

FINCAD® MASTER SOFTWARE LICENSE AGREEMENT
VERSION NO. 01.15.2021

IMPORTANT NOTICE: THIS AGREEMENT IS BETWEEN FINCAD AND THE CUSTOMER REFERENCED IN THE APPLICABLE ORDER FORMS, AND GOVERNS THE USE OF FINCAD® SOFTWARE AND RELATED MATERIALS AND SERVICES PROVIDED BY FINCAD SPECIFIED IN THE APPLICABLE ORDER FORMS. THIS AGREEMENT LIMITS AND EXCLUDES WARRANTIES AND REMEDIES REGARDING THE SOFTWARE, MATERIALS AND SERVICES, EXEMPTS FINCAD AND OTHER PERSONS FROM LIABILITY OR LIMITS THEIR LIABILITY, SPECIFIES THE JURISDICTION FOR RESOLUTION OF DISPUTES, AND CONTAINS OTHER IMPORTANT PROVISIONS THAT YOU SHOULD READ.

PLEASE READ THIS AGREEMENT CAREFULLY. BY ACCEPTING AN ORDER FORM, OR DOWNLOADING, INSTALLING OR ACTIVATING FINCAD SOFTWARE, YOU ACKNOWLEDGE AND SIGNIFY CUSTOMER'S ACCEPTANCE AND AGREEMENT, WITHOUT LIMITATION OR QUALIFICATION, TO BE BOUND BY THIS AGREEMENT, AND YOU REPRESENT AND WARRANT THAT YOU HAVE THE LEGAL AUTHORITY TO ACCEPT AND AGREE TO THIS AGREEMENT ON BEHALF OF CUSTOMER. IF CUSTOMER DOES NOT AGREE WITH EACH PROVISION OF THIS AGREEMENT, OR YOU ARE NOT AUTHORIZED TO AGREE TO THIS AGREEMENT ON BEHALF OF CUSTOMER, THEN NEITHER YOU NOR ANY OTHER PERSON ON BEHALF OF CUSTOMER MAY DOWNLOAD, INSTALL, ACTIVATE OR USE FINCAD SOFTWARE, AND YOU MUST CANCEL THE INSTALLATION OF THE SOFTWARE AND PERMANENTLY DELETE AND DESTROY ALL COPIES OF THE SOFTWARE IN YOUR POSSESSION OR CONTROL.

INTRODUCTION

This FINCAD Master Software License Agreement (this "**Agreement**") is made by and between FinancialCAD Corporation ("**FINCAD**") and the Customer referenced in the applicable Order Form (collectively the "**Parties**" and each a "**Party**"). This Agreement is comprised of the following documents (each a "**Contract Document**"): (a) Order Forms; (b) the General Terms and Conditions (including Appendix 1) set out below; and (c) Additional Terms (if any) applicable to Licenses or Services accepted (either online or in writing) by or on behalf of Customer.

GENERAL TERMS AND CONDITIONS

1. Introductory Matters

1.1 **Kinds of Licenses and Licensed Purposes:** This Agreement refers to various kinds of licenses for FINCAD Software and Integrated Software that may be purchased by Customer, each of which has specific restrictions and requirements for installation and use and a specific Licensed Purpose. FINCAD's standard licenses and the applicable Licensed Purposes are described in Appendix 1 to these General Terms and Conditions.

1.2 **Definitions:** In this Agreement, the following terms have the following meanings, and other capitalized terms have the meanings set out elsewhere in this Agreement:

- (a) "**Authorized Device**" means a computing device or system that is compatible with FINCAD Software or Integrated Software (as applicable) and is owned or leased by Customer or an IT Service Provider (defined in section 2.13) and is used exclusively by or on behalf of Customer for Authorized Purposes only. An Authorized Device may be a physical computing device or a virtual computing device.
- (b) "**Authorized Purposes**" means the Customer's internal business purposes or other authorized purposes expressly set out in the applicable Order Form.
- (c) "**Authorized User**" means a Software User or a Data User.
- (d) "**Calculated Data**" means data, analyses, results or reports calculated or created using FINCAD Software or Integrated Software, including data, analyses, results and reports created and distributed pursuant to a Data Publishing License.

- (e) **“Claim”** means claim, counterclaim, complaint, demand, cause of action, liability, obligation, damage, legal fees, costs, expenses and disbursements, including reasonable attorneys’ fees and court costs, of any nature or kind, whatsoever and howsoever arising, whether pursuant to law or contract or both, and whether in any court or before any arbitrator or other body, board or tribunal.
- (f) **“Contract Worker”** means an individual independent consultant or individual contractor who is engaged directly by Customer.
- (g) **“Contract Year”** means a 12-month period commencing on the Effective Date or an anniversary of the Effective Date.
- (h) **“Core”** means a physical core of a central processing unit (**“CPU”**).
- (i) **“Customer Software”** means computer software owned or lawfully used under license by Customer. For greater certainty, Customer Software does not include Runtime Components.
- (j) **“Data Publishing License”** means a license to publish or provide Calculated Data to specified authorized persons (other than Data Users) for specified purposes as expressly set out in an Order Form.
- (k) **“Data User”** means Customer’s employee or Contract Worker who is authorized by Customer to use Calculated Data on behalf of Customer for Authorized Purposes. For greater certainty, a Data User is not a Software User and may not use FINCAD Software or Integrated Software.
- (l) **“Documentation”** means proprietary user manuals and other technical documentation regarding FINCAD Software or Services, and all updates to the manuals and documentation, that FINCAD provides or makes available to Customer from time to time pursuant to this Agreement.
- (m) **“Effective Date”** means the effective date of the first Order Form issued under this Agreement.
- (n) **“FINCAD Software”** means the proprietary, modular software licensed by FINCAD to Customer pursuant to this Agreement as expressly set out in an Order Form, and all updates and upgrades to the software provided by FINCAD to Customer from time to time pursuant to this Agreement. For greater certainty, a reference to “FINCAD Software” includes all Runtime Components.
- (o) **“Instance”** means, with respect to FINCAD Software or Integrated Software, one (1) single copy of the software running on one or more Authorized Devices.
- (p) **“Integrated Software”** means software created by Software Users using FINCAD Software to integrate Runtime Components into Customer Software. For greater certainty, only certain kinds of FINCAD Software may be used to create Integrated Software, as described in the applicable Licensed Purpose.
- (q) **“Interface User”** means an information technology system or service (not an individual) that is (i) used exclusively by or on behalf of Customer for Authorized Purposes only; and (ii) configured by or on behalf of Customer to exchange data (including Calculated Data) using a designated data interface with FINCAD Software or Integrated Software installed and used pursuant to a License.
- (r) **“Key”** means a code (sometimes referred to as a “PSN” or “product serial number”) or credentials issued by or registered with FINCAD or FINCAD Software required to install, activate or reactivate a copy of FINCAD Software (including Runtime Components in Integrated Software), to use certain features or functionalities (including data interfaces) of FINCAD Software or Runtime Components in Integrated Software), or to access certain Services.
- (s) **“License”** means a valid and subsisting license to use FINCAD Software or Integrated Software granted to Customer pursuant to this Agreement as expressly set out in section 2.1 and Order Forms.
- (t) **“Licensed Purpose”** means the limited purpose for which a specific kind of FINCAD Software or Integrated Software may be used pursuant to a License, as expressly set out in Appendix 1 or the applicable Order Form.
- (u) **“Maintenance and Support”** means, subject to sections 3.1(b) and 3.1(c): (i) updates and upgrades to and of FINCAD Software as are generally commercially released by FINCAD to its customers from time to time; (ii) limited telephone or email troubleshooting, advice and assistance to resolve technical problems relating to Customer’s authorized use of FINCAD Software pursuant to Licenses, available during FINCAD’s regular support hours specified on FINCAD’s website (www.fincad.com); and (iii) support tools available on FINCAD’s website.

- (v) **“Network”** means an Authorized Device that is a computer network comprised of multiple Servers or grid nodes that may be accessed and used by more than one individual or interface at a time.
- (w) **“Order Form”** means a registration notice or invoice for a License provided or issued by FINCAD or its authorized reseller to Customer pursuant to this Agreement, or a written document expressly identified as an Order Form made pursuant to this Agreement and signed by both Parties, that specifies details of Licenses or Services.
- (x) **“Personal Computer”** means an Authorized Device that is one (1) single personal computer that may be accessed and used by only one (1) Software User or Interface User at a time.
- (y) **“Proceeding”** means action, suit, proceeding or hearing of any nature and kind in any court or before any arbitrator or other body, board or tribunal.
- (z) **“Representatives”** means, with respect to a person, all of the person’s directors, officers, employees, contract workers, subcontractors, agents, partners and other representatives, except that Customer’s Representatives do not include any IT Service Provider (defined in section 2.13).
- (aa) **“Runtime Components”** means the run time versions of certain modules of certain kinds of FINCAD Software specifically identified as “Runtime Components” in the applicable Documentation or on FINCAD’s website. For greater certainty, only certain kinds of FINCAD Software contain Runtime Components.
- (bb) **“Server”** means an Authorized Device that is one (1) single server computer (including a virtual server) that may be accessed and used by more than one (1) Software User or Interface User at a time.
- (cc) **“Services”** means all services, including Maintenance and Support and Additional Services (defined in section 3.2), provided by FINCAD to Customer pursuant to this Agreement.
- (dd) **“Software User”** means Customer’s employee or Contract Worker who is authorized by Customer to use FINCAD Software or Integrated Software on behalf of Customer pursuant to a License.

1.3 Additional Terms, Priority of Documents: Certain features or functionalities of FINCAD Software or Services may be governed by additional terms and conditions expressly agreed in writing (including an Order Form) by the Parties (collectively **“Additional Terms”**). If there is any conflict or inconsistency between Contract Documents, then a Contract Document that expressly states that it amends or revises another Contract Document takes priority over the other Contract Document, and in the absence of an express statement of amendment or revision the order of priority is as follows: (a) these General Terms and Conditions; (b) Additional Terms; and (c) Order Forms.

1.4 FINCAD Cloud Services: Customer acknowledges that Customer’s access to or use of FINCAD’s cloud-based services (including market data services and software-as-a-service offerings) is governed by one or more separate written subscription agreements. If there is any conflict or inconsistency between this Agreement and a separate written subscription agreement, then unless the Parties expressly agree in writing otherwise: (a) this Agreement will take priority and govern regarding FINCAD Software, Services and related matters; and (b) the subscription agreement will take priority and govern regarding the relevant FINCAD cloud-based services and related matters.

1.5 Interpretation: In this Agreement: (a) **“this Agreement”** means this Agreement as a whole (including all Contract Documents), and not just to the particular provision in which those words appear; (b) headings are for reference only and do not define, limit or enlarge the scope or meaning of this Agreement or any of its provisions; (c) reference in a Contract Document to a section by number only is a reference to the appropriate section in the Contract Document in which the reference is made; (d) words importing the singular number only include the plural and vice versa; (e) reference to a day, month, quarter or year, means a calendar day, calendar month, calendar quarter or calendar year, unless expressly stated otherwise; (f) reference to currency is to the lawful money of the United States of America, unless expressly stated otherwise; (g) **“discretion”** or **“option”** means a person’s sole, absolute and unfettered discretion or option; (h) **“including”** or **“includes”** means including or includes (as applicable) without limitation or restriction; (i) **“law”** includes common law, civil law, equity, statutes and regulations, and a reference to a specific law statute includes all regulations made under the statute and all amendments to, or replacements of, the statute or any regulation made under the statute in force from time to time; (j) **“person”** includes an individual (natural person), corporation, partnership, joint venture, association, trust, unincorporated organization, society and any other legal entity; (k) **“use”** in relation to computer software means install, access, operate and invoke the software in the ordinary course of using licensed commercial software, and computer software is **“used”** or in **“use”** on a computer system when it is loaded or installed into temporary

or permanent memory on the computer system or an attached storage device; and (l) “written”, “in writing” and similar terms includes email, unless expressly stated otherwise.

2. Licenses

2.1 **License Grant:** Subject to the provisions of this Agreement and Customer’s timely payment of all applicable Fees/Charges (defined in section 4.1) in accordance with this Agreement, FINCAD grants to Customer the number and kinds of Licenses expressly set out in each Order Form. Each License is non-exclusive, personal to Customer, non-sublicensable, non-transferable, restricted and limited, pertains to the object-code (machine-readable) version only of FINCAD Software (except for parts of FINCAD Software that are deliberately made available in source code format by FINCAD), and subject to the provisions of this Agreement. Customer will use FINCAD Software and Integrated Software solely for the applicable Licensed Purpose (described in Appendix 1) and subject to all restrictions and limitations set out in the applicable Order Form, which may include restrictions regarding the location, business unit or role of Authorized Users, the specific software modules and functionalities of FINCAD Software or Integrated Software that may be invoked, the financial instruments that may be processed, the Calculated Data that may be created, and Special Use Restrictions/Requirements (described in Appendix 1).

2.2 **Documentation:** Each License for FINCAD Software includes a non-exclusive, personal to Customer, non-sublicensable, non-transferable, restricted and limited license for Customer to use, and authorize Software Users to use, the Documentation regarding the licensed FINCAD Software during the term of the License for the sole purpose of facilitating the use of the licensed FINCAD Software by Software Users and Interface Users pursuant to the License and in accordance with this Agreement.

2.3 License Term

(a) **Initial Term:** The initial term of each License will commence on the date expressly set out in the applicable Order Form and will continue for the duration expressly set out in the applicable Order Form, unless the License is terminated earlier pursuant to this Agreement.

(b) **Renewal Terms:** Each License (except a Trial License) will automatically (without notice by or to either Party) renew for consecutive additional twelve (12) month renewal terms unless: (i) the License is terminated earlier pursuant to this Agreement; (ii) either Party gives to the other Party a notice of non-renewal of all Licenses set out in the applicable Order Form by no later than sixty (60) days before the end of the then-current term of the Licenses; or (iii) this Agreement expressly specifies that the License will not automatically renew. For greater certainty, and unless the applicable Order Form expressly states otherwise: (1) either Party may give a notice of non-renewal even if the applicable Order Form sets out the Fees/Charges for one or more renewal terms of the Licenses; and (2) a notice of non-renewal will not be effective unless it applies to all Licenses set out in the applicable Order Form.

2.4 Restrictions/Requirements

(a) **General Prohibitions:** Customer will not, directly or indirectly: (i) use, disclose, distribute, make available, or provide or permit access to or use of, any FINCAD Software, Documentation, Integrated Software or Calculated Data except as expressly permitted by this Agreement; (ii) except for the creation and use of Integrated Software as expressly permitted by this Agreement, copy (except to install FINCAD Software and to make one (1) copy of FINCAD Software for non-production backup purposes only), reproduce, translate, modify or enhance FINCAD Software, create derivative works (including any other software) from FINCAD Software or Documentation, or merge, embed or combine FINCAD Software or Documentation with any other software or materials; (iii) reverse engineer, disassemble, decompile, convert into human-readable form or otherwise attempt to access or derive the source code of FINCAD Software or the underlying logic, methods or processes used in the Software; (iv) make any changes, modifications, additions or improvements to FINCAD Software or Documentation; (v) license, sublicense, grant, sell, resell, lend, rent, lease, loan, share, transfer, assign, pledge, publish, transmit, publicly display or perform, distribute, create any interest in, or otherwise give or make available or permit the use of, FINCAD Software, Documentation or Integrated Software or their functionality or any results of their use to or for the benefit of any person other than Customer, whether as a service bureau or otherwise, and with or without charge; (vi) alter, attempt to circumvent, destroy, obscure or remove any notices (including trademark and copyright notices), proprietary codes or locks, means of identification, technological protection measures, digital rights management tools or rights management information, security or control measures, or agreements on, in or in relation to FINCAD Software or Documentation; or (vii) permit, assist or encourage any other person to do any of the foregoing

in this section 2.4(a) or use FINCAD Software, Documentation or Integrated Software in a way that would constitute a breach of this Agreement if it were done by Customer. Customer will use commercially reasonable efforts to protect FINCAD Software, Documentation and Integrated Software in Customer's possession or control against unauthorized access, copying, distribution or use.

- (b) **Embedded Third Party Code:** FINCAD Software includes embedded computer code and other materials licensed by third parties that may be used only as part of FINCAD Software, and that are subject to the provisions of this Agreement and any applicable third party license agreements, copies of which will be included or referenced in the relevant Documentation.
- (c) **Location of Use:** Unless the applicable Order Form expressly states otherwise, FINCAD Software and Integrated Software used pursuant to a License may be installed and used only on Authorized Devices located in the country in which Customer's office is located as set out in the applicable Order Form.
- (d) **Authorized Users/Interface Users:** Customer will comply with the limits or restrictions set out in this Agreement (including the applicable Order Form) regarding Authorized Users and Interface Users.
- (e) **Application:** For greater certainty, and regardless of the number of copies of FINCAD Software and Documentation received by Customer or the means or media by which Customer receives them, each copy of FINCAD Software and Documentation is subject to this Agreement.

2.5 **Containers and Virtual Machine Software:** If the applicable Order Form expressly states that FINCAD will deliver to Customer FINCAD Software in a software container or a virtual machine, then unless the Order Form expressly states otherwise and to the extent applicable: (a) FINCAD will procure on Customer's behalf and in Customer's name (as licensee) licenses to use the third party software used by FINCAD to create the container or virtual machine; and (b) Customer's use of the third party software used to create the container or virtual machine will be subject to the applicable third party license terms and conditions, copies of which will be made available by FINCAD on request by Customer. This Agreement does not limit, supersede or modify the third party license terms and conditions applicable to the container software or virtual machine software.

2.6 **Delivery of Software and Documentation:** FINCAD will deliver FINCAD Software and Documentation to Customer by electronic delivery, including making FINCAD Software and Documentation available for download by Customer from a specified Internet site. FINCAD will not deliver copies of FINCAD Software or Documentation on tangible media to Customer.

2.7 License Management

- (a) **General:** FINCAD Software may include technologies ("**License Management Technologies**") that: (i) restrict and limit the installation, activation and use of FINCAD Software (including Runtime Components in Integrated Software) in accordance with the restrictions and requirements of the Licenses applicable to the FINCAD Software or Integrated Software; and (ii) deactivate FINCAD Software (including Runtime Components in Integrated Software) on a periodic basis (including when the applicable License expires or terminates). The installation, activation, reactivation and use of FINCAD Software (including Runtime Components in Integrated Software) on an Authorized Device, or the use of certain features or functionalities (including data interfaces) of FINCAD Software, may require use of a valid and subsisting Key and the Authorized Device may require authorization by License Management Technologies, which may require the Authorized Device to communicate (via local area network or virtual private network) with License Management Technologies installed on another Authorized Device or receive a checked-out authorization from License Management Technologies (if that functionality is available). If Keys are designated for use by one or more specific Software Users or Interface Users, then Customer will ensure that the Keys are used in accordance with those designations and restrictions. Customer will ensure that Keys remain secure and confidential at all times, and are not disclosed to or used by any unauthorized person.
- (b) **Replacement Installations:** Customer may permanently remove FINCAD Software or Integrated Software installed on an Authorized Device pursuant to a License and install the FINCAD Software or Integrated Software on a replacement Authorized Device for use pursuant to the License following the procedures prescribed by FINCAD.

- (c) **Activation Information:** License Management Technologies record and report to FINCAD information (including the name and business email address that a Software User provides to FINCAD during the software installation and activation process) regarding the installation and activation of FINCAD Software and Runtime Components in Integrated Software. Customer agrees, and will ensure each Software User agrees, that FINCAD may collect, retain and use that information to provide Maintenance and Support to Customer and to improve FINCAD Software and Services, and may disclose that information to Customer and Customer's Representatives.
- (d) **Usage Data and Information:** FINCAD Software may include functionalities that record data regarding the installation and use of FINCAD Software (including Runtime Components in Integrated Software) and other information relevant to the calculation of Fees/Charges payable regarding FINCAD Software, Integrated Software and Additional Services, excluding details of Calculated Data (collectively "**Usage Data**"). On request by FINCAD, Customer will promptly collect Usage Data in accordance with procedures prescribed by FINCAD and deliver (by email) the Usage Data to FINCAD. Without limiting the foregoing in this section 2.7(d), on request by FINCAD Customer will provide FINCAD with accurate and complete information regarding Customer's installation and use of FINCAD Software, Integrated Software and Services, including details about each installed copy or Instance of FINCAD Software and Integrated Software, the number and kind of Authorized Devices and Cores used by each installed copy or Instance of FINCAD Software and Integrated Software, and the Authorized Users and Interface Users with access to each installed copy or Instance of FINCAD Software and Integrated Software.

2.8 **Integrated Software**

- (a) **Application:** Only certain kinds of FINCAD Software may be used to create Integrated Software, as indicated in the Licensed Purposes. This section 2.8 applies only if Customer holds a License for FINCAD Software for which the Licensed Purpose is creating Integrated Software.
- (b) **Prohibited Software:** Customer will ensure that Integrated Software does not include or link (dynamically or statically) to, is not used with, and is not distributed or made available (including over the Internet or any other computer network) with, any computer software or code (including a library or other software component) that is subject to a license, agreement or other terms and conditions that requires Customer, FINCAD or any other person to make the object code or source (human readable) code for all or any part of Integrated Software, FINCAD Software (including the Runtime Components in Integrated Software) or any other item available to any other person or to license, waive or otherwise compromise any rights (including intellectual property rights) in, to or associated with Integrated Software, FINCAD Software (including the Runtime Components in Integrated Software) or any other item.
- (c) **No Distribution/Network Access:** For greater certainty, and notwithstanding any other provision of this Agreement, Customer will not: (i) convey or distribute copies of Integrated Software to any person except Software Users pursuant to Licenses for Integrated Software; or (ii) authorize or permit any person (other than Software Users pursuant to Licenses for Integrated Software) to access or use (including over the Internet or other computer network) Integrated Software.
- (d) **Attribution and Proprietary Rights Notices**
 - (i) **Definitions:** In this Agreement: (1) "**Integrated Software Documentation**" means all user manuals and other technical documents (paper and electronic) pertaining to Integrated Software; (2) "**Information Screen**" means a computer screen that displays a notice asserting copyright or other proprietary rights in Integrated Software. The AbF Logo, the FINCAD Marks, the Proprietary Rights Notice and the Trademarks Notice are all described in the FINCAD Branding Standards and Notices Requirements document on FINCAD's website (www.fincad.com/branding-requirements).
 - (ii) **Notice Obligations:** Customer will ensure that each of the Proprietary Rights Notice, the AbF Logo and the Trademark Notice are: (1) included in all Integrated Software Documentation on all pages containing a notice asserting copyright or other proprietary rights in Integrated Software; and (2) displayed, in a clearly visible and reasonably prominent manner, on all Information Screens. Subject to section 2.10(b)(ii), Customer will ensure that the AbF Logo and the Trademark Notice are included in all reports and other documents containing Calculated Data that are distributed to Data Users. Customer will ensure that all uses of the AbF Logo comply with the FINCAD Branding Standards and Notices Requirements. FINCAD in its discretion may give notice to Customer requiring Customer to cease all use of the AbF Logo, and Customer will promptly comply with the notice. FINCAD in its discretion may change the AbF Logo effective on notice to Customer, and

Customer will transition use of the AbF Logo to the changed AbF Logo as soon as reasonably practicable. Customer will retain copies of all Information Screens and Integrated Software Documentation, and will deliver those copies to FINCAD promptly on request by FINCAD.

- (iii) **License:** FINCAD grants to Customer a limited, non-exclusive, non-transferable, non-sublicensable, royalty-free, revocable license to use FINCAD Marks and the Proprietary Rights Notice during the term of this Agreement for the sole purpose of identifying the use of Runtime Components in Integrated Software as set out in this section 2.8(d), and strictly in accordance with the FINCAD Branding Standards and Notices Requirements as amended by FINCAD from time to time. Customer acknowledges FINCAD's sole ownership of FINCAD Marks and all related goodwill, and agrees that all of the benefit and goodwill resulting from Customer's use of FINCAD Marks will enure entirely to FINCAD. Customer will not, and will not assist, permit or encourage any other person to, do anything or omit to do anything that might impair, jeopardize, violate or infringe FINCAD's rights and interests in and to the FINCAD Marks. On expiration or termination of this Agreement, the license set out in this section 2.8(d)(iii) will terminate immediately and automatically (without any notice by or to either Party) and Customer will immediately cease all use of FINCAD Marks and the Proprietary Rights Notice.

2.9 **Standard of Conduct:** Customer will not make any statement, or use any FINCAD Mark in any manner, that dilutes, tarnishes, degrades, disparages or otherwise reflects adversely on FINCAD or its business, products or services.

2.10 **Calculated Data Publishing**

- (a) **General Prohibition:** Unless Customer purchases a Data Publishing License or is otherwise required by applicable law to disclose Calculated Data to a person who is not an Authorized User, Customer will ensure that Calculated Data is not distributed, disclosed, published or otherwise provided or made available to any person other than an Authorized User, and that Authorized Users use Calculated Data for Authorized Purposes only.
- (b) **Data Publishing License:** If Customer purchases a Data Publishing License, then:
 - (i) **Details:** Details of the permissible publishing of Calculated Data pursuant to the Data Publishing License will be specified in the applicable Order Form, and Customer will ensure that Calculated Data is not distributed, disclosed, published or otherwise provided or made available to any person except as expressly permitted by the Data Publishing License.
 - (ii) **No Attribution:** Notwithstanding any other provision of this Agreement (including section 2.8(d)), Customer will not include any reference to FINCAD (including any FINCAD Marks) or any of FINCAD's products (including FINCAD Software) in any document or record containing Calculated Data that is distributed, disclosed, published or otherwise provided or made available to any person pursuant to the Data Publishing License.
 - (iii) **No Fees:** Customer will not charge or receive any fee or other compensation for any Calculated Data that is distributed, disclosed, published or otherwise provided or made available to any person pursuant to the Data Publishing License.

2.11 **Authorized Devices/Instances:** Customer will comply with each restriction set out in this Agreement regarding: (a) the kind and maximum number of Authorized Devices on which FINCAD Software or Integrated Software may be installed pursuant to each License; and (b) the kind and the maximum number of installed copies or Instances of FINCAD Software or Integrated Software that may be installed or run pursuant to each License. For greater certainty, each copy of FINCAD Software or Integrated Software, whether run on the same Authorized Device or different Authorized Devices, constitutes a separate Instance of FINCAD Software or Integrated Software (as applicable).

2.12 **Counting Cores:** Customer will comply with each restriction set out in this Agreement regarding the maximum number of Cores that may be invoked using FINCAD Software or Integrated Software pursuant to each License. Each Core that can be invoked (in whole or in part) at any time by the operating system of an Authorized Device on which FINCAD Software or Integrated Software is run pursuant to a License will be counted for the purpose of compliance with a restriction regarding maximum number of Cores that may be invoked pursuant to the License. Licenses for the same kind of FINCAD Software or Integrated Software (as applicable) can be combined to achieve the required number of Cores.

2.13 IT Service Providers

- (a) **General:** Subject to the provisions of this Agreement, Customer may engage independent providers of outsourced information technology infrastructure and services who are not a FINCAD Competitor (each an “**IT Service Provider**”) to assist Customer to use FINCAD Software and Integrated Software in accordance with applicable Licenses and this Agreement, provided that Customer ensures that each IT Service Provider and its personnel: (i) access and use FINCAD Software and Integrated Software solely on behalf of Customer and for the sole purpose of assisting Customer to use FINCAD Software and Integrated Software in accordance with applicable Licenses and this Agreement; (ii) do not use FINCAD Software, Integrated Software or Calculated Data for or in connection with the IT Service Provider’s own business operations or to operate or provide any service to any person other than Customer; and (iii) keep all non-public information about FINCAD Software and Integrated Software strictly confidential. In this Agreement, “**FINCAD Competitor**” means any person who creates, advertises, markets, promotes, provides, licenses, sells, distributes, offers for use, operates or provides any product (including financial analytics software) or service that is a substitute for, or competes with, any of FINCAD’s products or services.
- (b) **Responsibility:** Customer is fully responsible and liable for all acts, omissions and liabilities by or on behalf of each IT Service Provider and its personnel regarding FINCAD Software, Integrated Software, Calculated Data and FINCAD’s Confidential Information as if those acts, omissions and liabilities were the acts, omissions and liabilities of Customer itself.

2.14 **Trial Licenses:** Notwithstanding any other provision of this Agreement, either Party in its discretion and for its sole convenience may terminate a Trial License effective immediately on notice of termination to the other Party.

3. Services

3.1 Maintenance and Support

- (a) **General:** Subject to the provisions of this Agreement, during the term of each License for FINCAD Software FINCAD will use commercially reasonable efforts to provide Customer with Maintenance and Support for the licensed FINCAD Software in accordance with FINCAD’s applicable policies and procedures as amended from time to time, details of which are available on FINCAD’s website (www.fincad.com/support).
- (b) **Optional Upgrades:** If and to the extent an upgrade to FINCAD Software provides new modular features or functionalities, then FINCAD in its discretion may require Customer pay an additional license fee for use of the new features or functionalities.
- (c) **Exclusions:** Maintenance and Support does not apply to any of the following: (i) Customer Software or Integrated Software; (ii) FINCAD Software subject to a Trial License; (iii) FINCAD Software that has been modified by any person other than FINCAD; (iv) FINCAD Software other than the most current version of FINCAD Software, except that the two (2) immediately previous versions of FINCAD Software will be supported for a period of twenty-four (24) months from the release date of the most current version but the support will not apply to bugs or errors that have been corrected in a more current version or release of FINCAD Software; (v) any software other than FINCAD Software; (vi) errors, damage or problems in FINCAD Software or its operation caused by any of the following: (1) an incompatible or non-functioning configuration, operating system or hardware system; (2) accident, abuse or misapplication for which FINCAD is not responsible; (3) malfunction or non-performance of products supplied by third parties; or (4) use of FINCAD Software in a manner inconsistent with the applicable Documentation or reasonable directions provided by FINCAD; or (vii) any other matter beyond FINCAD’s control. For the purpose of this section 3.1(c), each “**version**” of FINCAD Software will include new functionalities or other changes to the previous version of FINCAD Software and will be identified by a different number to the left of the decimal point of the software identification number (e.g., version 1.0.0 to version 2.0.0) or by an alternative method expressly set out in the applicable Documentation. **NOT ALL FINCAD SOFTWARE PROBLEMS CAN OR WILL BE CORRECTED OR RESOLVED AS PART OF MAINTENANCE AND SUPPORT.**

3.2 **Additional Services:** On request by Customer, FINCAD in its discretion may provide additional services (including access to market data) to or for the benefit of Customer as expressly set out in an Order Form (collectively “**Additional Services**”) and, unless the Parties expressly agree in writing otherwise, Additional Services will be part of the “**Services**” and subject to this Agreement and any Additional Terms

expressly agreed in writing by the Parties. For greater certainty, Additional Services do not include professional services provided pursuant to FINCAD's Professional Services Terms and Conditions.

4. Fees/Charges and Payment

4.1 **Fees/Charges:** Customer will pay to FINCAD or its authorized reseller the applicable fees and charges for Licenses and all Services calculated in accordance with this Agreement, including the applicable Order Form (collectively "**Fees/Charges**"). The Fees/Charges for the initial term of each License will be set out in the applicable Order Form. Unless the applicable Order Form expressly states otherwise: (a) the Fees/Charges for each renewal term of a License will automatically (without notice by or to either Party) increase by five percent (5%) over the Fees/Charges for the License for the previous year; and (b) if a License has a multi-year initial term and the applicable Order Form does not expressly specify the Fees/Charges payable for the last year of the initial term, then the Fees/Charges for the first renewal term will be based on notional Fees/Charges for the last year of the initial term (calculated by dividing the total Fees/Charges for the initial term by the number of years in the initial term) plus an increase of five percent (5%).

4.2 **Taxes:** Fees/Charges are exclusive of all applicable Taxes. Customer is solely responsible and liable for, and will pay and remit promptly, all Taxes (other than corporate income tax payable by FINCAD) associated with, based on or due as a result of all amounts paid or payable by Customer under this Agreement. Without limiting the foregoing in this section 4.2, Customer will pay to FINCAD or its authorized reseller all Taxes that FINCAD or its authorized reseller is required by applicable law to collect from Customer or to pay for or on behalf of Customer to applicable Tax authorities. In this Agreement, "**Taxes**" means all federal, state, provincial and municipal sales, use, value-added, property, excise, import, export, foreign, withholding and other governmental taxes, duties, charges, deductions, levies, fees, excises, tariffs and assessments of any nature whatsoever now or hereafter imposed, and all related interest, penalties and expenses.

4.3 **Usage Metric Reports:** If the applicable Order Form expressly states that Fees/Charges for a License or Additional Service will vary depending on Customer's use of the licensed FINCAD Software or Integrated Software or the Additional Service as measured by specified metrics (the "**Usage Metrics**"), then throughout the term of the License or the Additional Service Customer will: (a) accurately measure and record the Usage Metrics; and (b) within fifteen (15) days after the end of each month (or an alternative reporting period expressly specified in the Order Form) Customer will deliver (by email to usagereports@fincad.com) to FINCAD a written report setting out details of the Usage Metrics for the month (or alternative reporting period).

4.4 **Invoices:** Except as expressly set out in this Agreement, FINCAD or its authorized reseller will deliver (by email) invoices for Fees/Charges to Customer. If Fees/Charges are based on Customer's use of FINCAD Software or other metrics, then FINCAD will include details of those metrics in the invoice or related documents. If Customer disputes the accuracy of any information (including data regarding Customer's use of FINCAD Software or other metrics) included in or with an invoice, then within fourteen (14) days after receipt of the invoice Customer will give a detailed notice of the dispute to FINCAD or its authorized reseller (as applicable).

4.5 Payments

(a) **General:** Unless the applicable Order Form expressly states otherwise: (i) each invoice issued by FINCAD or its authorized reseller is due and payable within thirty (30) days after the invoice date; (ii) Fees/Charges for the entire initial term of each License are payable in advance, and all other annual Fees/Charges are payable annually in advance; and (iii) FINCAD may require advance payment of an invoice before providing Keys or Services. Payment obligations are non-cancellable and advance payments are non-refundable (except as expressly set out in section 8.1). For greater certainty, and notwithstanding any other provision of this Agreement, the Fees/Charges for the entire term of each License are payable in full by Customer regardless of the nature and extent of Customer's actual use of FINCAD Software or Integrated Software pursuant to the License, and even if Customer stops using FINCAD Software or Integrated Software during the term.

(b) **Process:** Customer will make all payments to FINCAD or its authorized reseller by wire transfer/electronic funds transfer to the account designated in writing by FINCAD or its authorized reseller from time to time, or by an alternative, commercially reasonable payment method specified in writing by FINCAD or its authorized reseller from time to time. Customer will be considered to have not made a payment to FINCAD or its authorized reseller unless and until the full amount of the payment has been unconditionally deposited to their designated account. Customer is solely

responsible for all fees and charges (including currency exchange fees and service fees) charged by Customer's payment service provider. Overdue payments are subject to interest at a rate of 1½% for each month (18% per annum) or fraction thereof that the payment is overdue, or the highest rate permitted by applicable law, whichever is lower. Except to the extent required by applicable law, all amounts payable to FINCAD or its authorized reseller under this Agreement are payable in full without any deduction or withholding. If Customer is prohibited by applicable law from making any payment free of deductions and withholdings, then Customer will pay an additional amount to FINCAD or its authorized reseller as may be necessary to ensure that the actual amount received by FINCAD or its authorized reseller after deductions and withholdings and after payment of any additional Taxes or other charges due as a consequence of the payment of the additional amount will equal the amount that would have been received by FINCAD or its authorized reseller if the deductions and withholdings were not required.

4.6 Contract Price: Customer acknowledges that the Fees/Charges payable by Customer for each License, as set out in the applicable Order Form, reflect the number and kinds of Licenses purchased by Customer, the permissible use of FINCAD Software, Integrated Software and Calculated Data pursuant to the Licenses, the minimum committed duration of each License, and other relevant circumstances. Consequently, the Fees/Charges payable for Licenses under separate Order Forms will be different if the circumstances are different.

4.7 Remedies for Non-Payment: Notwithstanding any other provision of this Agreement, if Customer breaches this Agreement by failing to make any payment when due under this Agreement and fails to cure the breach within ten (10) days after receipt of a default notice from FINCAD, then FINCAD in its discretion may: (a) give notice to Customer accelerating Customer's obligations to pay all Fees/Charges for all Licenses and Additional Services for the remainder of the entire term of the Licenses and Additional Services, so that all of those Fees/Charges are immediately due and payable by Customer, and Customer will promptly pay all of those Fees/Charges to FINCAD; and (b) immediately suspend the provision of all Services until Customer makes the required payment (which payment may be made by Customer under protest and reserving all rights to dispute any obligation to make the payment), and the suspension will not be a breach of this Agreement by FINCAD, entitle Customer to a refund or suspension of any payment obligation, or give rise to any liability by FINCAD to Customer or any other person.

5. Ownership/Proprietary Rights

5.1 FINCAD Software: As between the Parties, FINCAD and its licensors will at all times solely own and retain all rights, title and interests (including intellectual property rights) throughout the world in, to and associated with all FINCAD Software, Documentation and Services. FINCAD Software and Documentation are licensed, not sold, to Customer; and Customer will not acquire any right, title or interest (including any intellectual property right) in, to or associated with any FINCAD Software, Documentation or Service pursuant to this Agreement or otherwise. Notwithstanding any other provision of this Agreement, and for greater certainty, under no circumstances will FINCAD be obligated to provide, nor will Customer be entitled to receive, obtain or access, any source (human readable) code for any FINCAD Software. All rights not expressly granted under this Agreement are reserved to FINCAD.

5.2 Customer Software and Calculated Data: As between the Parties, Customer and its licensors will at all times solely own and retain all rights, title and interests (including intellectual property rights) throughout the world in, to and associated with Customer Software and Calculated Data. FINCAD will not acquire any right, title or interest (including any intellectual property right) in, to or associated with Customer Software or Calculated Data pursuant to this Agreement. For greater certainty, and notwithstanding Customer's ownership of Calculated Data, Customer will comply with all restrictions and requirements set out in this Agreement regarding Calculated Data.

5.3 Government Restricted Rights: This section 5.3 applies to access to or use of FINCAD Software, Documentation and Services by a branch or agency of the United States Government. FINCAD Software and Documentation consist of "commercial computer software" and "commercial computer software documentation" as those terms are used in 48 C.F.R. 12.212 and qualify as "commercial items" as defined in 48 C.F.R. 2.101. FINCAD Software, Documentation and Services are provided to the United States Government: (a) for acquisition by or on behalf of civilian agencies, consistent with the policy set out in 48 C.F.R. 12.212; or (b) for acquisition by or on behalf of units of the Department of Defense, consistent with the policies set out in 48 C.F.R. 227.7202-1 and 227.7202-3. The United States Government will acquire only those rights expressly set out in this Agreement with respect to FINCAD Software, Documentation and Services, and any access to or use of FINCAD Software, Documentation and Services, by the United States Government constitutes: (i) agreement by the United States Government that FINCAD

Software and Documentation are “commercial computer software” and “commercial computer software documentation” as described in this section 5.3; and (ii) acceptance by the United States Government of the rights and obligations set out in this Agreement. Contractor/manufacturer is FinancialCAD Corporation, Suite 1750, 13450 - 102nd Avenue, Surrey, British Columbia, Canada, V3T 5X3.

5.4 **Feedback:** If Customer or any of its Representatives (including Authorized Users) gives to FINCAD or any of its Representatives any feedback (including ideas or suggestions for enhancements or improvements) about FINCAD Software (including Runtime Components), Documentation or Services, then FINCAD and its licensors and their respective successors, assigns and licensees may use and commercialize the feedback without providing any compensation to Customer or any other person, and FINCAD and its licensors and their respective successors, assigns and licensees will solely own all rights, title and interests (including all intellectual property rights) throughout the world in, to and associated with all items and services (including FINCAD Software, Documentation and Services) they create, enhance or improve using or based on the feedback. For greater certainty, Customer and its Representatives will not include in any feedback any information that is confidential or proprietary to Customer or any other person.

5.5 **FINCAD Marks:** FINCAD®, FinancialCAD®, Analytics™, Analytics Suite™, F3™, F3Platform™, the AbF Logo and other related marks, are registered or unregistered trademarks of FINCAD. Except as expressly set out in this Agreement, Customer does not have and will not acquire any license or right to use any of those trademarks.

6. Other Matters

6.1 **Authorized Users:** Customer is fully responsible and liable for all acts, omissions and liabilities by or on behalf of each Authorized User and their access to and use of FINCAD Software, Documentation, Integrated Software, Services and Calculated Data and the results obtained therefrom. Customer will ensure that each Authorized User fully complies with all of the requirements, restrictions and limitations set out in this Agreement regarding the use of FINCAD Software, Documentation, Integrated Software, Services and Calculated Data.

6.2 **Technical Requirements:** Except as expressly set out in this Agreement, Customer is solely responsible and liable for obtaining, provisioning, configuring, maintaining, paying for and protecting from loss and damage, all Authorized Devices and other equipment, software, databases with sufficient capacity, services and data necessary for the use of FINCAD Software and Services and the creation, support, maintenance and use of Integrated Software.

6.3 **Legal Compliance:** Customer will comply, and will ensure that all use by or on behalf of Customer of FINCAD Software, Documentation, Integrated Software, Services and Calculated Data complies, with all applicable laws, including laws relating to data privacy, international communications and the export and transmission of technical data and other regulated materials. Without limiting the foregoing in this section 6.3, Customer will ensure that Customer has and maintains at all material times all rights, licenses and other permissions required under all applicable laws for Customer to lawfully access and use Customer Software, Integrated Software and Calculated Data as contemplated by this Agreement.

6.4 **Subcontractors:** FINCAD in its discretion may engage its affiliates and subcontractors and service providers to assist FINCAD to perform Services, provided that FINCAD will remain fully responsible and liable for the Services and the performance of all of FINCAD’s obligations under this Agreement.

6.5 Confidentiality

(a) **Confidential Information:** FINCAD Software and Documentation and all related non-public information, including financial models, math algorithms and product roadmap (collectively the “**Confidential Information**”) are the trade secrets and confidential, proprietary information of FINCAD and are owned solely by FINCAD and its licensors. All information regarding Fees/Charges and the provisions of this Agreement are also FINCAD’s Confidential Information. Customer will use the Confidential Information only in connection with Customer’s use of FINCAD Software in accordance with this Agreement.

(b) **Permitted/Prohibited Use:** Customer will: (i) use the Confidential Information only during the term of this Agreement and only to the extent necessary to perform Customer’s obligations or exercise Customer’s rights under this Agreement; (ii) disclose the Confidential Information only to Customer’s Representatives who have a legitimate need to know the Confidential Information and only to the extent that the disclosure is necessary to perform Customer’s obligations or exercise Customer’s rights under this Agreement; (iii) not disclose or make the Confidential Information available to any other person in any manner or form without FINCAD’s express prior written

consent, except for bona fide disclosures required by applicable law made by Customer after reasonable prior notice to FINCAD; (iv) subject to section 6.5(c), both during and indefinitely after the term of this Agreement protect the confidentiality of the Confidential Information using the same degree of care as Customer affords to its own confidential information of a similar nature that Customer desires not to be used or disclosed, and in no event less than reasonable care, to prevent the unauthorized use or disclosure of the Confidential Information; and (v) ensure that each person to whom Customer discloses the Confidential Information complies with the restrictions and requirements set out in items (i), (ii), (iii) and (iv) in this section 6.5(b).

- (c) **Termination of Agreement:** On expiration or termination of this Agreement, Customer will either deliver to FINCAD or permanently delete and destroy all paper and electronic documents and other records containing Confidential Information in Customer's possession, power or control, except Customer may retain documents and records containing Confidential Information if and to the extent necessary to comply with applicable law provided that the Confidential Information in the retained documents and records will continue to be subject to Customer's obligations set out in this section 6.5.

6.6 Lists and Audit

- (a) **Lists:** During the term of this Agreement and for two (2) years thereafter, Customer will create and maintain complete and accurate lists of all Authorized Devices (identifying each device by kind and serial number and specifying the number of Cores in each Server), all Software Users (identifying each by name and location and corresponding License), all Interface Users and all installed copies and Instances of FINCAD Software and Integrated Software. On request by FINCAD, Customer will promptly deliver to FINCAD copies of the lists and a written confirmation signed by one of Customer's senior officers confirming that the lists are accurate and complete.
- (b) **Audit:** Without limiting section 6.6(a), not more than once in any twelve (12) month period, FINCAD may access and inspect Customer's relevant books, records, facilities and equipment (including Authorized Devices) and interview Customer's relevant personnel (each an "Audit") in order to verify Customer's compliance with this Agreement, provided that an Audit will be conducted on not less than seven (7) days prior notice to Customer, during Customer's normal business hours, in a manner that does not interfere unreasonably with Customer's business operations, and subject to reasonable confidentiality and security requirements requested by Customer. Customer will promptly pay to FINCAD the full amount of any underpayment of Fees/Charges revealed by an Audit plus applicable interest from the date on which the Fees/Charges ought to have been paid. An Audit will be conducted at FINCAD's expense unless the Audit determines that FINCAD Software, Services, Integrated Software or Calculated Data has been used on more devices or by more persons or systems than permitted by this Agreement, in which case Customer will promptly pay to FINCAD all of the fees and expenses incurred by FINCAD in conducting the Audit.

7. Indemnities

7.1 Indemnity by Customer

(a) **Defence and Indemnity:** On request by FINCAD, Customer will defend FINCAD and its Representatives from and against any and all claims, complaints, demands, investigations, actions, suits and proceedings by any person (each a "Third Party Claim/Proceeding"), and indemnify and hold harmless FINCAD and its Representatives from and against resulting liabilities and obligations (including damages, administrative monetary penalties, financial sanctions, settlement payments, expenses and costs, including lawyer's fees) arising from, connected with or relating to: (i) the use of any of FINCAD Software, Documentation, Services, Integrated Software and Calculated Data by or on behalf of Customer or the results obtained therefrom; (ii) the use of Calculated Data by any person to whom Calculated Data is distributed or made available by or on behalf of Customer or any of its Representatives; or (iii) any negligence, misconduct or breach of this Agreement by Customer or any person (including any IT Service Provider or Authorized User) for whom Customer is responsible pursuant to this Agreement or at law; except that the foregoing in this section 7.1(a) does not apply to an IP Infringement Lawsuit or an IP Infringement Judgment for which FINCAD is obligated to defend or indemnify Customer pursuant to section 7.2.

(b) **Procedure:** If FINCAD requests that Customer defend and indemnify FINCAD or any of its Representatives in respect of a Third Party Claim/Proceeding pursuant to section 7.1(a), then FINCAD will: (i) give Customer prompt notice of the Third Party Claim/Proceeding, provided that a failure to give prompt notice will only relieve Customer of Customer's obligations under section 7.1(a) if the failure to give prompt notice has caused, or is likely to cause, prejudice to Customer; (ii) permit Customer to control the defence

and settlement of the Third Party Claim/Proceeding, provided that Customer will not settle the Third Party Claim/Proceeding without FINCAD's prior written consent, which consent will not be unreasonably withheld or delayed; (iii) agree that (absent a material conflict of interest) the same legal counsel may jointly represent FINCAD, Customer and all other defendants in the Third Party Claim/Proceeding; and (iv) on written request by Customer, reasonably cooperate with and assist Customer regarding the defence and settlement of the Third Party Claim/Proceeding. FINCAD and its Representatives retain the right to participate (with counsel of their own selection at their sole cost and expense) in the defence of and settlement negotiations relating to any Third Party Claim/Proceeding.

7.2 Indemnity by FINCAD

(a) **Definitions:** In this Agreement: (i) **"IP Infringement Lawsuit"** means an action, suit or proceeding brought against Customer by an unaffiliated third party in a court of competent jurisdiction in Canada, the United States of America, the United Kingdom or the European Union if and to the extent the action, suit or proceeding is based on an allegation that Customer's use of FINCAD Software in accordance with this Agreement infringes or misappropriates a patent, copyright or trademark under the laws of Canada, the United States of America, the United Kingdom or the European Union that is owned or licensed by the unaffiliated third party; and (ii) **"IP Infringement Judgment"** means a final judgment in favour of an unaffiliated third party issued in an IP Infringement Lawsuit to the extent the judgment is based on a finding that Customer's use of the Hosted Solution in accordance with this Agreement infringes or misappropriates a patent, copyright or trademark under the laws of Canada, the United States of America, the United Kingdom or the European Union that is owned or licensed by the unaffiliated third party.

(b) **Defence and Indemnity:** Subject to section 7.2(d), on request by Customer FINCAD will defend Customer against an IP Infringement Lawsuit and indemnify Customer against a resulting IP Infringement Judgment, provided that Customer: (i) gives FINCAD prompt notice of the IP Infringement Lawsuit and any related claim, demand or notice, provided that a failure to give prompt notice will only relieve FINCAD of FINCAD's obligations under this section 7.2 if the failure to give prompt notice has caused, or is likely to cause, prejudice to FINCAD; (ii) permits FINCAD to control the defence and settlement of the IP Infringement Lawsuit and any related demand, provided that FINCAD will not settle the IP Infringement Lawsuit or a related demand without Customer's prior written consent, which consent will not be unreasonably withheld or delayed; (iii) agrees that (absent a material conflict of interest) the same legal counsel may jointly represent Customer, FINCAD and all other defendants in the IP Infringement Lawsuit; and (iv) on written request by FINCAD, reasonably cooperates with and assists FINCAD regarding the defence and settlement of the IP Infringement Lawsuit and any related demand. Customer retains the right to participate (with counsel of its own selection at its sole cost and expense) in the defence of and settlement negotiations relating to an IP Infringement Lawsuit.

(c) **Additional Remedies:** In addition to the remedies set out in section 7.2(b), and subject to section 7.2(d), if any FINCAD Software is, or in FINCAD's assessment is likely to become, the subject of an IP Infringement Judgment that prohibits Customer from continued use of FINCAD Software in accordance with this Agreement, then FINCAD in its discretion will either: (i) obtain for Customer the lawful right to continue to use the FINCAD Software in accordance with this Agreement; (ii) replace or modify the FINCAD Software to make it non-infringing without any loss of functionality that is material to Customer's actual use of the FINCAD Software; or (iii) terminate all Licenses for the FINCAD Software effective immediately on notice to Customer and, after receipt of Customer's written confirmation that Customer has permanently deleted and destroyed all copies of the FINCAD Software and Documentation in Customer's possession or control, refund to Customer the unused portion of any pre-paid Fees/Charges paid by Customer to FINCAD for each terminated License during the twelve (12) months immediately before the termination of the Licenses.

(d) **Exclusions/Limitation:** Sections 7.2(b) and 7.2(c) do not apply to an IP Infringement Lawsuit or an IP Infringement Judgment if and to the extent it is based on any actual or alleged infringement or misappropriation arising from, connected with, or relating to any of the following: (i) use of FINCAD Software in combination with any services, technology, software, hardware, data or other materials not provided by FINCAD or authorized by this Agreement or the applicable Documentation; (ii) use of FINCAD Software that is subject to a Trial License; (iii) a modification of FINCAD Software by a person other than FINCAD; (iv) Customer's failure to use the latest version or release of FINCAD Software or a non-infringing version or release of FINCAD Software made available to Customer by FINCAD pursuant to this Agreement; (v) use of FINCAD Software or Integrated Software in breach of this Agreement; or (vi) a breach of this Agreement by Customer or any wrongful act or omission by Customer or any person for whom Customer is responsible under this Agreement or applicable law. Notwithstanding any other provision of this Agreement, in no event and under no circumstances will the total aggregate amount of FINCAD's obligations and liabilities pursuant

to this section 7.2 (including all legal fees paid by FINCAD to defend against IP Infringement Lawsuits and all amounts paid by FINCAD to settle IP Infringement Lawsuits or related demands or to satisfy any obligations or liabilities resulting from IP Infringement Judgments) ever exceed the total amount of Fees/Charges actually paid by Customer to FINCAD pursuant to this Agreement during the twelve (12) months immediately before the date on which either Party first receives written notice of an actual or reasonably anticipated IP Infringement Lawsuit. This section 7.2 states Customer's sole and exclusive remedies, and FINCAD's entire responsibility and total aggregate liability, for or in respect of all claims, complaints, demands, investigations, actions, suits and proceedings arising from, connected with, or relating to any actual or alleged misappropriation, violation or infringement of any rights (including any intellectual property right) of any third party.

8. Warranties and Disclaimer

8.1 Mutual Representations/Warranties: Each Party represents and warrants that: (a) the Party has, and will have at all material times, all requisite corporate power, capacity, authority and approvals to enter into, execute and deliver this Agreement and to perform the Party's obligations and exercise the Party's rights under this Agreement; and (b) the Party's execution and performance of this Agreement will not conflict with, or result in the breach of, any express or implied obligation or duty (contractual or otherwise) that the Party now or in the future owes to any other person.

8.2 Warranty for FINCAD Software: FINCAD warrants that FINCAD Software as delivered or made available to Customer by FINCAD will operate and perform in substantial conformity with the applicable Documentation for a period of ninety (90) days from the Effective Date (the "**Warranty Period**"). If there is a breach by FINCAD of the foregoing warranty, then Customer's sole and exclusive remedies, and FINCAD's sole obligations and liabilities to Customer, are as follows, at FINCAD's option: (a) FINCAD will repair or replace the FINCAD Software so that it operates and performs in substantial conformity with the applicable Documentation, unless the Documentation is in error in which case FINCAD will modify the Documentation to accurately reflect the actual operation of FINCAD Software; or (b) FINCAD will terminate the Licenses for the FINCAD Software and refund the Fees/Charges actually paid by Customer for the terminated Licenses after receipt of Customer's written confirmation that Customer has permanently deleted and destroyed all copies of the FINCAD Software in Customer's possession or control. The foregoing warranty and remedies in this section 8.2 will be available to Customer only if Customer delivers a warranty claim notice to FINCAD during the Warranty Period and FINCAD is able to verify the alleged nonconformity, and will not apply if FINCAD Software has been modified by any person other than FINCAD or to any nonconformities caused by any of the following: (i) FINCAD Software that is subject to a Trial License; (ii) use of FINCAD Software in a manner inconsistent with the applicable Documentation or in breach of this Agreement; (iii) use of FINCAD Software in connection with an incompatible or non-functioning configuration, operating system or hardware system or malfunctioning hardware system; (iv) accident, abuse or misapplication of FINCAD Software; (v) malfunction or non-performance of products supplied by third parties; (vi) Customer's failure to follow FINCAD's reasonable instructions; or (vi) any other matter beyond FINCAD's reasonable control.

8.3 Viruses: FINCAD warrants that FINCAD has used, and will continue to use, commercially reasonable efforts consistent with standard industry practices intended to ensure that FINCAD Software as delivered or made available by FINCAD to Customer pursuant to this Agreement does not contain any virus, trojan horse, worm or other software routine designed to harm or permit unauthorized access to software, hardware or data. The foregoing warranty in this section 8.3 does not prohibit License Management Technologies used in accordance with this Agreement.

8.4 GENERAL DISCLAIMERS: THE WARRANTIES EXPRESSLY SET OUT IN THIS AGREEMENT ARE IN LIEU OF, AND REPLACE, ALL OTHER REPRESENTATIONS, WARRANTIES, CONDITIONS AND GUARANTEES IMPLIED BY APPLICABLE LAW. EXCEPT AS EXPRESSLY SET OUT IN THIS AGREEMENT, AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, FINCAD SOFTWARE, DOCUMENTATION AND SERVICES ARE PROVIDED “AS IS”, “AS AVAILABLE” AND “WITH ALL FAULTS”, AND WITHOUT ANY REPRESENTATION, WARRANTY, CONDITION OR GUARANTEE OF ANY NATURE OR KIND WHATSOEVER, WHETHER EXPRESS, IMPLIED OR STATUTORY, OR ARISING FROM CUSTOM OR TRADE USAGE OR BY ANY COURSE OF DEALING OR COURSE OF PERFORMANCE, INCLUDING ANY REPRESENTATION, WARRANTY, CONDITION OR GUARANTEE OF OR RELATING TO ACCURACY, AVAILABILITY, COMPLETENESS, CORRECTNESS, DURABILITY, ERRORS, FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, NON-INFRINGEMENT, PERFORMANCE, QUALITY, RESULTS, SUITABILITY, TIMELINESS OR TITLE, ALL OF WHICH ARE HEREBY DISCLAIMED BY FINCAD AND ITS REPRESENTATIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW. EXCEPT AS EXPRESSLY SET OUT IN THIS AGREEMENT: (a) CUSTOMER IS SOLELY RESPONSIBLE AND LIABLE FOR THE SELECTION AND USE OF FINCAD SOFTWARE, DOCUMENTATION, SERVICES, INTEGRATED SOFTWARE AND CALCULATED DATA TO ACHIEVE CUSTOMER’S INTENDED RESULTS; AND (b) CUSTOMER INSTALLS AND USES FINCAD SOFTWARE, DOCUMENTATION, SERVICES, INTEGRATED SOFTWARE AND CALCULATED DATA AT CUSTOMER’S OWN RISK. CUSTOMER IS SOLELY RESPONSIBLE AND LIABLE FOR ENSURING THE ACCURACY OF ALL INPUT DATA AND VERIFYING ALL DATA, CALCULATIONS AND RESULTS (INCLUDING CALCULATED DATA) FROM THE USE OF FINCAD SOFTWARE AND INTEGRATED SOFTWARE.

8.5 AUTHORIZED SERVICE PROVIDERS: FINCAD’S AUTHORIZED SERVICE PROVIDERS AND AUTHORIZED SOLUTION PROVIDERS ARE INDEPENDENT PROVIDERS OF SERVICES AND SOFTWARE AND ARE NOT AUTHORIZED TO BIND FINCAD TO ANY AGREEMENT OR TO MODIFY THIS AGREEMENT. FINCAD DOES NOT MAKE OR GIVE ANY REPRESENTATION, WARRANTY, CONDITION OR GUARANTEE OF ANY NATURE OR KIND WHATSOEVER REGARDING FINCAD’S AUTHORIZED SERVICE PROVIDERS AND AUTHORIZED SOLUTION PROVIDERS OR ANY OF THEIR PRODUCTS OR SERVICES. IF CUSTOMER ENGAGES ONE OF FINCAD’S AUTHORIZED SERVICE PROVIDERS OR AUTHORIZED SOLUTION PROVIDERS, THEN FINCAD IS NOT RESPONSIBLE OR LIABLE FOR ANY ACTS, OMISSIONS OR LIABILITIES OF THE SERVICE PROVIDER OR SOLUTION PROVIDER OR ANY OF THEIR PRODUCTS OR SERVICES.

9. Liability Exclusions/Limitations

9.1 NO LIABILITY FOR CALCULATED DATA: NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES AND IN NO EVENT WILL FINCAD OR ANY OF ITS REPRESENTATIVES BE LIABLE TO CUSTOMER OR ANY OTHER PERSON FOR ANY DIRECT OR INDIRECT DAMAGE, LOSS OR LIABILITY ARISING FROM, CONNECTED WITH, OR RELATING TO THE USE OF CALCULATED DATA.

9.2 EXCLUSION/LIMITATION OF LIABILITY: WITHOUT LIMITING SECTION 9.1, NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT EXCEPT SECTION 9.3, AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW:

- (a) **EXCLUSIONS:** THE LIABILITY (IF ANY) OF EACH PARTY AND ITS REPRESENTATIVES TO THE OTHER PARTY AND ITS REPRESENTATIVES ARISING FROM, CONNECTED WITH OR RELATING TO THIS AGREEMENT, THE SUBJECT MATTER OF THIS AGREEMENT (INCLUDING FINCAD SOFTWARE, SERVICES AND INTEGRATED SOFTWARE) OR ANY RELATED MATTER IS LIMITED TO DIRECT DAMAGES SUFFERED BY THE OTHER PARTY ONLY, AND IN NO EVENT AND UNDER NO CIRCUMSTANCES WILL EITHER PARTY OR ANY OF ITS REPRESENTATIVES BE LIABLE TO THE OTHER PARTY OR ANY OF ITS REPRESENTATIVES FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY OR PUNITIVE LOSS OR DAMAGE OF ANY NATURE OR KIND WHATSOEVER OR FOR ANY LOSS OF DATA, LOSS OF INFORMATION, LOSS OF BUSINESS, LOSS OF MARKETS, LOSS OF SAVINGS, LOSS OF INCOME, LOSS OF PROFITS, LOSS OF USE, LOSS OF PRODUCTION OR LOSS OF GOODWILL, ANTICIPATED OR OTHERWISE;
- (b) **LIMITATIONS:** WITHOUT LIMITING SECTION 9.2(A), IN NO EVENT AND UNDER NO CIRCUMSTANCES WILL THE TOTAL AGGREGATE LIABILITY OF EITHER PARTY AND ITS REPRESENTATIVES TO THE OTHER PARTY AND ITS REPRESENTATIVES ARISING FROM, CONNECTED WITH OR RELATING TO THIS AGREEMENT, THE SUBJECT MATTER OF THIS AGREEMENT (INCLUDING FINCAD SOFTWARE, SERVICES AND INTEGRATED SOFTWARE) AND ALL RELATED MATTERS EVER EXCEED THE TOTAL AMOUNT OF FEES/CHARGES ACTUALLY PAID BY CUSTOMER TO FINCAD PURSUANT TO THIS AGREEMENT DURING THE TWELVE (12) MONTHS IMMEDIATELY BEFORE THE DATE ON WHICH THE LIABILITY AROSE; AND
- (c) **APPLICATION:** THIS SECTION 9.2 IS A COMPREHENSIVE EXCLUSION AND LIMITATION OF LIABILITY THAT APPLIES TO LIABILITY UNDER ANY THEORY (INCLUDING CONTRACT, TORT, STRICT LIABILITY AND STATUTORY LIABILITY), REGARDLESS OF ANY NEGLIGENCE OR OTHER FAULT OR WRONGDOING (INCLUDING FUNDAMENTAL BREACH OR GROSS NEGLIGENCE) BY THE LIABLE PARTY OR ANY OF ITS REPRESENTATIVES,

EVEN IF OTHER REMEDIES ARE NOT AVAILABLE OR DO NOT ADEQUATELY COMPENSATE FOR THE DAMAGE, LOSS OR LIABILITY, EVEN IF THE LIABLE PARTY KNOWS OR OUGHT TO HAVE KNOWN OF THE POSSIBILITY OF THE DAMAGE, LOSS OR LIABILITY BEING INCURRED, AND REGARDLESS OF WHETHER OR NOT THE DAMAGE, LOSS OR LIABILITY WAS FORESEEABLE.

9.3 **EXCEPTIONS:** SECTION 9.2 DOES NOT APPLY TO ANY OF THE FOLLOWING: (a) THE OBLIGATIONS SET OUT IN SECTION 7 OR LIABILITY FOR BREACH OF THOSE OBLIGATIONS; (b) LIABILITY FOR PERSONAL INJURY TO OR THE DEATH OF AN INDIVIDUAL CAUSED BY NEGLIGENCE OR WILLFUL MISCONDUCT; (c) LIABILITY FOR BREACH OF ANY OF SECTIONS 2.4(A), 2.8(B), 2.8(C), 2.10, 2.13, 4, 6.5 AND 10.3; (d) LIABILITY FOR WILFUL MISCONDUCT OR FRAUD; OR (e) LIABILITY FOR MISAPPROPRIATION, VIOLATION OR INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS.

9.4 **RISK ALLOCATION:** THE ALLOCATION OF RISK AND LIABILITY SET OUT IN THIS AGREEMENT IS AN ESSENTIAL PART OF THE BARGAIN BETWEEN THE PARTIES, A CONTROLLING FACTOR IN SETTING THE FEES/CHARGES, AND AN INDUCEMENT TO THE PARTIES TO ENTER INTO THIS AGREEMENT.

10. Term and Termination

10.1 **Term of Agreement:** Unless the Parties expressly agree in writing otherwise, this Agreement is effective as of the Effective Date and will continue in full force and effect until this Agreement is terminated in accordance with this Agreement.

10.2 Termination of Agreement

- (a) **Automatic Termination:** Unless the Parties expressly agree in writing otherwise, this Agreement will terminate immediately and automatically (without notice by or to either Party) if all Licenses expire or are terminated.
- (b) **Termination for Uncured Breach:** Either Party may terminate this Agreement for cause effective immediately on delivery of a termination notice to the other Party if the other Party breaches this Agreement and has not remedied the breach within thirty (30) days after receipt of a default notice from the non-breaching Party identifying the breach and stating the non-breaching Party's intention to terminate this Agreement if the breach is not remedied within a thirty (30) day cure period, provided that the termination notice is delivered no later than fifteen (15) days after the end of the cure period, and further provided that if the non-breaching Party does not give a timely termination notice to the breaching Party, and if the breach is continuing, then the non-breaching Party may give a further default notice in respect of the breach and the provisions of this section 10.2(b) will apply in respect of that further default notice.
- (c) **Termination for Bankruptcy/Insolvency:** FINCAD in its discretion may terminate this Agreement effective immediately on delivery of a termination notice to Customer if: (i) Customer becomes insolvent or ceases to conduct business in the ordinary course; (ii) Customer suspends or threatens to suspend payment of its debts or is unable or deemed unable to pay its debts as they fall due; (iii) Customer takes any step or proceeding for the benefit of insolvent debtors or for Customer's liquidation, dissolution or winding up; or (iv) a receiver, receiver-manager, liquidator or trustee in bankruptcy is appointed in respect of all or substantially all of Customer's business and undertaking.

10.3 **Consequences of Expiration/Termination of Licenses:** On expiration (non-renewal) or termination of a License, Customer will promptly, permanently delete and remove from Authorized Devices all copies of FINCAD Software or Integrated Software that were installed pursuant to the License. On expiration (non-renewal) or termination of all Licenses for a particular kind of FINCAD Software, Customer will promptly permanently delete and destroy all copies of that kind of FINCAD Software in Customer's possession or control. On expiration (non-renewal) or termination of all Licenses for Integrated Software, Customer will promptly permanently delete and destroy all copies of Integrated Software in Customer's possession or control, except Customer may retain one (1) copy of Integrated Software for legal compliance purposes only. On expiration or termination of a License that permits use of FINCAD Software or Integrated Software by a specific, named individual, Customer will ensure that the individual immediately ceases all use of FINCAD Software or Integrated Software (as applicable) previously used pursuant to the expired or terminated License. On expiration or termination of a Data Publishing License, Customer will immediately cease distributing, disclosing, publishing or otherwise making available Calculated Data to any person other than an Authorized User.

10.4 **Consequences of Termination of Agreement:** On termination of this Agreement: (a) all Licenses will terminate immediately and automatically (without notice by or to either Party), and Customer will comply with all of Customer's obligations (set out in this Agreement) arising on termination of the License;

(b) FINCAD will no longer be obligated to provide, and Customer will no longer be entitled to receive, any Services; (c) each Party will remain fully responsible and liable for all of the Party's obligations and liabilities arising before the expiration or termination of this Agreement; (d) Customer will promptly pay all amounts due and owing under this Agreement; and (e) on request by FINCAD, Customer will promptly deliver to FINCAD a written document, signed by one of Customer's senior officers, confirming that Customer has complied with Customer's obligations under this section 10.4. Customer acknowledges that Customer expects no anticipated amount of profits by virtue of this Agreement, and agrees that the lawful termination of this Agreement will not render FINCAD liable for Customer's resulting damages, costs or anticipated profits.

10.5 **Survival:** Notwithstanding any other provision of this Agreement, each of sections 2.4(a), 2.4(b), 2.5, 2.7(c), 2.8(b), 2.8(c), 2.9, 2.10, 2.13(b), 4, 5, 6.1, 6.5, 6.6, 7, 8.4, 8.5, 9, 10.3, 10.4, 10.5 and 11, and all other provisions necessary to their interpretation or enforcement, will survive the expiration or termination of this Agreement and will remain in full force and effect and be binding on the Parties as applicable.

11. General

11.1 **Publicity:** FINCAD will not include Customer's name or trademark in any marketing or promotional materials without Customer's prior written consent. Customer hereby consents to FINCAD including Customer's name and trademark in lists or directories of FINCAD's customers published on FINCAD's website, provided that Customer may withdraw the consent on thirty (30) days' notice if Customer reasonably and in good faith believes that continued publicity would adversely affect Customer's reputation.

11.2 **Notices:** Unless this Agreement expressly states otherwise, all notices to be given under this Agreement will be in writing and: (a) FINCAD and its authorized resellers will deliver all notices, invoices and Keys to Customer by email or courier to Customer's addresses specified in an Order Form or on record in Customer's file with FINCAD or its authorized resellers; and (b) Customer will deliver all notices to FINCAD either by email to legal@fincad.com or by courier to FINCAD (Attention Legal Department) at FINCAD's head office address specified on FINCAD's website (www.fincad.com) or at other addresses for notice specified by FINCAD from time to time. Each Party will promptly acknowledge in writing (which may be in an email) receipt of each notice delivered by the other Party in accordance with this section 11.2. A notice delivered by courier will be deemed delivered when it is received. A notice delivered by email will be deemed delivered on the next business day (at the place of delivery) following the date of transmittal and acknowledgement of receipt by the recipient (not an automated acknowledgement).

11.3 **Governing Law and Disputes:** This Agreement, the subject matter of this Agreement and all related matters will be governed by, and construed and interpreted solely in accordance with, the laws of the Province of British Columbia, Canada and applicable federal laws of Canada, excluding any rules of private international law or the conflict of laws that would lead to the application of any other laws and excluding any laws that implement the United Nations Convention on Contracts for the International Sale of Goods. The courts of British Columbia sitting in Vancouver, Canada, will have original and exclusive jurisdiction over any dispute arising from, connected with or relating to this Agreement, the subject matter of this Agreement or any related matter, and each Party hereby irrevocably submits and attorns to the original and exclusive jurisdiction of those courts in respect of all of those matters and irrevocably waives all rights to trial by jury.

11.4 **Assignment:** This Agreement is binding on and will enure to the benefit of the Parties and their respective successors and permitted assigns. Neither Party will assign this Agreement without the express prior written consent of the other Party, which consent may be withheld in the other Party's discretion, except that FINCAD may (without Customer's consent) assign this Agreement and FINCAD's rights, duties, obligations and interests under this Agreement in connection with any merger, consolidation or reorganization of FINCAD or any acquisition or sale of all or substantially all of FINCAD's assets relating to FINCAD Software. Any purported assignment in breach of this section 11.4 will be void and of no force or effect.

11.5 **Third Party Beneficiaries:** Except as expressly set out in this Agreement, and notwithstanding the *Contracts (Rights of Third Parties) Act 1999* or any similar legislation in any relevant jurisdiction, this Agreement does not confer on any third party any right to enforce any provision of this Agreement.

11.6 **Force Majeure:** Notwithstanding any other provision of this Agreement, neither Party will be liable for any delay in performing or failure to perform any of the Party's obligations, excluding payment obligations, under this Agreement to the extent performance is delayed or prevented due to any cause that is beyond the Party's reasonable control (including act of God, fire, flood, earthquake, epidemic, pandemic, act of war or terrorism, sabotage, riot, insurrection or civil disobedience, strike, lock-out or other labour

disruption) and for which the Party could not have reasonably prepared to avoid the resulting delay or failure of performance; and any delay or failure of that kind will be deemed not a breach of this Agreement by the defaulting Party, and the time for the defaulting Party's performance of the affected obligation will be extended by a period that is reasonable in the circumstances.

11.7 Miscellaneous: The Parties are non-exclusive, independent contracting parties, and nothing in this Agreement or done pursuant to this Agreement will create or be construed to create a partnership, joint venture, agency, employment or other similar relationship between the Parties. If any provision of this Agreement is held by a court or arbitrator of competent jurisdiction to be invalid or unenforceable for any reason, then the provision will be deemed severed from this Agreement and the remaining provisions will continue in full force and effect without being impaired or invalidated in any way, unless as a result of the severance this Agreement would fail in its essential purpose. No consent or waiver by FINCAD to or of a breach of this Agreement by Customer will be effective unless in writing and signed by FINCAD, or deemed or construed to be a consent to or waiver of a continuing breach of this Agreement or any other breach of this Agreement by Customer. If FINCAD's consent, approval or agreement is required under this Agreement, then FINCAD in its discretion and for its sole convenience may withhold or refuse consent, approval or agreement unless this Agreement expressly states otherwise. This Agreement will enure to the benefit of and will be binding on the Parties and their respective successors and permitted assigns. Except as expressly set out in this Agreement, each Party's rights and remedies under this Agreement are cumulative and not exclusive of any other rights or remedies to which the Party may be entitled under this Agreement or applicable law, and each Party is entitled to pursue all of the Party's rights and remedies concurrently, consecutively and alternatively. If a Contract Document requires the signature of both Parties, then the Contract Document may be signed (including by electronic signature) and delivered (including by facsimile transmission, by email in PDF or similar format or using an online contracting service designated by FINCAD) in counterparts, and each signed and delivered counterpart will be deemed an original, and both counterparts will together constitute one and the same document. Each Party represents and warrants that the individual signing a Contract Document on behalf of the Party has been properly authorized and empowered by the Party to accept and sign the Contract Document on behalf of the Party. The Parties have requested and required that this Agreement and all related communications, notices and documents be written in the English language.

11.8 Amendments: This Agreement may not be amended except by a written document that expressly states that it is an amendment to this Agreement and is signed by both Parties or their respective successors or permitted assigns.

11.9 Entire Agreement: This Agreement sets out the complete agreement between the Parties with respect to the subject matter of this Agreement, and supersedes all previous communications, representations, negotiations, discussions, agreements or understandings, whether oral or written, between the Parties with respect to the subject matter of this Agreement. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the Parties with respect to the subject matter of this Agreement other than as expressly set out in this Agreement. PURCHASE ORDERS AND OTHER DOCUMENTS ISSUED BY CUSTOMER AND ACCEPTED BY FINCAD IN CONNECTION WITH THIS AGREEMENT ARE FOR ADMINISTRATIVE CONVENIENCE ONLY, AND THE TERMS AND CONDITIONS CONTAINED IN THOSE DOCUMENTS ARE OF NO FORCE OR EFFECT AND DO NOT IN ANY WAY AMEND THIS AGREEMENT.

**APPENDIX 1 TO GENERAL TERMS AND CONDITIONS
KINDS OF LICENSES, LICENSED PURPOSES AND RELATED MATTERS**

In this Appendix:

- **Table 1** describes each of the standard licenses offered by FINCAD for the following FINCAD Software: FINCAD Desktop (Excel), FINCAD Desktop (Python), FINCAD Desktop (Excel Strategist), FINCAD SDK (Python), FINCAD SDK (Java), FINCAD SDK (.NET), Analytics Suite for Excel, Analytics Suite for Developers, Analytics Suite Premium for Excel, Analytics Suite Premium for Developers, F3 Excel Edition, F3 Toolbox for Use with MATLAB and F3 SDK.
- **Table 2** describes each of the standard licenses offered by FINCAD for the following FINCAD Software: F3 Platform and F3 Platform Premium.
- **Table 3** describes each of the standard licenses offered by FINCAD for Integrated Software.
- **Table 4** describes the Licensed Purpose for each kind of FINCAD Software and Integrated Software.
- **Table 5** describes special use restrictions, requirements and additions that might apply to standard licenses offered by FINCAD.

Table 1 – Standard Licenses for FINCAD Desktop (Excel), FINCAD Desktop (Python), FINCAD Desktop (Excel Strategist), FINCAD SDK (Python), FINCAD SDK (Java), FINCAD SDK (.NET), Analytics Suite for Excel, Analytics Suite for Developers, Analytics Suite Premium for Excel, Analytics Suite Premium for Developers, F3 Excel Edition, F3 Toolbox for Use with MATLAB and F3 SDK	
Kind of License	Description of License
Single Install	A license for Customer to install one (1) copy of the applicable FINCAD Software on one (1) Personal Computer and to permit Software Users and Interface Users to use the installed copy of FINCAD Software for the applicable Licensed Purpose, provided that only one (1) Software User or Interface User at a time may use FINCAD Software pursuant to each Single Install License.
Concurrent Install	A license for Customer to install one (1) copy of the applicable FINCAD Software on each of one (1) or more Personal Computers and to permit Software Users and Interface Users to use the installed copy of FINCAD Software for the applicable Licensed Purpose, provided that only one (1) Software User or Interface User at a time may use FINCAD Software pursuant to each Concurrent Install License.
Single Server	A license for Customer to install one (1) copy of the applicable FINCAD Software on one (1) Server that does not contain more than the maximum number of Cores specified in the applicable Order Form and to permit Software Users and Interface Users to use the installed copy of FINCAD Software for the applicable Licensed Purpose, provided that only one (1) Software User or Interface User at a time may use FINCAD Software pursuant to each Single Server License.
In this Table 1, “ the applicable FINCAD Software ” means, as set out in the applicable Order Form, either FINCAD Desktop (Excel), FINCAD Desktop (Python), FINCAD Desktop (Excel Strategist), FINCAD SDK (Python), FINCAD SDK (Java), FINCAD SDK (.NET), Analytics Suite for Excel, Analytics Suite for Developers, Analytics Suite Premium for Excel, Analytics Suite Premium for Developers, F3 Excel Edition, F3 Toolbox for Use with MATLAB or F3 SDK.	

Table 2 – Standard Licenses for F3 Platform and F3 Platform Premium

Kind of License	Description of License
F3 Platform User	<p>A license for Customer to authorize one (1) specific, named Software User or Interface User (a “F3 Platform User”) to use an F3 API to access and use, for the applicable Licensed Purpose only, one (1) or more instances of the applicable FINCAD Software operated by Customer pursuant to valid and subsisting Single Server Licenses or FINCAD Server – Network Licenses.</p> <p>In this Agreement, “F3 API” means an application programming interface included in the applicable FINCAD Software that is designed to be used to exchange data between the applicable FINCAD Software and another software program. For greater certainty, F3 API does not include F3 Workstation.</p> <p>An F3 Platform User License may not be used by more than one (1) F3 Platform User or transferred from one (1) F3 Platform User to another F3 Platform User, except that an F3 Platform User License may be transferred from an F3 Platform User who no longer requires use of the applicable FINCAD Software to a replacement F3 Platform User.</p>
F3 Workstation User	<p>A license for Customer to authorize one (1) specific, named Software User (an “F3 Workstation User”) to use F3 Workstation or an F3 API to access and use, for the applicable Licensed Purpose only, one (1) or more instances of the applicable FINCAD Software operated by Customer pursuant to valid and subsisting Single Server Licenses or FINCAD Server – Network Licenses.</p> <p>In this Agreement, “F3 Workstation” means a graphical user interface included in the applicable FINCAD Software that is designed to be invoked, through a compatible internet browser software application, to access and use the applicable FINCAD Software.</p> <p>An F3 Workstation User License may not be used by more than one (1) F3 Workstation User or transferred from one (1) F3 Workstation User to another F3 Workstation User, except that an F3 Workstation User License may be transferred from an F3 Workstation User who no longer requires use of the applicable FINCAD Software to a replacement F3 Workstation User.</p>
FINCAD Server – Single Server	<p>A license for Customer to install one (1) copy of the applicable FINCAD Software on one (1) Server that does not contain more than the maximum number of Cores specified in the applicable Order Form and to permit F3 Platform Users (each holding a valid and subsisting F3 Platform User License) and F3 Workstation Users (each holding a valid and subsisting F3 Workstation User License) to use the installed copy of the applicable FINCAD Software for the applicable Licensed Purpose, provided that the total, aggregate number of F3 Platform Users and F3 Workstation Users that use the installed copy of FINCAD Software at any one time does not exceed the maximum number of F3 Platform Users and F3 Workstation Users specified in the applicable Order Form.</p>
Single Server	
FINCAD Server – Network	<p>A license for Customer to run multiple Instances of the applicable FINCAD Software in one (1) single environment (e.g. production, quality assurance or disaster recovery) on a Network and to permit F3 Platform Users (each holding a valid and subsisting F3 Platform User License) and F3 Workstation Users (each holding a valid and subsisting F3 Workstation User License) to use the Instances of FINCAD Software for the applicable Licensed Purpose, provided that: (a) the total, aggregate number of all Instances of FINCAD Software run on the Network does not exceed the maximum number of Instances specified in the applicable Order Form; (b) the total, aggregate number of Servers, grid nodes or other components in the Network does not exceed the maximum number of Servers, grid nodes or other components (as applicable) specified in the applicable Order Form; (c) the total, aggregate number of Cores in all Servers on the Network does not exceed the maximum number of Cores specified in the applicable Order Form; and (d) the total, aggregate number of F3 Platform Users and F3 Workstation Users that use the Instances of FINCAD Software at any one time does not exceed the maximum number of F3 Platform Users and F3 Workstation Users specified in the applicable Order Form.</p>
Multi Server	

In this Table 2, “**the applicable FINCAD Software**” means either F3 Platform or F3 Platform Premium as set out in the applicable Order Form.

Table 3 – Standard Licenses for Integrated Software

Kind of License	Description of License
End User – Single Install	A license for Customer to install one (1) copy of Integrated Software on one (1) Personal Computer and to permit Software Users and Interface Users to use the installed copy of Integrated Software for the applicable Licensed Purpose, provided that only one (1) Software User or Interface User at a time may use Integrated Software pursuant to each Single Install License.
End User – Concurrent Install	A license for Customer to install one (1) copy of Integrated Software on each of one (1) or more Personal Computers and to permit Software Users and Interface Users to use the installed copy of Integrated Software for the applicable Licensed Purpose, provided that only one (1) Software User or Interface User at a time may use Integrated Software pursuant to each Concurrent Install License.
FINCAD Server – Single Server	A license for Customer to install one (1) copy of Integrated Software on one (1) Server that does not contain more than the maximum number of Cores specified in the applicable Order Form and to permit Software Users and Interface Users to use the installed copy of Integrated Software for the applicable Licensed Purpose provided that the total, aggregate number of Software Users and Interface Users that use the installed copy of Integrated Software at any one time does not exceed the maximum number of Software Users and Interface Users specified in the applicable Order Form.
Integrated Software Server (ISS) – Single Server	
FINCAD Server – Network	A license for Customer to run multiple Instances of Integrated Software in one (1) single environment (e.g. production, quality assurance or disaster recovery) on a Network and to permit Software Users and Interface Users to use the Instances of Integrated Software for the applicable Licensed Purpose, provided that: (a) the total, aggregate number of all Instances of Integrated Software run on the Network does not exceed the maximum number of Instances specified in the applicable Order Form; (b) the total, aggregate number of Servers, grid nodes or other components in the Network does not exceed the maximum number of Servers, grid nodes or other components (as applicable) specified in the applicable Order Form; (c) the total, aggregate number of Cores in all Servers on the Network does not exceed the maximum number of Cores specified in the applicable Order Form; and (d) the total, aggregate number of Software Users and Interface Users that use the Instances of Integrated Software at any one time does not exceed the maximum number of Software Users and Interface Users specified in the applicable Order Form.
Integrated Software Server (ISS) – Multi Server	

Table 4 – Licensed Purposes for FINCAD Software and Integrated Software

Kind of Software	Licensed Purpose
FINCAD Desktop (Excel)	Creating Calculated Data for use by Authorized Users and Interface Users for Authorized Purposes.
FINCAD Desktop (Python)	Creating Calculated Data for use by Authorized Users and Interface Users for Authorized Purposes.
FINCAD Desktop (Excel Strategist)	Creating Calculated Data for use by Authorized Users and Interface Users for Authorized Purposes.
FINCAD SDK (Python)	Creating, maintaining and supporting Integrated Software created using Python for use by Software Users for Authorized Purposes.
FINCAD SDK (Java)	Creating, maintaining and supporting Integrated Software created using Java for use by Software Users for Authorized Purposes.
FINCAD SDK (.NET)	Creating, maintaining and supporting Integrated Software created using .NET for use by Software Users for Authorized Purposes.
Analytics Suite for Excel	Creating Calculated Data for use by Authorized Users and Interface Users for Authorized Purposes.
Analytics Suite for Developers	Creating, maintaining and supporting Integrated Software created using Analytics Suite for Developers for use by Software Users for Authorized Purposes.
Analytics Suite Premium for Excel	Creating Calculated Data for use by Authorized Users and Interface Users for Authorized Purposes.
Analytics Suite Premium for Developers	Creating, maintaining and supporting Integrated Software created using Analytics Suite Premium for Developers Premium for use by Software Users for Authorized Purposes.
F3 Excel Edition	Creating Calculated Data for use by Authorized Users and Interface Users for Authorized Purposes.
F3 Toolbox for Use with MATLAB	Creating Calculated Data for use by Authorized Users and Interface Users for Authorized Purposes.
F3 SDK	Creating, maintaining and supporting Integrated Software created using F3 SDK for use by Software Users for Authorized Purposes.
F3 Platform	Creating Calculated Data for use by Authorized Users and Interface Users for Authorized Purposes.
F3 Platform Premium	Creating Calculated Data for use by Authorized Users and Interface Users for Authorized Purposes.
Integrated Software	Creating Calculated Data for use by Authorized Users and Interface Users for Authorized Purposes.

Table 5 – Special Use Restrictions/Requirements/Additions

Important Note: The special use restrictions, requirements and additions set out in this Table 5 supplement and are in addition to all other restrictions and requirements for the use of FINCAD Software or Integrated Software (as applicable) pursuant to each kind of standard license offered by FINCAD as set out in Tables 1, 2, 3 and 4 and elsewhere in this Agreement.

Special Use License	Additional Restrictions/Requirements/Additions
Expansion	An “Expansion” permits Customer to increase the total, aggregate number of Cores in Servers on which one or more copies or Instances (as applicable) of FINCAD Software or Integrated Software (as applicable) are installed or run (as applicable) by Customer pursuant to a separate License.
Development	If a License is identified in the applicable Order Form as “Development” or “Dev”, then the copy of FINCAD Software or Integrated Software (as applicable) used under the License and all resulting Calculated Data may be used for the sole purpose of Customer’s non-production, development associated with the use of FINCAD Software or Integrated Software (as applicable) for Authorized Purposes.
Quality Assurance / User Acceptance Testing or QA/UAT	If a License is identified in the applicable Order Form as “Quality Assurance/User Acceptance” or “QA/UAT”, then the copy of FINCAD Software or Integrated Software (as applicable) used under the License and all resulting Calculated Data may be used for the sole purpose of Customer’s non-production, quality assurance testing of the FINCAD Software or Integrated Software (as applicable) for use for Authorized Purposes.
Disaster Recovery or DR	<p>If a License is identified in the applicable Order Form as “Disaster Recovery” or “DR”, then the copy of FINCAD Software or Integrated Software (as applicable) installed pursuant to the License (the “DR Installation”) may not be used except on a temporary basis during a Disaster in substitution for the use of a corresponding Primary Installation that cannot be used due to the Disaster.</p> <p>In this Agreement: (a) “Disaster” means an accident, natural disaster or other similar event that temporarily prevents the use of a Primary Installation; (b) “Primary Installation” means an copy of FINCAD Software or Integrated Software that is installed and used by Software Users and Interface Users pursuant to a License that is not a DR License; and (c) a DR Installation and a Primary Installation are “corresponding” if both installations are for the same kind of FINCAD Software or Integrated Software (as applicable).</p>
Academic	If a License is identified in the applicable Order Form as “Academic”, then: (a) the copy of FINCAD Software or Integrated Software (as applicable) used under the License and all resulting Calculated Data may be used for the sole purpose of Customer’s personal, non-commercial, educational purposes; and (b) if the applicable Order Form specifies one or more specific academic courses then the copy of FINCAD Software or Integrated Software (as applicable) used under the License and all resulting Calculated Data may be used solely for Customer’s personal, non-commercial, educational purposes relating to the specified academic courses only.

<p>Secondary Device</p>	<p>If a License is identified in the applicable Order Form as “Secondary Device”, then the copy of FINCAD Software or Integrated Software (as applicable) installed on the applicable Authorized Device (the “Secondary Device”) may not be used except on a temporary basis in substitution for the use of the same kind of FINCAD Software or Integrated Software (as applicable) installed on a different Authorized Device (a “Primary Device”) pursuant to a separate License (a “Primary License”).</p> <p>For greater certainty, Customer may use only one (1) copy of FINCAD Software or Integrated Software (as applicable) at any one time pursuant to a Primary License and the related Secondary Device License.</p> <p>Customer may not purchase more than one Secondary Device License for each Primary License.</p>
<p>Trial</p>	<p>If a License is identified in the applicable Order Form as “Trial”, then the FINCAD Software or Integrated Software (as applicable) used under the License and all resulting Calculated Data may be used for the sole purpose of Customer’s confidential, internal evaluation and testing of the FINCAD Software for use by Customer.</p>

