

## **SPATIAL ACIS SOFTWARE LICENSE AGREEMENT**

This Agreement, dated as of the date following the last signature below, is made and entered into by and between The IntelliCAD Technology Consortium, a Washington non-profit corporation (the “ITC”), and the person or entity named at the end of this document (the “ITC Member”).

### **RECITALS**

A. The ITC has been organized and established to promote the IntelliCAD computer aided design software platform as an industry-standard platform for computer aided design.

B. The ITC has licensed certain 3D ACIS Modeler software (“ACIS Software”) from Spatial Corp. (“Spatial”).

C. The ITC Member desires to utilize the ACIS Software for use and distribution with the IntelliCAD licensed software platform.

### **AGREEMENT**

NOW, THEREFORE, for good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, ITC Member and the ITC agree as follows:

1. The ITC shall pay to Spatial the license and support fees for use of the ACIS Software.
2. The ITC Member shall pay to the ITC an annual license fee of \$2,500.00 USD for use of the ACIS Software.
3. Before the ITC will provide or make the ACIS Software available to ITC Member, the ITC Member must execute Spatial’s Product Distribution Agreement as set forth in Exhibit A.
4. The ITC Member shall be bound by all terms and conditions set forth in Spatial’s Product Distribution Agreement.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives as of the date indicated below as being accepted on behalf of the ITC.

**Member:** \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

Website: \_\_\_\_\_

Executive Management Contact Email:

\_\_\_\_\_

**Agreed and Accepted on behalf of:**

**The IntelliCAD Technology Consortium**

By: \_\_\_\_\_

Officer: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

## **EXHIBIT A**

**(Spatial Product Distribution Agreement)**



## PRODUCT DISTRIBUTION AGREEMENT COMMERCIAL DISTRIBUTION

This Product Distribution Agreement (“**Agreement**”) is entered into as of \_\_\_\_\_ (the “**Effective Date**”) by and between Spatial Corp. (“**Spatial**”) and the entity specified in the signature block below (“**Licensee**”).

Whereas Licensee is a member in good standing of the IntelliCAD Technology Consortium (“**ITC**”).

Whereas ITC has entered into a Product Distribution Agreement with Spatial dated 9/20/2002 (“**ITC Agreement**”), pursuant to which ITC is granted certain rights to distribute Spatial intellectual property to Licensee contingent upon Licensee and Spatial entering into this Agreement.

Whereas Spatial is pleased to license to Licensee, for use/distribution on a non-exclusive basis, certain software components, which enable the development and creation of software products requiring capabilities such as three-dimensional modeling, interoperability and visualization.

In consideration of the mutual promises set forth in this Agreement, Spatial and Licensee agree to be bound as of the Effective Date by the terms and conditions contained herein, including the following exhibits incorporated by this reference (“**Exhibits**”), all of which form the Agreement. Capitalized terms used but not defined herein shall have meaning given to them in *Exhibit E* (the “**Terms and Conditions**”).

### EXHIBIT TITLE OF EXHIBIT

A	Licensee Products, Spatial Programs, Fees and Additional Terms
B	FORM: Licensee Information
C	FORM: Licensee Development Sites
D	FORM: Licensee Distribution Sites
E	Terms and Conditions

This Agreement, including all Exhibits hereto, constitutes the entire agreement between the parties regarding the subject hereof and supersedes all prior or contemporaneous proposals, representations, agreements, understandings and communication, whether written or oral. This Agreement may only be modified by written amendment signed by both parties.

**IN WITNESS WHEREOF**, the parties have caused their duly authorized representatives to execute this Agreement as of the Effective Date.

Headquarters Address:

#### SPATIAL CORP.

Headquarters Address:

**310 Interlocken Parkway, Suite 200**

**Broomfield, CO 80021-3468**

**United States of America**

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

#### SPATIAL CONTACT/NOTICE INFORMATION:

Finance/Legal Contact:

Spatial Corp.  
310 Interlocken Parkway, Suite 200  
Broomfield, Colorado 80021-3468  
Direct: 303 544 2900  
Fax: 303 544 3000

Marketing/Communications Contact:

Linda Lokay  
Spatial Corp.  
310 Interlocken Parkway, Suite 200  
Broomfield, Colorado 80021-3468  
Direct: 303 544 2900  
Fax: 303 544 3000

## EXHIBIT A

### LICENSEE PRODUCTS, SPATIAL PROGRAMS, FEES AND ADDITIONAL TERMS

#### > Section 1)                      Licensee Products

##### I. 3D MODELING COMPONENTS

##### A. 3D ACIS Modeler

Specific Licensee Products with which the Spatial Programs will be distributed

Licensee Product	Spatial Program(s)	Description of Licensee Product Functionality
	3D ACIS Modeler	

#### > Section 2)                      Spatial Programs and Fees

##### I. 3D MODELING COMPONENTS

##### A. 3D ACIS Modeler

##### *Annual Royalty Percentages (ARP)*

Licensee shall provide quarterly reports for each calendar quarter within thirty (30) days of the end of such quarter, pursuant to Section 6.2 of *Exhibit E* (Terms and Conditions), and shall pay to Spatial the ARP multiplied by Net Revenue, as set forth in Section 5.3 of *Exhibit E*.

Annual Royalty Percentage (ARP)	Net Revenues (Notes 1 and 2)					
	\$0 - \$2.5M	\$2.5M - \$5M	\$5M - \$10M	\$10M - \$25M	\$25M - \$50M	\$50M+
<b>Spatial Programs</b>						
<b>3D MODELING COMPONENTS</b>						
3D ACIS Modeler	7 %	6 %	5 %	4 %	3 %	2 %

Note 1:        The ARP applied are determined by taking the percentage (specified in the table) of the total *quarterly* Net Revenue. The percentage *applied* is based upon total *year to date* Net Revenue. For example, based on 3D ACIS Modeler, the table below demonstrates the ARP:

<u>ARP Example</u>	Q1	Q2	Q3	Q4
Quarterly Revenue	\$1M	\$1.25M	\$1.5M	\$4M
Annual Revenue	\$1M	\$2.25M	\$2.75M	\$6.75M
Percentage (ARP)	\$1M @ 7 %	\$1.25M @ 7 %	\$1.25M @ 7 %	\$2.25M @ 6 %
			\$250K @ 6 %	\$1.75M @ 5 %

Note 2:        The price breaks for the ARP set forth in the table above apply incrementally (e.g., the lower percentage applies only to the increment greater than the prior range). For example, with 3D ACIS Modeler if annual revenue is \$5M, the first \$2.5M has an ARP of 7 %, while the remaining \$2.5M has an ARP of 6 %.

> Section 3)

**Platform Support**

- Support for the Spatial Programs includes Microsoft® Windows 32 bit and 64 bit platforms.
- An annual “per-platform” fee will be charged for each additional platform.
- The list of available platforms may be revised or amended at any time.
- *Not all Spatial Programs are available on all platforms.*

Additional Platforms (Operating Systems)		Annual Fee Per Platform
Microsoft Windows 32-bit & 64-bit	<b>X</b>	INCLUDED
Linux / x86 32-bit	_____	\$2,625
Linux / x86 64-bit	_____	\$2,625
Apple OS-X / Mac x86	_____	\$2,625

> Section 4)

**Terminated Agreements**

NOT APPLICABLE

**EXHIBIT B**

**LICENSEE INFORMATION**

**Technical Contact:**

Name:

Title:

Address:

Telephone Number:

Fax Number:

Email:

**Finance Contact:**

Name:

Title:

Address:

Telephone Number:

Fax Number:

Email:

**Royalty Contact:**

Name:

Title:

Telephone Number:

Email:

**Legal Contact:**

Name:

Title:

Address:

Telephone Number:

Fax Number:

Email:

**Marketing Contact:**

Name:

Title:

Address:

Telephone Number:

Fax Number:

Email:

**PLEASE PROVIDE ANY UPDATE TO THIS INFORMATION  
TO SPATIAL IN A TIMELY MANNER.**

Please email updates to: [Contracts-Spa@3ds.com](mailto:Contracts-Spa@3ds.com)

**EXHIBIT C**

**LICENSEE DEVELOPMENT SITES**

<b>Location Name</b>	<b>Physical Address</b>	<b>Country</b>
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		



**EXHIBIT D**

**LICENSEE DISTRIBUTION SITES**

<b>Location Name</b>	<b>Physical Address</b>	<b>Country</b>
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		

## EXHIBIT E

### TERMS AND CONDITIONS

**1. DEFINED TERMS.** The following terms have the following meanings; other terms may be defined elsewhere in this Agreement, including in Exhibit A.

**“Annual Royalty Percentages” or “ARP”** means a percentage of Licensee’s Net Revenue set forth in Section 2 of *Exhibit A* (Licensee Products, Spatial Programs, Fees and Additional Terms).

**“Application Service Provider”** means services offered on-line, through the Internet or as enterprise versions offered on corporate intranets, allowing end-users to access and/or use application software functionality on the Internet or on a corporate server in the case of enterprise versions, on a one task at a time or subscription basis.

**“Confidential Information”** means non-public information that is either expressly identified in this Agreement as being Confidential Information or is conspicuously labeled as being a party’s Confidential Information. Confidential Information may be disclosed orally, in writing or electronically and may consist of software (including Source and Object Code), technical data, research, product plans, inventions, processes, designs, business plans, and marketing, financial or other non-public business information. The Spatial Programs, the license keys described in Section 2.11, and the Documentation shall be deemed Spatial’s Confidential Information, notwithstanding any failure to mark or identify them as such. The Licensee Products shall be deemed Licensee’s Confidential Information, notwithstanding any failure to mark or identify them as such.

**“Documentation”** means the user manuals, programmers’ guides, system guides and related materials provided by Spatial for Spatial Programs.

**“Embedded”** means that the Spatial Program(s) are embedded as part of the standard offering of the Licensee Product(s) at no additional charge to the End-User.

**“End User”** means a customer of Licensee to whom the Licensee Products are licensed pursuant to an End User License Agreement.

**“End User License Agreement”** means a written or electronic agreement between an End User and Licensee or its Subdistributor that satisfies the requirements set forth in Section 3.4 (Relationship with End Users) below.

**“Enhancement”** means the addition of additional capabilities to a Spatial Program, which may be requested by Licensee under the terms of this Agreement.

**“Fees”** means any and all monies due to Spatial under this Agreement, including Annual Royalty Percentages, additional Platform Fees, any elected training fees and any “time and materials” charges, if applicable.

**“Intellectual Property Rights”** means all copyrights, trademarks, trade secrets, patents, patent applications, residuals, moral rights, contract rights, and other proprietary rights as may exist now or hereafter come into existence, and all registrations, renewals and extensions thereof and applications therefor.

**“Licensee Contractor”** means an authorized contractor of Licensee who has entered into a written agreement with Licensee as described in Section 3.2.

**“Licensee Development Sites”** means the geographic locations at which the Licensee will install Spatial Programs for the purposes of creating, developing, maintaining, or supporting the Licensee Products, as indicated on *Exhibit C* (Licensee Development Sites).

**“Licensee Distribution Sites”** means the geographic locations from which the Licensee distributes the Licensee Products, as indicated on *Exhibit D* (Licensee Distribution Sites).

**“Licensee Products”** means Licensee’s software products within which the Spatial Programs will be distributed, as identified and described in Section 1 of *Exhibit A* (Licensee Products, Spatial Programs, Fees and Additional Terms).

**“Licensors”** are suppliers of technology which is included in Spatial Products.

**“Net Revenue”** means, unless otherwise specified in *Exhibit A* (Licensee Products, Spatial Programs, Fees and Additional Terms), gross revenues recognized by Licensee from any End User or Subdistributor in connection with (a) any distribution (e.g., original sale, renewals, and any upgrades), sublicensing or use of Licensee Products and (b) any support, maintenance, installation, consulting, training, integration services or other services provided in connection with the Licensee Products or Spatial Programs, less any applicable taxes, reseller commissions or discounts paid by Licensee to third parties, and actual shipping costs.

**“Object Code”** means a form of computer software program resulting from the translation or processing of Source Code by a computer into machine language or intermediate code that would not be convenient to human understanding of the program logic, but which is appropriate for the construction and linking of binary executable modules (executable code), as well as for execution and interpretation by a computer.

**“Platforms”** means (1) the operating system(s) upon which Licensee develops the Licensee Product and (2) the combination of a compiler and operating system(s) upon which Spatial Programs are supported. Available platforms are listed in Section 3 of *Exhibit A* (Licensee Products, Spatial Programs, Fees and Additional Terms).

**“Seat”** means one single computer workstation (not a cluster or network of computers).

“**Spatial Programs**” means those computer programs identified in Section 2 of *Exhibit A* (Licensee Products, Spatial Programs, Fees and Additional Terms). Spatial Programs include all Updates and Hot Fixes, when and to the extent provided by Spatial.

“**Spatial Marks**” means the trademarks and trade names of Spatial that are listed on Spatial’s website at [www.spatial.com](http://www.spatial.com) or included on or otherwise affixed to the Spatial Programs or the corresponding Documentation.

“**Source Code**” means computer-programming code and related system documentation, comments and procedural code, that is not directly executable by a computer but which may be printed out or displayed in a human-readable form.

“**Subdistributors**” means third parties to whom Licensee grants the right to (i) market, distribute, sublicense, subdistribute, re-brand, and support the Licensee Products.

“**Subdistributor Agreement**” means a written agreement between a Subdistributor and Licensee that satisfies the requirements set forth in Section 3.3 (Relationship with Subdistributors) below.

“**Unembedded**” means that the Spatial Program(s) are provided as separate, add-on option(s) to the Licensee Products, for which the Licensee charges an additional fee.

## **2. LICENSES AND OWNERSHIP**

**2.1 License Grant to Spatial Programs.** Subject to the terms and conditions of this Agreement and solely for the Spatial Programs, Licensee Development Sites and Licensee Distribution Sites, Spatial grants to Licensee a world-wide, non-exclusive, non-transferable [except as expressly permitted in Section 13 (Assignment and Change of Control)] license for the Term of this Agreement, without the right to sublicense except as expressly permitted in this Agreement, to:

(a) reproduce the Spatial Programs, in Object Code form only, and the Documentation solely for the internal business purposes of (1) integrating the Spatial Programs into the Licensee Products or (2) with respect to 3D InterOp Components, developing a stand-alone translator that interfaces with the Licensee Products.

(b) reproduce, display and publicly perform the Spatial Programs, in Object Code form for the sole purposes of (i) conducting demonstrations of the Spatial Programs as incorporated in the Licensee Products to potential End Users and (ii) training and providing installation support and maintenance of the Spatial Programs as incorporated in Licensee Products to End Users.

(c) distribute Spatial Programs, in Object Code form as incorporated in the Licensee Products directly and indirectly through Subdistributors to End Users pursuant to an End User License Agreement, for such End Users’ internal business use and not for further distribution.

(d) distribute copies of the Spatial Programs as incorporated in the Licensee Products, in Object Code form only, to potential End Users and Subdistributors, solely for the internal evaluation by such End Users or Subdistributors for a reasonable period of time, not to exceed ninety (90) days (the “**Evaluation Period**”), without the obligation to pay associated Fees to Spatial during the Evaluation Period.

(e) With respect to 3D Modeling Components, Licensee may distribute Spatial Programs under subsections (c) and (d) solely as Embedded and technologically integrated into the Licensee Products.

**2.2 Restrictions.** Licensee acknowledges that the Spatial Programs, and their structure, organization, interfaces, Object Code and Source Code constitute valuable and confidential trade secrets of Spatial. Licensee shall have no rights in or to the Source Code for the Spatial Programs. Except as expressly permitted under Section 2.1 (License Grant to Spatial Programs) above, Licensee shall not, nor shall Licensee permit any End User, Subdistributor or other third party to: (a) modify, adapt, alter, translate, or create derivative works of the Spatial Programs or the Documentation; (b) merge the Spatial Programs with other software, other than as described in the Documentation or as approved in writing by Spatial; (c) sublicense, distribute, sell, use for Application Service Provider purposes, use for service bureau use, use as concurrent use, lease, rent, loan or otherwise transfer the Spatial Programs or the Documentation to any third party; (d) reverse engineer, decompile, disassemble, or attempt to derive the Source Code for the Spatial Programs; (e) expose or disclose Spatial’s application program interface (API), direct interface or any other of the internal interfaces of the Spatial Programs to any Subdistributor, End User or other third party; or (f) otherwise use or copy the Spatial Programs or the Documentation.

**2.2.1 Restrictions on APIs.** Licensee may provide APIs to functions in Licensee Products conformant with Section 2.2(e) for the purpose of enabling End Users to customize or extend Licensee Products for their own internal use. Licensee may not permit any party to develop and sell or license any extension to Licensee Products which directly or indirectly invokes any part of the Spatial Programs. Any party distributing a program which relies on Spatial Programs to execute at runtime is required to enter into a license agreement with Spatial to obtain such rights.

### **2.3 Reserved**

**2.4 Documentation.** Any reproduction, distribution or translation of the Documentation or incorporation of the Documentation into the documentation of Licensee or any third party shall be contingent upon Spatial’s prior written consent.

**2.5 Ownership.** The Spatial Programs, the Documentation, Spatial Marks and all Intellectual Property Rights to each of the foregoing, are the exclusive property of Spatial and Spatial’s Licensors. Any rights not expressly granted to Licensee in this Agreement are reserved by Spatial and its Licensors. The Licensee Products and related user documentation (excluding any Spatial Programs or Documentation

integrated therein or included therewith) and all Intellectual Property Rights to each of the foregoing, are the exclusive property of Licensee.

## **2.6 Reserved**

## **2.7 Reserved**

**2.8 Additional Licensee Products.** Additional Licensee Products may be included as a part of this Product Distribution Agreement upon Spatial's approval and the execution of an amendment to *Exhibit A* (Licensee Products, Spatial Programs, Fees and Additional Terms).

**2.9 Additional Licensee Sites for Development or Distribution.** Additional Licensee Development Sites and additional Licensee Distribution Sites may be included in this Agreement upon both parties' execution of an amendment to *Exhibit C* (Licensee Development Sites) or *Exhibit D* (Licensee Distribution Sites), as applicable.

**2.10 Delivery.** All Spatial Programs will be made available to Licensee in Object Code form only and will be available for download off of Spatial's website solely by Licensee. Licensee shall not authorize or permit any Subdistributor or End User to download any Spatial Programs from the Spatial website. Additional copies of Spatial Programs may be requested on CD-ROM. If Spatial's packaging/shipment includes a greater number of any Spatial Programs than that number licensed under this Agreement and for which Licensee has paid all applicable Fees, or any other computer programs that have not been licensed to Licensee hereunder, Licensee does not obtain a license or any rights to the additional Spatial Programs or other computer programs by virtue of the packaging/shipment.

**2.11 License Keys and Registration.** The Spatial Programs may include license keys and require registration upon installation by Licensee. Licensee will not interfere with or attempt to disable the license key or registration mechanism in the Spatial software. Licensee agrees to use reasonable licensing key mechanisms acceptable to Spatial to limit access to and use of the Spatial Programs by Licensee End Users.

## **3. LICENSEE'S RIGHTS AND OBLIGATIONS**

**3.1 Distribution Requirements.** The Licensee Products shall provide: (a) a means for End Users to import and/or export files supported by Spatial Programs, and/or (b) additional functions or performance not available through the Licensee Products without the Spatial Programs, based on an objective evaluation of factors such as cost, pricing and product design. The Licensee Products, as combined with the Spatial Programs, shall (i) offer functions that are significantly different from the functionality provided solely by the Spatial Programs, (ii) enhance the Spatial Programs' basic capabilities, and (iii) otherwise provide "higher" level functions. By way of example, the Licensee Products' application of an alternative interface technology (e.g., .NET, Java) shall not be considered to provide sufficient value-added functionality to comply with the requirements of this Section 3.1, if such interface is not combined with other significant application level functionality. Spatial shall determine, in its sole reasonable discretion, whether the Licensee Products meet the requirements of this Section 3.1.

**3.2 Licensee Contractors.** Licensee may hire Licensee Contractors to perform work on behalf of Licensee solely under Section 2.1(a) (License Grant to Spatial Programs); *provided*, that Licensee enters into a written agreement with the Licensee Contractor that is no less protective of Spatial and the Spatial Programs than the terms of this Agreement prior to providing the Licensee Contractor any access to the Spatial Programs or the Documentation.

**3.3 Relationship with Subdistributors.** Subject to the terms and conditions of this Agreement, including but not limited to Section 2.3 (Further Restrictions on V5 Technology), Licensee may appoint Subdistributors solely with respect to Licensee's rights under Sections 2.1(b) and (c) (License Grant to Spatial Programs). Before making the Licensee Products available to any potential Subdistributor, Licensee must enter into a written Subdistributor Agreement with such Subdistributor. Each Subdistributor Agreement shall (a) contain terms and conditions that are at least as protective of the Spatial Programs, Spatial's Confidential Information and Spatial's Intellectual Property Rights as the terms and conditions of this Agreement; (b) disclaim all representations, warranties and liability on behalf of Spatial and its Licensors; (c) require the Subdistributor to comply with the terms and conditions set forth in Section 3.4 (Relationship with End Users) below; (d) contain terms and conditions that enable Licensee to fully comply with Section 6 (Record Keeping, Reports and Audit Rights) below, and (e) provide that Spatial shall be considered a third party beneficiary. Licensee shall have the right to authorize its Subdistributors to further distribute or sublicense the Licensee Products to any Subdistributors in accordance with the terms of this Agreement, including the requirements of this Section. Licensee shall enforce each Subdistributor Agreement with at least the same degree of diligence that Licensee uses to enforce similar agreements for Licensee's own products or other software products that Licensee distributes, but in no event less than reasonable efforts. Licensee will promptly notify Spatial if Licensee becomes aware of any material breach of any Subdistributor Agreement relating to the Licensee Products. Licensee will cooperate fully with Spatial in any action or proceeding to protect Spatial's Confidential Information or to enforce Spatial's Intellectual Property Rights in the Licensee Products and Spatial Programs. Upon the termination of any Subdistributor Agreement, Licensee will obtain from the Subdistributor all copies of the Licensee Products in the Subdistributor's possession or control.

**3.4 Relationship with End Users.** Before providing or making the Licensee Products available to any End User, Licensee or its Subdistributor must enter into a written or electronic End User License Agreement with the End User. Each End User License Agreement shall (a) be no less protective of the Spatial Programs, Spatial's Confidential Information and Spatial's Intellectual Property Rights than the terms and conditions of this Agreement, (b) disclaim all representations, warranties and liability on behalf of Spatial and its Licensors, and (c) provide that Spatial shall be considered a third party beneficiary. Licensee or its Subdistributor shall obtain registration information for the Licensee Products, either electronically or in printed form, from each End User. Licensee or its Subdistributor shall enforce each End User License Agreement with at least the same degree of diligence that Licensee or its Subdistributor uses to enforce similar agreements for its own products or other software products that it distributes, but in no event less than reasonable efforts. Licensee will promptly

notify Spatial if Licensee or its Subdistributor becomes aware of any material breach of any End User License Agreement relating to the Licensee Products. Licensee and its Subdistributors will cooperate fully with Spatial in any action or proceeding to protect Spatial's Confidential Information or to enforce Spatial's Intellectual Property Rights in the Licensee Products and Spatial Programs. Upon the termination of any End User License Agreement, Licensee or its Subdistributor will obtain from the End User all copies of the Licensee Products in such End User's possession or control.

**3.5 Evaluations.** Before Licensee distributes the Licensee Products to a potential End User or Subdistributor for evaluation purposes under Section 2.1(d) (License Grant to Spatial Programs), Licensee must enter into a written or electronic agreement with such End User or Subdistributor that (i) prohibits use of the Licensee Products for any commercial or production purposes; and (ii) contains terms and conditions no less protective of the Licensee Products, Spatial and the Spatial Programs than the terms of this Agreement. Licensee shall ensure that upon expiration of the Evaluation Period, if such End User or Subdistributor does not enter into an End User License Agreement or Subdistributor Agreement with Licensee, as applicable, all Licensee Products in such potential End User's or Subdistributor's possession are either immediately destroyed or returned to Licensee.

**3.6 Delivery of Licensee Products.** Upon request, Licensee shall provide two (2) copies of Licensee Products and related documentation to Spatial. Thereafter, upon request, Licensee shall provide two (2) copies of new releases or versions of the Licensee Products to Spatial. Spatial shall use such copies solely for the purpose of confirming Licensee compliance with the terms of this Agreement.

**3.7 ".sat" ".sab" and ".xcgm" Files.** Licensee will ensure that each version of the Licensee Products comply, in all respects, with the then-current version of Spatial's file format standards for Standard ACIS Text (".sat"), or Standard ACIS Binary (".sab") files. In no event shall Licensee or any Licensee Products encrypt, modify, adapt, alter, translate, or create derivative works from the .sat or .sab file formats. Licensee may enable End Users, at Licensee's option and via any method that complies with all applicable laws and regulations, to (a) translate data in .sat or .sab files into a different format using a 3D InterOp Component, or (b) encrypt the .sat, .sab, or .xcgm files solely for the purpose of protecting confidential or proprietary data.

**3.8 Marketing and Promotion; Publicity.** Licensee will use commercially reasonable efforts to market and promote the Licensee Products to End Users and Subdistributors. Licensee shall include the Spatial Programs' logos in all Licensee Product packaging, marketing, and advertising materials that relate to the Spatial Programs, in accordance with the terms of Section 7 (Spatial Marks and Proprietary Notices). Licensee agrees that Spatial may list Licensee as a Spatial Licensee Partner on Spatial's website and marketing materials, and Spatial agrees that Licensee may list Spatial as a partner on Licensee's website and marketing materials. Each party further agrees to participate in general press releases or other mutually agreed to marketing activities with the other party. Neither party shall issue any press release that refers to the other party or the execution or existence of this Agreement without the other party's prior written approval.

**3.9 Pricing.** Licensee, in Licensee's sole discretion, will establish the fees Licensee charges to End Users and Subdistributors to whom Licensee distributes the Licensee Products.

**3.10 Export Restrictions.** Licensee acknowledges and agrees that the goods, software, and technology subject to this Agreement are subject to the export control laws and regulations of the United States, including but not limited to the Export Administration Regulations ("EAR"), and sanctions regimes of the U.S. Department of Treasury, Office of Foreign Asset Controls. Licensee will comply with these laws and regulations. Licensee shall not, without prior U.S. government authorization, export, re-export, or transfer any goods, software, or technology subject to this Agreement, either directly or indirectly, to any country subject to a U.S. trade embargo (currently Cuba, Iran, Sudan, and Syria), strict trade restrictions (Libya and North Korea) or to any resident or national of any such country, or to any person or entity listed on the "Entity List" or "Denied Persons List" maintained by the U.S. Department of Commerce or the list of "Specifically Designated Nationals and Blocked Persons" maintained by the U.S. Department of Treasury. In addition, any software or any technology subject to this Agreement may not be exported, re-exported, or transferred to an End User engaged in activities related to weapons of mass destruction except as authorized by the export laws and regulations of the United States. Such activities include but are not necessarily limited to activities related to: (1) the design, development, production, or use of nuclear materials, nuclear facilities, or nuclear weapons; (2) the design, development, production, or use of missiles or support of missiles projects; and (3) the design, development, production, or use of chemical or biological weapons.

## **4. SUPPORT AND TRAINING**

**4.1 Support Responsibilities of Licensee.** Licensee, either directly or through its Subdistributors, will be solely responsible for performing, in a manner consistent with good industry practice, all installation, training, support (including without limitation (a) distributing all updates, (b) passing on all support materials, and (c) providing software support, including operational instruction, problem reporting and technical advice) and other services requested or required by End Users. Licensee shall not refer any End User or Subdistributor to Spatial for support.

**4.2 Maintenance and Support Responsibilities of Spatial.** Spatial shall have no obligation to provide support, training, or other services to, or respond to any requests from, Licensee, its Subdistributors, and End User or third party regarding the Licensed Programs. LICENSEE'S SOLE SOURCE OF EXTERNAL SUPPORT, SERVICE, SERVICE AND TRAINING REGARDING THE LICENSED PROGRAMS SHALL BE ITC.

**4.3 Reserved**

**4.4 Reserved**



## 5. FEES, PAYMENT AND TAXES

### 5.1 *Reserved*

### 5.2 *Reserved*

**5.3 Annual Royalty Percentages.** The ARP Fees shall be calculated as set forth in Section 2 of *Exhibit A* (Licensee Products, Spatial Programs, Fees and Additional Terms) based on Licensee's quarterly reports.

### 5.4 *Reserved*

**5.5 Payment Terms.** All payments to Spatial shall be made in USD and shall be due and payable by Licensee within thirty (30) days of the date of Spatial's invoice. If any Fee or other payment due under this Agreement should become past due, Spatial may, with or without declaring Licensee to be in breach of this Agreement, charge Licensee a late payment charge at the rate of one and one-half percent (1.5%) per month, but not in excess of the maximum legal rate, on the past due amount. Except as specifically set forth herein, in no event shall Licensee be entitled to a refund of any Fees paid.

**5.6 Taxes.** Licensee will be responsible for, and will indemnify and hold Spatial harmless from, all taxes (other than taxes based on Spatial's net income), fees, duties, and other governmental charges, and any related penalties and interest, arising from the payment of Fees or the delivery or license of the Spatial Programs to Licensee. Licensee will make all payments of Fees to Spatial free and clear of, and without reduction for, any withholding taxes, unless applicable law requires that Licensee deduct and pay taxes or duties on Spatial's behalf, in which case Licensee shall use reasonable efforts to minimize any such tax liability.

**5.7 Fee Adjustments.** Without limiting Section 5.5 (Payment Terms), at any time after the Initial Term, and no more frequently than once per contract year, Spatial may adjust any Fees upon thirty (30) days advance written notice to Licensee. Spatial shall determine any adjustment of the Fees based upon industry and economic indicators, but in no event will these adjustments amount to more than the most current annual U.S. inflation rate increase, plus 5% (five percent), per contract year.

**5.8 Fee Basis.** Licensee shall not use any Spatial Program as a "loss leader." Licensee shall not avoid royalty payable to Spatial by segmenting the fees for any component of the Licensee Products. If Licensee provides a discount on any Spatial Program component within a Licensee Product to any Subdistributor or End User, such discount will be no greater than the discounts Licensee offers for any other component of the Licensee Products or services to be provided to such Subdistributor or End User.

## 6. RECORD KEEPING, REPORTS, AND AUDIT RIGHTS

**6.1 Record Keeping.** During the Term of this Agreement and for a period of three (3) years thereafter, Licensee shall keep, maintain, and preserve full and accurate accounts and records relating to all use and distribution of the Licensee Products by Licensee, its Subdistributors and End Users, the examination of which accounts and records would enable Spatial to verify Licensee's compliance with the terms and conditions of this Agreement.

**6.2 Quarterly Fee and End User Sales Reports.** For all Spatial Programs licensed under a variable Fee model, Licensee shall prepare Quarterly Fee and End User Sales reports in electronic format using the reporting tool provided to Licensee's Royalty Contact specified on *Exhibit B* ("Quarterly Fee and End User Sales Reports"). Licensee shall submit completed Quarterly Fee and End User Sales Reports to Spatial via email within thirty (30) days after the end of each calendar quarter, such quarters to start on January 1, April 1, July 1, and October 1. Upon Spatial's request, Licensee also shall certify that the contents of any Quarterly Fee and End User Sales Report are true and accurate in all material respects. Without limiting the materiality of any other provision, this Section constitutes a material term of the Agreement.

**6.3 Audit Rights.** During the Term of this Agreement and for a period of three (3) years thereafter, Licensee shall allow an independent auditing firm selected by Spatial, upon at least fifteen (15) days prior written notice and during normal business hours, to have access to inspect and audit Licensee's books, Subdistributor Agreements, End User License Agreements, and those accounts and records described in Section 6.1 (Record Keeping) above for purposes of verifying the amounts to be paid under this Agreement and Licensee's compliance with the terms and conditions of this Agreement provided that such auditing firm agrees in writing to protect all such information, books, records and documentation as Licensee's Confidential Information in accordance with the terms of Section 8 (Confidential Information). If an audit identifies any underpayment of Fees, Licensee shall promptly pay the amount of such underpayment to Spatial plus interest as set forth in Section 5.5 (Payment Terms) above. The cost of any such audit will be borne by Spatial unless a material noncompliance or material underpayment (more than five percent (5%)) of Fees is identified, in which case, in addition to paying the amount of such underpayment, Licensee shall pay Spatial's costs of the audit.

## 7. SPATIAL MARKS AND PROPRIETARY NOTICES

**7.1 Spatial Marks.** Spatial hereby grants Licensee a non-exclusive, non-transferable, limited license to reproduce the Spatial Marks solely in connection with advertising, marketing and promotion of Licensee Products under the terms of this Agreement. Licensee acknowledges Spatial's exclusive ownership of the Spatial Marks and except as expressly permitted in this Agreement Licensee may not use the Spatial Marks for any purpose. Licensee will not adopt, use, or attempt to register any trademarks or trade names that are confusingly similar to the Spatial Marks or in such a way as to create combination marks with the Spatial Marks. At Spatial's request, Licensee will modify or discontinue any use of the Spatial Marks. Licensee will not add to, remove, obscure, conceal, change or deface any Spatial Mark, logo or other commercial designation of Spatial on or in, or permanently affixed or attached to the Spatial Programs, the Documentation or any copy of any of the foregoing.

**7.2 Branding.** Licensee Products may be marketed under any name of Licensee's choosing; however, such Licensee Products shall be designated as containing Spatial's Spatial Programs as set forth in this Section. Trademark, trade name and copyright notices placed by Licensee shall read as follows:

(a) **Copyright.** Licensee shall reproduce all copyright and other proprietary rights notices contained in or affixed to the Spatial Programs, Documentation and any copy thereof. Licensee shall include the following statement in the credit screen of the Licensee Products and in their related Documentation: "Portions of this software are owned by Spatial Corp. © 1986 – [current year]. All Rights Reserved."

(b) **Trademarks.** Licensee shall use the appropriate trademark, product descriptor and trademark symbols and shall clearly indicate Spatial's ownership of its trademarks whenever any Spatial Program or product name is first mentioned in any Licensee Products, Documentation, packaging or in any other manner in connection with Spatial Programs or products.

**7.3 Quality Control.** Spatial retains the right to specify and verify compliance with trademark usage guidelines and quality assurance standards applicable to Licensee's uses of the Spatial Marks. If the Licensee Products do not meet Spatial's standards of quality, Spatial will notify Licensee of such failure, if Licensee fails to comply with this section of the Agreement within thirty (30) days of Spatial's notice, then Spatial may terminate this Section 7 of the Agreement.

## **8. CONFIDENTIAL INFORMATION**

**8.1 Non-Use and Non-Disclosure.** During the Term and for a period of three (3) years thereafter, the receiving party: (a) shall use at least the same degree of care to protect the disclosing party's Confidential Information that it uses to protect its own Confidential Information, but in no event less than a reasonable degree of care to avoid disclosure; (b) may disclose the disclosing party's Confidential Information only to its employees (i) who have a need to know for purposes of this Agreement and (ii) who, prior to receiving access to such Confidential Information, have executed a written confidentiality agreement containing terms and conditions that are at least as protective of such Confidential Information as the terms and conditions of this Agreement; (c) may disclose Confidential Information only to its contractors and agents and other third parties (i) to whom such disclosure has been previously authorized in writing by the disclosing party and (ii) who, prior to receiving access to such Confidential Information, have executed a written confidentiality agreement containing terms and conditions that are at least as protective of such Confidential Information as the terms and conditions of this Agreement; notwithstanding the foregoing, Spatial may disclose Confidential Information of Licensee to its affiliate, Dassault Systemes, solely with respect to Spatial's obligations to fulfill its support obligations under this Agreement; (d) shall promptly report any impermissible disclosure or use of any Confidential Information to the disclosing party, (e) may make a reasonable number of copies of Confidential Information solely as necessary to perform its obligations under this Agreement, and (f) shall use the disclosing party's Confidential Information only as contemplated in this Agreement. Upon the reasonable request of the disclosing party, the receiving party shall provide the disclosing party with written evidence of its compliance with this Section.

**8.2 Exceptions.** The nondisclosure and non-use obligations set forth in Section 8.1 above shall not apply to information that the receiving party can demonstrate through competent written proof: (a) is already in the possession of the receiving party without any obligation of confidentiality at the time the information was received from the disclosing party, (b) is or becomes publicly available without breach of this Section by the receiving party, (c) is independently developed by the receiving party without reference to any Confidential Information of the disclosing party, (d) is rightfully received by the receiving party from a third party without an obligation of confidentiality, or (e) is released for disclosure by the disclosing party by written consent. In addition, the receiving party will be allowed to disclose Confidential Information of the disclosing party solely to the extent that such disclosure is required by law or by the order of a court of similar judicial or administrative body, provided that the receiving party notifies the disclosing party of such required disclosure promptly and in writing prior to disclosure and cooperates with the disclosing party, at the disclosing party's reasonable request and expense, in any lawful action to contest or limit the scope of such required disclosure.

## **9. WARRANTIES**

**9.1 Warranties by Both Parties.** Each party warrants that it has full power and authority to enter into and perform its obligations under this Agreement, and the person executing this Agreement on such party's behalf has been duly authorized and empowered to enter into this Agreement.

### **9.2 Reserved**

**9.3 No Warranties on Behalf of Spatial.** Licensee will not make or publish any representations, warranties, or guarantees on behalf of Spatial and its Licensors.

**9.4 Disclaimer of Other Warranties.** SPATIAL DOES NOT MAKE AND HEREBY DISCLAIMS ANY OTHER REPRESENTATIONS OR WARRANTIES, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, REGARDING THE SPATIAL PROGRAMS, THE DOCUMENTATION OR ANY SERVICES PROVIDED HEREUNDER, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, ACCURACY, SYSTEM INTEGRATION AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS, OR ANY WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE. SPATIAL MAKES NO WARRANTY THAT: (A) USE OF THE SPATIAL PROGRAMS WILL BE ERROR-FREE, UNINTERRUPTED, VIRUS-FREE OR SECURE, (B) THE SPATIAL PROGRAMS WILL OPERATE PROPERLY AS INTEGRATED WITH ANY LICENSEE PRODUCTS, (C) THE SPATIAL PROGRAMS OR THE DOCUMENTATION WILL MEET THE SPECIFIC NEEDS OF LICENSEE, LICENSEE'S SUBDISTRIBUTORS OR ITS END USERS, (D) SPECIFIC RESULTS WILL BE ACHIEVED WITH THE SPATIAL PROGRAMS OR THE DOCUMENTATION OR (E) ALL ERRORS OR FAILURES WILL BE CORRECTED. LICENSEE ACKNOWLEDGES THAT IT

HAS RELIED ON NO WARRANTIES OTHER THAN THE EXPRESS WARRANTIES IN THIS AGREEMENT. SPATIAL ALSO HEREBY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND ON BEHALF OF ITS LICENSORS.

## 10. INDEMNIFICATION

**10.1 Indemnification by Licensee.** Licensee will defend, indemnify and hold Spatial harmless from and against any and all claims, demands, actions or other proceedings, including but not limited to all damages, losses, liabilities, judgments, reasonable costs and expenses arising therefrom, brought against Spatial by any third party (including without limitation any Subdistributor or End User) arising out of or relating to: (a) any acts or omissions on the part of Licensee in or any of its subdistributors in marketing or distributing Spatial Programs; (b) any representations, warranties, guarantees, or other written or oral statements made by or on behalf of Licensee relating to the Spatial Programs other than as made in the Documentation; (c) any claims against Spatial made by End Users or Subdistributors relating to the Spatial Programs received from Licensee or its Subdistributors; and (d) any breach by Licensee, an End User or Subdistributor of Spatial's Intellectual Property Rights who received Spatial Programs and Documentation from Licensee or any of its Subdistributors under an applicable End User Agreement or Subdistributor Agreement.

**10.2 Indemnification Procedures.** Licensee's indemnification obligations under this Section are conditioned on Spatial: (a) notifying the Licensee promptly in writing of any such action, (b) giving Licensee sole control of the defense thereof and any related settlement negotiations, and (c) cooperating and, at Licensee's request and expense, assisting in such defense.

## 11. LIMITATION OF LIABILITY

SPATIAL SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, INDIRECT OR INCIDENTAL DAMAGES (INCLUDING WITHOUT LIMITATION ANY LOST PROFITS, LOSS OF DATA OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES) IN ANY WAY ARISING OUT OF OR RELATED TO THIS AGREEMENT OR PERFORMANCE OR NONPERFORMANCE HEREUNDER, HOWEVER CAUSED AND BASED ON ANY THEORY OF LIABILITY (INCLUDING NEGLIGENCE), EVEN IF SPATIAL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## 12. TERM AND TERMINATION

**12.1 Term.** Unless earlier terminated as provided in this Agreement, the initial term of this Agreement shall begin on the Effective Date and shall continue for a period of three (3) years thereafter (the "Initial Term"). This Agreement shall automatically renew for successive, additional terms of one (1) year each unless either party gives the other party written notice of non-renewal at least ninety (90) days before the expiration of the then current term. As used in this Agreement, "Term" shall mean the Initial Term plus any applicable renewal terms.

### 12.2 Reserved

**12.3 Termination for Cause.** Either party may, at its option, terminate this Agreement if the other party materially breaches any obligation under this Agreement and such breach, if capable of cure, is not cured within thirty (30) days following receipt of written notice of such breach.

**12.4 Termination Based on Dispute with ITC.** Spatial may, in its absolute discretion and without notice, terminate this Agreement if (a) Spatial becomes involved in any dispute with ITC, or (b) Licensee ceases to be a member in good standing of ITC.

**12.5 Termination Upon Bankruptcy.** Either party may immediately terminate this Agreement upon written notice to the other in the event that: (a) a petition or action is filed or taken by or against the other party under any insolvency or bankruptcy law that is not dismissed within ninety (90) days, (b) a receiver is appointed over the assets or undertaking of the other party, (c) the other party enters into a deed of arrangement or makes an assignment for the benefit of creditors, or (d) the other party ceases to function as a going concern, or an order is made or a resolution passed to that effect, except for the purposes of amalgamation or reconstruction. The party affected by any of the foregoing events shall notify the other party in writing immediately upon the occurrence of such an event.

**12.6 Effects of Termination.** Upon termination or expiration of this Agreement: (a) all licenses granted in this Agreement shall terminate and Licensee shall immediately cease exercising all rights granted under this Agreement with respect to the Spatial Programs and the Documentation; (b) Spatial shall have no further obligation to provide any maintenance, support or other services hereunder; (c) Licensee shall promptly return, erase all copies from all their computers and make no further use of the Spatial Programs or the Documentation; (d) each party shall promptly return or destroy all tangible copies of the other party's Confidential Information in its possession and control; and (e) Licensee shall promptly pay all Fees due to Spatial at the time of such termination or expiration. Within ten (10) business days of the date of termination or expiration of this Agreement, Licensee shall provide Spatial with certificates executed by officers of Licensee certifying Licensee's compliance with this Section. Nothing contained herein shall limit any other remedies which either party may have at law or in equity for the default of the other party under this Agreement.

**12.7 Survival.** Sections 2.2 (Restrictions), 2.5 (Ownership), 3.3 (Relationship with Subdistributors), 3.4 (Relationship with End Users), 3.10 (Export Restrictions), 4.1 (Support Responsibilities of Licensee), 5.5 (Payment Terms), 5.6 (Taxes), 6 (Record Keeping, Reports and Audit Rights), 8 (Confidential Information), 9.4 (Disclaimer of Other Warranties), 10 (Indemnification), 11 (Limitation of Liability), 12 (Term and Termination), 13 (Assignment and Change of Control) and 14 (General), will survive expiration or termination of the Agreement for any reason.

**12.8 End Users.** End Users may use the Licensee Products only in the manner provided for in the End User License Agreement. End User License Agreements in effect as of the date of termination or expiration of this Agreement shall survive any termination or expiration of this Agreement in accordance with the terms thereof, subject to Licensee's continued payment of any applicable Fees due in connection with such End User License Agreements.



**12.9 Subdistributors.** Subdistributor Agreements in effect as of the date of termination of this Agreement shall terminate as of the effective date of termination or expiration of this Agreement; provided, that orders placed by Subdistributors prior to the date of termination of this Agreement may be fulfilled in accordance with their terms, subject to Licensee's payment of any applicable Fees due in connection with such orders.

### **13. ASSIGNMENT AND CHANGE OF CONTROL.**

**13.1 Assignment.** Subject to Section 13.2, Licensee may not assign, delegate or transfer, by operation of law or otherwise, any of Licensee's rights or obligations under this Agreement without the prior written consent of Spatial's authorized contract representative, and such consent shall not be unreasonably withheld. Any attempt by Licensee to assign, delegate or transfer Licensee's rights, duties or obligations under this Agreement in derogation of this Section 13.1 shall be null and void. Spatial shall have the right to assign this Agreement to any successor to Spatial's business or assets to which this Agreement relates, whether by merger, sale of assets, sale of stock, reorganization or otherwise.

**13.2 Change of Control.** In the event of a Change of Control of Licensee, Licensee shall notify Spatial in writing, signed by an authorized officer of Licensee, of such Change of Control and the identity of the party involved. If such Change of Control involves a Spatial Competitor, for a period of ninety (90) days after its receipt of such notice, Spatial may terminate this Agreement upon written notice to Licensee. If Spatial does not exercise its termination right within such ninety (90) day period, then this Agreement shall continue in full force and effect, and subject to the conditions in section 13.1. For purposes of this Agreement, "**Spatial Competitor**" means any entity (including its corporate affiliates) or person that offers or provides software development technologies, products or services principally for 3D interoperability, modeling, and visualization. "**Change of Control**" means (a) any consolidation or merger of Licensee with or into any other entity in which the holders of Licensee's outstanding shares immediately before such consolidation or merger do not, immediately after such consolidation or merger, retain stock representing a majority of the voting power of the surviving entity or stock representing a majority of the voting power of an entity that wholly owns, directly or indirectly, the surviving entity; (b) the sale, transfer or assignment of securities of Licensee representing a majority of the voting power of all of Licensee's outstanding voting securities to an acquiring party or group; or (c) the sale of all or substantially all of Licensee's assets.

### **14. GENERAL**

**14.1 Government End Users.** The Spatial Programs are comprised of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212 (SEPT 1995) and are provided to the Government (i) for acquisition by or on behalf of civilian agencies, consistent with the policy set forth in 48 C.F.R. 12.212; or (ii) for acquisition by or on behalf of units of the Department of Defense, consistent with the policies set forth in 48 C.F.R. 227-7202-1 (JUN 1995) and 227.7202-3 (JUN 1995).

**14.2 Severability.** If any provision of this Agreement is unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect.

**14.3 Waiver.** All waivers must be in writing, never oral. Any waiver agreed to by Spatial is not valid until also approved by Spatial's authorized contract representative. Any waiver for the entire Term of this Agreement is not valid until incorporated into this Agreement in an amendment signed by authorized contract representatives for both parties. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion. Neither course of dealing nor course of performance shall be considered a waiver of the provisions of this Agreement.

**14.4 Independent Contractors.** Licensee's relationship to Spatial is that of an independent contractor, and neither party is an agent or partner of the other. Neither party nor such party's agents will have, nor will such party represent to any third party that such party has, any authority to act on behalf of or bind the other party.

**14.5 Force Majeure.** Any delay in the performance of any duties or obligations of either party (except the payment of money owed) will not be considered a breach of this Agreement if such delay is caused by a labor dispute, shortage of materials, fire, earthquake, flood, or any other event beyond the control of such party, provided that such party uses reasonable efforts, under the circumstances, to notify the other party of the circumstances causing the delay and to resume performance as soon as possible.

**14.6 Compliance with Laws.** Each party will at all times comply with all applicable laws and regulations.

**14.7 Termination of Previous Agreements.** This Agreement replaces entirely the agreements between the parties that are specified in Section 4 (Terminated Agreements) of *Exhibit A* (Licensee Products, Spatial Programs, Fees and Additional Terms) (e.g., Development or Evaluation licenses). The previous agreements so specified shall terminate and Licensee shall pay Spatial all fees due to Spatial under the previous agreements in accordance with applicable termination provisions contained in the prior agreements.

**14.8 Notices.** Notices under this Agreement shall be sufficient if: (a) mailed by certified or registered mail, return receipt requested, (b) sent by facsimile, (c) personally delivered to the parties, or (d) deposited in a nationally recognized overnight carrier. Notices by mail shall be deemed received three (3) days after deposited in the U.S. mail, certified or return receipt requested or the third business day following the deposit of such notice in a nationally recognized overnight carrier. Notices shall be sent to the address of such party specified in this Agreement. In addition, Licensee shall provide Spatial with accurate information as requested in *Exhibit B* (Licensee Information) and shall provide prompt written notice of any changes to such information during the Term of this Agreement.

**14.9 Conflicts.** In the event of conflict between the terms and conditions of this Agreement and the terms and conditions of any Exhibit(s) attached hereto, the terms and conditions of the Exhibit(s) shall take precedence.

**14.10 Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado, U.S.A., without regard to Colorado's conflicts of laws principles, and all actions and proceedings arising out of or relating to this Agreement shall be tried exclusively in any state or federal court of competent jurisdiction in the State of Colorado.

**14.11 Remedies.** Licensee acknowledges that any actual or threatened breach of Section 2 (Licenses and Ownership) or 8 (Confidential Information) with respect to Spatial Confidential Information will cause Spatial to suffer irreparable harm for which there is no adequate remedy at law, entitling Spatial to injunctive relief in addition to all other available legal remedies, and Licensee agrees to waive any bond requirement in the event such injunctive relief is granted against it. Spatial acknowledges that any actual or threatened breach of Section 8 (Confidential Information) with respect to Licensee Confidential Information will cause Licensee to suffer irreparable harm for which there is no adequate remedy at law, entitling Licensee to injunctive relief in addition to all other available legal remedies, and Spatial agrees to waive any bond requirement in the event such injunctive relief is granted against it. If any legal action is brought to enforce the terms and conditions of this Agreement, the prevailing party will be entitled to receive its reasonable attorneys' fees, court costs, and other collection expenses, in addition to any other relief it may be awarded.