, AVEVA will replace the License Key upon payment by Customer of an administration fee to be advised by AVEVA at the time.

(f) <u>Corporate License</u>.
(i) Customer may not acquire a Corporate License unless Customer is a company or a corporation.

(ii) If and when acquiring a Corporate License, Customer acquires a concurrent use license under the following limits:
   a. Customer may install the Software for use by users from and to the Sites only; - Any use of a Software licensed to Customer under a Corporate License is strictly prohibited by any person who or which is not a user, and from or to a location which does not qualify as a Site as defined hereunder.

(iii) If and when acquiring a Corporate License, it is agreed that:

a. Customer acquires the right to copy or reproduce the Software and its documentation including the right to duplicate the media on which the Software is provided to Customer and the related license file; and Customer acquires the right to permit the use of the Software by any company or corporation which an Affiliate, in both cases, for the sole and restricted purpose of exercising the concurrent use license right granted to Customer under said Corporate License within the limits set forth herein.

(g) Microsoft License. Microsoft license conditions apply to any Microsoft software embedded and/or used in conjunction with the Software. The terms and conditions for use for Microsoft SQL Server 2012 Standard Edition can be found in the SQL Server 2012 Standard OEM document, which can be obtained from the Microsoft Website here: http://www.microsoftvolumelicensing.com/userights/ProductPage.aspx?pid=397   Other specific Microsoft license conditions can be found on Microsoft Website.

9.15 CITECT SCADA.
(a) Software License.
(i) License. For the purposes of the license of Citect SCADA Software all references to AVEVA will refer to Schneider Electric Software Australia Pty Limited ACN 113 112 744.
(ii) Device and Server Software Grant. Server Software is licensed on a Per Server/Concurrent Use basis, and may be installed on a single Server that will be the designated Device hereunder, and the maximum number of Devices that may access or utilize the services of the Server Software at a given point in time is limited by the number of concurrent sessions specified in the License Key. The services of the Server Software are considered to be accessed or utilized when there is a direct or indirect connection between a Device and the Server Software running on the Server (regardless whether the Server Software is accessed or utilized using the Device Software, Third-Party Products or an application developed by the Customer). One CAL is provided with a single Server license, which must be dedicated to a single Device. Additional CALs must be purchased for each specific Device that accesses or utilizes Server Software (which may access or utilize the services of the Server Software on any number of Servers running the Server Software) and each Per Device CAL must be dedicated to a single Device. Server Software is licensed on a Per Server Use basis. The maximum number of Devices that may access or utilize the services of the Server Software at a given point in time is equal to the number of Device CALs that have been purchased and designated for use for each Device with that Server. CALs authorize access or use of only the specific Server Software associated with such Client license. If any Software is licensed on a Per Server Use basis, and accesses any database or data source, then Customer may be required to purchase the required access license for each database or data source accessed. Failure of Customer to purchase a required database or data source license is a material breach of the Agreement.

(b) Authorized Applications.
(i) For the purpose of the Agreement, 'Authorized Applications' shall mean those applications that Customer creates, develops or generates by using the Software (including its programming tool if any) or by loading in such applications, with or without modification, a library of the Software, provided that Customer has validly licensed said Software from AVEVA or its authorized resellers. Authorized Applications include, without this being limitative, applicable runtime engines for the Software and applicable driver interface that Customer may provide to Customer's own customers as part of or together with Customer's Authorized Applications.
(ii) Notwithstanding the foregoing, any application created with a Pre-Production Release or for demonstration, test or evaluation purposes, is not an Authorized Application.
(iii) Customer may distribute or otherwise make available Authorized Applications provided

Customer complies with each of the requirements set forth below:
- a. Customer includes Customer's own valid copyright notice on Customer's Authorized Applications;
- b. Customer does not remove or obscure any notice of copyright, trademark, patent or other industrial or intellectual property rights that appear on the Software Product as delivered to Customer or as may appear concerning the Software in the Authorized Application's About Box and in any applicable written documentation distributed with each copy of Customer's Authorized Applications;
- c. Customer does not use AVEVA's name, logo or trademarks to market or identify Customer's Authorized Applications unless Customer is party to a separate agreement with AVEVA giving Customer such rights or AVEVA has given Customer its express prior written consent to do so;
- d. Customer indemnifies, holds harmless, and defends AVEVA from and against any claims (including based on warranty) or lawsuits, including attorneys' fees, that arise or result from the use or distribution of Customer's Authorized Applications, provided however that Customer's contractual obligation of indemnification shall not extend to the percentage of the claimant's damages or injuries or the settlement amount attributable to AVEVA's fault or to strict liability imposed upon AVEVA as a matter of law in any country (on either federal or state level, when applicable); the foregoing obligation of indemnification shall survive the expiry or termination of the Agreement;
- e. Customer does not permit further redistribution of the Software (including Customer's modifications thereto) by third parties except as part of Customer's Authorized Applications;
- f. Customer concludes Customer's own license agreement to grant the right to use Customer's Authorized Applications to any third party; and
- g. Customer otherwise comply with the terms of the Agreement.

(c)   Embedding the Software. Customer may embed or otherwise integrate the Software within Customer's own product or a third-party product, provided that:
- (i)   Customer has validly licensed the Software from AVEVA or its authorized resellers;
- (ii)   Customer performs such embedding or integration in a manner that complies with the Software documentation to the extent said documentation contains any instructions or recommendations in relation therewith; and
- (iii)   Customer complies - with respect to Customer's own products and said Third Party Products - with each of the same requirements as set forth hereinabove concerning Authorized Applications; said foregoing requirements shall apply mutatis mutandis to any of Customer's own products or Third Party Products within which Customer embeds or otherwise integrates the Software, and any reference made to the term 'Authorized Application' in the foregoing provision shall be deemed for the purpose of this present section to be a reference to Customer's own products or Third Party Products embedding or otherwise integrating the Software.
- (iv)   Where Software is embedded or otherwise integrated by Customer within Customer's own product or a third-party product, Customer then ceases all use of the Software, whether direct, indirect, concurrent or otherwise.

9.16   AMPLA.
(a)   Software License.
- (i)   License. For the purposes of the license of Ampla Software all references to AVEVA will refer to Schneider Electric Software Australia Pty Limited ACN 113 112 744.
- (ii)   Client and Server Software Grant. Server Software is licensed on a Per Server/Concurrent Use basis, and may be installed on a single Server that will be the designated Device hereunder, and the maximum number of Devices that may access or utilize the services of the Server Software at a given point in time is limited by the number of concurrent Client sessions specified in the License Key. The services of the Server Software are considered

33

to be accessed or utilized when there is a direct or indirect connection between a Device and the Server Software running on the Server (regardless whether the Server Software is accessed or utilized using the Device Software, Third Party Products or an application developed by the Customer). CALs must be purchased for each specific Device that accesses or utilizes Server Software (which may access or utilize the services of the Server Software on any number of Servers running the Server Software).

(b) <u>Authorized Applications</u>.

    (i) For the purpose of the Agreement, '<u>Authorized Applications</u>' shall mean those applications that Customer creates, develops or generates by using the Software (including its programming tool if any) or by loading in such applications, with or without modification, a library of the Software, provided that Customer has validly licensed said Software from AVEVA or its authorized resellers. Authorized Applications include, without this being limitative, applicable runtime engines for the Software and applicable driver interface that Customer may provide to Customer's own customers as part of or together with Customer's Authorized Applications.

    (ii) Notwithstanding the foregoing, any application created with a Pre-Production Release or for demonstration, test or evaluation purposes, is not an Authorized Application.

    (iii) Customer may distribute or otherwise make available Authorized Applications provided Customer complies with each of the requirements set forth below:

        a. Customer includes Customer's own valid copyright notice on Customer's Authorized Applications;

        b. Customer does not remove or obscure any notice of copyright, trademark, patent or other industrial or intellectual property rights that appear on the Software Product as delivered to Customer or as may appear concerning the Software in the Authorized Application's About Box and in any applicable written documentation distributed with each copy of Customer's Authorized Applications;

        c. Customer do not use AVEVA's name, logo or trademarks to market or identify Customer's Authorized Applications unless Customer is party to a separate agreement with AVEVA giving Customer such rights or AVEVA has given Customer its express prior written consent to do so;

        d. Customer indemnifies, holds harmless, and defends AVEVA from and against any claims (including based on warranty) or lawsuits, including attorneys' fees, that arise or result from the use or distribution of Customer's Authorized Applications, provided however that Customer's contractual obligation of indemnification shall not extend to the percentage of the claimant's damages or injuries or the settlement amount attributable to AVEVA's fault or to strict liability imposed upon AVEVA as a matter of law in any country (on either federal or state level, when applicable); the foregoing obligation of indemnification shall survive the expiry or termination of the Agreement;

        e. Customer does not permit further redistribution of the Software (including Customer's modifications thereto) by third parties except as part of Customer's Authorized Applications;

        f. Customer concludes Customer's own license agreement to grant the right to use Customer's Authorized Applications to any third party; and

        g. Customer otherwise complies with the terms of the Agreement.

9.17 <u>ENERGY PERFORMANCE FOR MANUFACTURING SOFTWARE.</u>

    (a) <u>Modification Restrictions.</u>

        (i) In addition to any other license restrictions set forth in the Agreement for the Software, Customer may not modify the predefined Energy Performance Intelligence Model unless the license for the Software is specified as an Open Intelligence Model in the applicable Transaction Document. If the license model for the Software is specified as an Open Intelligence Model, then any modification of the predefined Energy Performance Intelligence Model will be limited to the addition of more dimensions and measures.

9.18　WATER NETWORK OPTIMIZATION SOFTWARE.
　　(a)　License Restrictions.
　　　　(i)　In addition to any other license restrictions set forth in the Agreement for the Software, Customer's license of the Software will be subject to the limitation on the Water Flow Rate as set forth in the applicable Transaction Document.

9.19　PERFORMANCE MANAGER SOFTWARE.
　　(a)　License Restrictions.
　　　　(i)　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 Megawatt Units and/or number of Power Generation Units set forth in the applicable Transaction Document, along with any limitations on the number of "KPIs" as defined in the KPI Manager, the number of cases defined in the decision manager, and/or the number of modeled applications that are unified in the operational data management model.
　　　　(ii)　Customer agrees and acknowledges that any domain applications that are loaded with the Software will only be applied to one licensed Software (Performance Manager) server.

9.20　LINE PERFORMANCE SOFTWARE.
　　(a)　License Restrictions.
　　　　(i)　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 Concurrent User Logins and the specified Equipment/Segment set forth in the applicable Transaction Document.

9.21　LABEL ASSURANCE SOFTWARE.
　　(a)　License Restrictions.
　　　　(i)　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 size, number, and/or location of the Label Assurance Server and/or the Label Assurance Line Client(s) as set forth in the applicable Transaction Document.

9.22　OASyS.
　　(a)　Software License.
　　　　(i)　Unless terminated in accordance with the Agreement, Customer's license for OASyS Software is a perpetual license. Such license allows Customer to install and use OASyS 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 RealTime Services and Historical Services software will be installed on servers forming part of Customer's System in the configuration as shown in Transaction Document (ie. single, Dual Redundant or Triple Redundant). The RealTime 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.

9.23   <u>Sim Suite.</u>

   (a)   <u>Software License.</u>

       (i)   Unless terminated in accordance with the Agreement, Customer's license for Sim Suite Software is a perpetual license. Such license allows Customer to install and use Sim Suite 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)   <u>License Restrictions.</u>

       (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 RealTime Services and Historical Services software will be installed on servers forming part of Customer's System in the configuration as shown in Transaction Document (ie. single, Dual Redundant or Triple Redundant). The RealTime 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.

9.24   <u>Commercial Advisor/Polaris.</u>

   (a)   <u>Software License.</u>

       (i)   Unless terminated in accordance with the Agreement, Customer's license for Polaris Software is a perpetual license. Such license allows Customer and its Affiliates to use Polaris Software solely on the Volumetric Accounting 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)   <u>License Restrictions.</u>
    (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)   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 or its Affiliate shall promptly return the Software to the original Site and shall discontinue use elsewhere.

    (iii)   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.