APPLIED FLOW TECHNOLOGY
TERMS AND CONDITIONS

These Terms and Conditions (the "Terms and Conditions") are entered into by and between APPLIED FLOW TECHNOLOGY LLC, a Colorado limited liability company ("Company") and the entity identified as "Customer" on an Order Form (as defined below). Company and Customer are each a "Party" and collectively the "Parties."

By using the Software, Customer accepts the following terms and conditions:

1. Definitions

1.1. "Agreement" means an Order Form, these Terms and Conditions, and any Amendments thereto.

1.2. "Amendment" means any addendum, modification or supplement to this Agreement that is referenced on the Order Form.

1.3. "Authorized User(s)" means individual user(s) authorized by Customer to access and use the Software who have been supplied with user credentials by Customer or by Company at Customer's request.

1.4. "Business Day(s)" means the standard days of business in Colorado Springs, Colorado, excluding local and national holidays.

1.5. "Business Hours" means the standard open hours for business during Business Days.

1.6. "Concurrent User License" means a License that is based on a maximum number of Concurrent Users.

1.7. "Concurrent User(s)" refers to the number of Authorized Users of Customer who may access and use the Software at the same time under such Customer's License.

1.8. "Confidential Information" includes, but is not limited to, the Software, the Documentation, all Maintenance updates and deliverables, and any non-public materials contained in any of the foregoing; and, unless specified otherwise herein, other trade secrets, confidential or proprietary information exchanged between the Parties.

1.9. "Documentation" means all specifications, manuals, handbooks, maintenance libraries, and other publications or media in whatever form supplied or made available to Customer by Company.

1.10. "Intellectual Property" means all trademarks or trade names (whether common-law or registered), logos, icons, mask works, patents, patent applications, copyrights (whether published or unpublished), trade secrets, know-how, designs, methods, processes, work-flow(s), inventions and other proprietary information.

1.11. "Legacy License" means a special license to use the Software on a perpetual basis subject to these Terms and Conditions held by certain legacy customers.

1.12 "License" means a Customer's license to use the Software subject to these Terms and Conditions.

1.13. "License Manager" means a third-party license management/authorization application that Company may provide with the Software.

1.14. "Maintenance" means maintenance and support services for the Software provided by Company.

1.15. "Order Form" means Company's order form listing the details of the Customer's License and/or any Maintenance and any other services selected by Customer.

1.16. "Software" means the Company software identified in the Order Form, including, where Customer is entitled to Maintenance, any new releases, updates, patches, bug fixes, enhancements and other modifications and Documentation related thereto.

2. License

2.1. Customer is granted a right, subject to the terms of this Agreement, to use the Software on a non-exclusive, non-transferable basis. The Software is not sold but is licensed under these Terms and Conditions.

2.2. Customer's License is a Concurrent User License, unless otherwise specified in the Order Form.

2.3. The maximum number of Concurrent Users allowed to use the Software at any time may not exceed quantity or number of seats indicated in the Order Form. One seat is required for each instance of Software that Customer's Authorized Users may run at any time.

2.4. Authorized Users must be employees of Customer; provided, however, that Customer may designate a third-party contractor or other non-employee representative as an Authorized User only with the advance written consent of Company. Any Authorized User may operate the Software on Customer's behalf only provided that: (i) Customer is responsible for ensuring that such Authorized User abides by and fully complies with the terms of this Agreement as they relate to the use of the Software on the same basis as they apply to Customer, (ii) such use is only in relation to Customer's directly beneficial internal business purposes and will terminate when such user is no longer an Authorized User; (iii) such use does not represent an increase in the scope or number of Customer's rights; and (iv) Customer is fully liable for any and all acts or omissions by such Authorized User related to this Agreement.

2.5. Company reserves all other rights that are not specifically granted to Customer.

3. License Term

3.1. The term of the License granted under this Agreement begins on the first day of the term set forth in the Order Form, and (i) under a Legacy License, is perpetual following payment of applicable fees; and (ii) under any other License, will continue for the duration of the term set forth in the Order Form, and will thereafter renew automatically for successive one-year terms, until terminated by either Party as set forth in Section 9.

4. Limitations On Use

4.1. Customer is authorized to access and use the Software only for its legitimate business purposes and not for any other purposes.

4.2. Customer is not authorized and may not authorize any user to do any of the following:

   4.2.1. Use the Software without a hardware key, License Manager or other Company-granted Authorized User access.

4.2.2.   Except as set forth in Section 2.4., sub-license or otherwise distribute or assign Customer's rights in the Software, including but not limited to assigning or sub-licensing Customer's rights to use the Software to third parties without Company's prior written consent;

4.2.3.   Reverse engineer, decompile or disassemble the Software;

4.2.4.   Develop or create modifications, improvements and/or derivative works of the Software, or access the Software with the purpose of creating a competitive product, in each case without Company's prior written approval;

4.2.5.   Publish or display the Software or Documentation in any manner except as provided herein;

4.2.6.   Use the Software in a manner contrary to the Documentation;

4.2.7.   Use the Software in a manner or for a purpose that is illegal or results in violation of (i) applicable laws or regulations, or (ii) the intellectual property or other rights of any third party;

4.2.8.   Use, without the express written permission of Company, any remote tools, cloud technology, virtual systems, distributed systems, component object model (COM) interfaces, automation services, or other resources to allow access to the Software by third parties or to bypass features that limit or monitor the number of active users;

4.2.9.   Obtain unauthorized access to the Software or modify or disable or otherwise "crack" any feature incorporated in the Software, including security features;

4.2.10.   Combine or use the Software in combination with any software licensed under the 'GNU General Public License' or any other license or lease for software in any manner that would cause, or could be interpreted or asserted to cause, the Software to become subject to the 'GNU General Public License' or other such license or lease;

4.2.11.   Install, operate, or otherwise make the Software available for use in a cloud-based environment, on a virtual machine, or through any other distributed system for use by any third party, without the Company's prior written approval; or

4.2.12.   Use the Software to generate data for use with developing models or algorithms through machine learning or training neural networks or other artificial intelligence without the Company's prior written approval.

4.3.   Customer may make archival copies of the Software as permitted by applicable national and international copyright law as well as a reasonable number of copies of the Documentation for Customer's internal business use. Any copies of Software or Documentation that Customer makes must retain all original copyright, patent, and proprietary rights notices. Documentation may be used only in conjunction with Software and may not be separately distributed or copied, in part or in whole, without written permission by Company.

4.4.   If applicable, the loss of any USB key or other devices provided by Company is the equivalent of a lost license(s). To replace a lost license(s), a new license(s) must be purchased.

5. Maintenance

5.1.   The Company will provide standard Maintenance ("Standard Maintenance") for the price set forth in the Order Form.

5.2.   Standard Maintenance includes:

   5.2.1.   Company's prompt efforts to correct any malfunctions reported to Company;

   5.2.2.   Company's prompt notice to Customer of any confirmed malfunctions affecting calculations;

   5.2.3.   If applicable, access to download general maintenance releases to the Software;

   5.2.4.   Receipt of general upgrades to the Software;

   5.2.5.   Access to technical support via telephone during Business Hours;

   5.2.6.   Access to technical support via e-mail; and

   5.2.7.   Access to technical support via Company's customer portal and ticketing system.

5.3.   Technical support covers issues related to installation, upgrade assistance, and functionality as described in the Documentation. Availability may occasionally deviate from stated hours due to downtime for systems, company events, observed U.S. holidays, and events beyond the control of Company. Company reserves the right to limit telephone calls to one hour and to limit each contact (telephone or electronic) to one incident, as defined below. Company may also limit or terminate support of Customer uses the service in an unreasonable, excessive, abusive or fraudulent manner. Terms, conditions, support features, procedures, pricing, and support availability for future plan periods are subject to change at any time upon notice to Customer. Support is non-transferable and is valid for the licensed Software as listed in the Order Form only. The resale or other transfer of any support, upgrades and maintenance rights is strictly prohibited, and will be considered an abuse of the services. As used herein, an "incident" means (a) a single issue or problem related to the program usage that a customer asks a support representative to analyze or resolve, (b) a product-usage question that involves a single topic on a drop-down menu or one output report, or (c) a single question on a specific modeling topic. Company's technical support representative will determine how many incidents will be handled during the course of the telephone or electronic contact. An answer to the issue or problem raised may not be possible during any specific contact. Additional contacts related to an issue or problem are considered the same incident.

5.4.   Standard Maintenance does not include application development, software programming support, or step by step instructions for software configuration above and beyond general usage questions. These additional services may be available pursuant to a separate Amendment.

5.5   Customer is responsible to implement upgrades for all other Licenses upon provision thereof. Upgrades to Software under Standard Maintenance includes only updates of the licensed Software as listed in the Order Form (and not any other AFT products).

5.6.   Provisions to the contrary notwithstanding, Company will have no obligation to provide Standard Maintenance and Support, or any other services in connection with the Software, if:

   5.6.1.   Any payment from Customer is past due;

5.6.2.   Customer is in breach of this Agreement;

5.6.3.   Customer's version of the Software is a version other than the most current version;

5.6.4.   The Software has been modified by or on behalf of Customer by anyone other than Company or there are connectivity or functional issues caused by third- party services, service providers, hardware, or software;

5.6.5.   Customer fails to comply promptly with Company's reasonable request for information concerning a possible malfunction of the Software reported by Customer;

5.6.6.   Customer is using the Software in an operating environment not supported by Company;

5.6.7.   Customer is using the Software other than in accordance with the applicable documentation or this Agreement; or

5.6.8.   If providing such maintenance or other services would constitute a violation of applicable law, including United States export regulations.

6. Fees

6.1.   Customer agrees to pay the applicable fees as specified in the Order Form within thirty (30) days following its receipt of an invoice. Company fees may change from time to time. Customer will be notified at least sixty (60) days in advance of any fee changes. Unless otherwise set forth in an Order Form, such changes will not affect the fees during the then-current term and will become effective upon the next renewal term that commences at least sixty (60) days after notification of the fee change.

6.2.   All payments will be by ACH, wire transfer, check drawn upon a U.S. bank, or as otherwise specified in the applicable Order Form. If Customer is obtaining the Software through an authorized distributor, Customer may make payments to that distributor.

6.3.   Past due amounts bear interest at the lesser of a rate of one and one-half percent (1.5%) per month or the highest rate allowed by law. Customer will also pay any and all court-ordered costs of collection, including court-ordered attorneys' fees. If any amount is past due, Company may cease performing Standard Maintenance, unless and until Customer has paid such amount and all, if any, fees, interest, and charges associated with collection of such past due amount.

6.4.   In addition to any other remedies available under common law (including in contract or in tort), equity or by statute, Company reserves the right, without the need for any consent by or agreement with Customer, to suspend performance of its obligations under the Agreement, including provision of Software or Maintenance, until such time as all outstanding amounts are fully paid to the satisfaction of Company.

6.5.   Fees listed on the Order Form do not include any local, state, provincial, federal or national sales, use, excise, personal property, value-added, import/export, or other similar taxes or duties, which may be assessed in connection with the Software or Maintenance. VAT will be reverse charged to Customer. In the event Company must initially pay such assessments, Customer agrees to reimburse Company within thirty (30) days after receipt of Company's Invoice. Taxes based upon Company's income are the sole responsibility of Company.

7. Limited Warranty

7.1.   Subject to the limitations set forth in this section, the Software will perform in accordance with the applicable Documentation for thirty (30) days after the date of installation. Provided that Customer promptly reports within such thirty (30) days any way in which the Software does not so perform, then as Customer's exclusive remedy and Company's sole liability, Company will ether cause Software to perform in accordance with that Documentation within a subsequent thirty (30) day period or return the license fee to Customer.

7.2.   Under no circumstances should Customer rely upon the use of the Software, including any interpretation, calculation, or solution derived therefrom, as the sole basis for any decision, be it operational, technical, commercial or otherwise. Customer acknowledges that the Software is designed and intended for use only in accordance with the Documentation. Any other use may result in defects, errors or damage to the Software, hardware or data, including loss of data. Company shall have no liability or obligation to Customer for such defects, errors or damage to the Software, data or hardware attributed to such use. In addition, Customer is responsible for regularly backing up its data and files and for ensuring that its networks and systems are adequately secured against unauthorized access.

7.3.   EXCEPT FOR THE LIMITED WARRANTY EXPRESSLY SET FORTH IN THIS SECTION OR IN ANY AMENDMENT, (A) THE SOFTWARE IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED. COMPANY EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES INCLUDING THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT, (B) THE ENTIRE RISK AS TO THE SELECTION, QUALITY, AND PERFORMANCE OF THE SOFTWARE IS WITH THE CUSTOMER, AND (C) COMPANY DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE SOFTWARE WILL MEET CUSTOMER'S REQUIREMENTS OR THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE. IF CUSTOMER IS RELYING UPON THE ACCURACY OF RESULTS FROM THE SOFTWARE, CUSTOMER EXPRESSLY ASSUMES THE DUTY OF CONFIRMING BY OTHER, INDEPENDENT MEANS ANY AND ALL RESULTS OBTAINED FROM USE OF THE SOFTWARE. NO INFORMATION, ORAL OR WRITTEN, PROVIDED BY COMPANY OR A REPRESENTATIVE OF COMPANY, SHALL CREATE A WARRANTY OR INCREASE THE SCOPE OF THE WARRANTY PROVIDED IN THIS AGREEMENT. CUSTOMER ACKNOWLEDGES AND AGREES THAT THE SOFTWARE IS NOT A SUBSTITUTE FOR INDEPENDENT DESIGN AND ANALYSIS BY A QUALIFIED ENGINEER.

7.4.   Notwithstanding the foregoing, any third-party software, services or components are provided on an "as-is" basis without any warranty.

8. Ownership and Confidentiality

8.1.   The Software is owned and copyrighted by Company, All Rights Reserved, and is protected by United States copyright laws and international treaty provisions. Customer does not own the copy of the Software, but rather has been granted a license subject to this Agreement.

8.2.   Customer acknowledges that the Software and its structure, sequence, organization, and source code constitute valuable trade secrets of Company and that the Software contains other trade secrets and Confidential Information of Company or its licensors.

8.3.   Customer will not disclose the Confidential Information of Company to any third party, except to a person or entity that has a lawful need to know and that is subject to an obligation of non-disclosure, and

provided that Company is given advance notice and an opportunity to object to any such disclosure. Company will treat all Confidential Information of Customer received through the technical support process as confidential and will not disclose the Confidential Information of Customer to any third party, except (a) to its representatives for the purpose of providing the Services and who are subject to an obligation of non-disclosure, and/or (b) a person or entity that has a lawful need to know provided that Customer is given advance notice and an opportunity to object to any such disclosure.

8.4.   Company retains and reserves exclusive ownership of all Intellectual Property rights in and to the Software, including without limitation, any derivative works or modifications.

8.5.   Customer will not disclose this Agreement or any proposals, discounts, or other commercial proposals made by Company to any third party.

8.6.   All rights not expressly granted to Customer in this Agreement remain in Company or its licensors.

9. Termination

9.1.   If Customer violates Section 4 ("Limitations on Use"), Section 8 ("Ownership and Confidentiality"), or Section 11 ("Export Restrictions") of this Agreement or uses illegitimate versions of the Software, Company may immediately terminate this Agreement.

9.2.   Upon any other material breach of this Agreement, either Party may terminate this Agreement upon notice, if the breaching Party fails to cure such breach within thirty (30) days after receiving notice of the breach from the other Party.

9.3.   Either Party may terminate this Agreement effective at the end of any term by providing notice of non-renewal to the other Party at least forty-five (45) days prior to the end of such term.

9.4.   If this Agreement is terminated: (i) any and all amounts owed to Company and which are due for payment will be due and payable; (ii) all licenses and Maintenance granted in connection with this Agreement will immediately terminate; (iii) Customer will promptly discontinue all use of all the Software, erase all copies of the Software from Customer's computers and storage devices, and return to Company all rights management devices and all copies of the Software and Documentation, or any other Confidential Information of Company, in its possession or under its control; and (iv) at Company's request, Customer will certify to Company in writing that it has fully complied with these requirements.

9.5.   Following termination of the License, customer will not have access to the Software or any information or data saved or stored therein. It is Customer's responsibility to download all Customer information prior to expiration or termination of the License.

10. Audit Rights

10.1.   From time to time, and with reasonable notice and during Business Hours, Company may audit Customer's books and records, facilities (if applicable) and any authorized computers where the Software may be located to confirm the appropriate use of the Software in accordance with the terms of this Agreement, including that there has been no unauthorized distribution of the Software. Audit rights are not intended to extend to the review of any Confidential Information that belongs to Customer.

11. Export Restrictions

11.1.   The Software and Documentation may be subject to United States export laws and regulations.

11.2. Customer will comply with all domestic and international export and other laws and regulations that apply to the Software and Documentation, including restrictions on destinations, end users and end use.

11.3. Customer will not export or re-export the Software or Documentation without the appropriate United States or foreign government license(s). Customer may not remove or export from the country of purchase as stated on the Order Form, or allow the export or re-export of the Software or anything related thereto, or any direct product thereof, in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign agency or authority. Without limiting the foregoing, the Software use is limited to within the boundaries of the country specified for delivery at the time of purchase (COUNTRY OF USE). An exception to this is granted for employees whose permanent location is in the COUNTRY OF USE but who need to travel outside the COUNTRY OF USE and still access the Software. This exception is granted for such travel of not more than 30 consecutive days. Should travel exceed 30 days, Customer must obtain written approval from Company to use the Software outside the COUNTRY OF USE. The License may be permanently relocated to another country (i.e., COUNTRY OF USE may be changed) only upon written approval of Company.

11.4. Customer will indemnify and hold harmless Company from and against all claims, damages, and liability associated with a breach by Customer of this Section 11.

12. Indemnification and Limitation of Liability

12.1. Company agrees to defend, at its own expense, any claim against Customer asserting that the Software or Documentation infringes the copyright or trademark of a third party (an "Infringement Claim"). Subject to the limitations of this Agreement, Company will indemnify Customer against any damages finally awarded against Customer, after all appeals are exhausted, as a result of an Infringement Claim; provided, however, that:

12.1.1. Customer promptly notifies Company in writing when Customer has knowledge of an Infringement Claim;

12.1.2. Customer promptly cedes in writing to Company the sole control of the defense of any action and all negotiations for its settlement or compromise;

12.1.3. Customer provides reasonable assistance and cooperation in the defense of such Infringement Claim;

12.1.4. Customer is not in breach of this Agreement; and

12.1.5. Customer pays all amounts owed to the Company when due to Company.

12.2. Company will not be liable for any costs or expenditure incurred by Customer associated with defending an Infringement Claim without Company's prior, express, and written consent. Company will have no liability in connection with the Section for an Infringement Claim based on, or resulting from:

12.2.1. Modifications of the Software by anyone other than Company;

12.2.2. Any and all claims with respect to third-party products, services, or components; and

12.2.3.   Use of Software in combination with software from anyone other than Company or in combination with any hardware.

12.3.   If an injunction or order is obtained against Customer's use of the Software by reason of the Infringement Claim, or, if in Company's opinion, the Software is likely to become the subject of an Infringement Claim, Company will, at its expense, and in the following order of precedence:

12.3.1.   Attempt to procure for Customer the right to continue using the Software;

12.3.2.   Attempt to modify or replace the Software with a compatible, functionally equivalent, non-infringing product; or

12.3.3.   If neither option is commercially reasonable, Customer will return the Software and all related materials to Company and Company will issue to Customer a credit for the Software equal to a pro-rata adjustment of the license fee based on the remaining paid-up portion of the License term. The License term will be deemed to have expired and termination will proceed in accordance with the terms of this Agreement.

12.4.   The provisions of this section are Company's entire liability to Customer for infringement or misappropriation of the intellectual property of a third party.

12.5.   COMPANY WILL NOT BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES OF ANY NATURE WHATSOEVER (INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, OR ANY OTHER PECUNIARY LOSS) IN CONNECTION WITH THIS AGREEMENT, THE SOFTWARE OR CUSTOMER'S USE OF ANY SERVICES PROVIDED IN CONNECTION WITH THIS AGREEMENT, INCLUDING ANY SOFTWARE. COMPANY WILL NOT BE LIABLE FOR THE DAMAGES AS INDICATED ABOVE, EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NO ACTION, REGARDLESS OF ITS FORM, ARISING OUT OF THIS AGREEMENT, MAY BE BROUGHT BY CUSTOMER MORE THAN TWO YEARS AFTER THE CAUSE OF ACTION HAS ACCRUED.

12.6.   TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL COMPANY BE LIABLE FOR ANY AMOUNT IN EXCESS OF THE MONIES PAID BY CUSTOMER TO COMPANY PURSUANT TO THIS AGREEMENT IN THE PRECEDING SIX MONTHS.

13. Privacy and Security

13.1.   Data collected by Company will be governed by Company's Software Privacy Statement, which can be found at https://www.aft.com/documents/AFTeLicensePrivacyStatement.pdf and, to the extent required by applicable laws or regulations, the Data Processing Addendum.

13.2.   Company reserves the right to employ security and other measures to monitor the usage of the Software and to review such usage logs to ensure compliance with this Agreement, so long as these measures are not prohibited by law. Any attempt to circumvent such measures will be considered a material breach of this Agreement.

13.3.   Certain anonymized data obtained from Customer's use of the Software may be processed and analyzed in the aggregate to improve Company's products and services.

13.4.   By using the Software, you consent to such detection and collection of data, as well as its transmission and use as permitted by this Agreement.

14. Assignment

14.1.   Without the express written permission of Company, Customer may not, in whole or in part, assign its rights or delegate its obligations under this Agreement. Any such attempts will be void. Company may assign this Agreement, in whole or in part, at any time with or without notice to Customer.

15. Third Party Beneficiaries

15.1.   This Agreement does not create, and shall not be construed as creating, any right enforceable by any person not a Party to the Agreement, except that Company's affiliates and licensors are third party beneficiaries of this Agreement and may enforce the provisions of this Agreement on their own behalf.

16. Severability and Waiver

16.1.   If any provision of this Agreement is held to be invalid, illegal, or unenforceable to any extent then: (i) such provision will (to the extent it is invalid, illegal or unenforceable) be given no effect and will be deemed not to be included in this Agreement, but without invalidating any of the remaining provisions of the Agreement; and (ii) the Parties will use all commercially reasonable efforts to replace the invalid, illegal, or unenforceable provision by a valid, legal and enforceable substitute provision the effect of which is as close as possible to the intended effect of the invalid, illegal or unenforceable provision.

16.2.   No delay or omission by either Party to exercise any right or power it has under this Agreement will impair or be construed as a waiver of such right or power. A waiver by any Party of any breach or covenant will not be construed to be a waiver of any succeeding breach or any other covenant. All waivers must be in writing and signed by the Party waiving its rights.

17. Force Majeure

17.1.   Except for Customer's payment obligations, neither Party will be liable to the other Party under this Agreement for any delay or failure to perform its obligations under this Agreement if such delay or failure arises from any cause (including labor disputes, strikes, earthquake, floods, fire, lightning, utility or communications failures, earthquakes, vandalism, war, acts of terrorism, riots, insurrections, embargoes, known or suspected threats of illness, epidemics, pandemics, or laws, regulations or orders of any governmental entity) beyond such Party's reasonable control.

18. Disputes

18.1.   Any controversy or claim arising out of or relating to the Software or services provided under this Agreement, or any breach thereof, will be settled by arbitration to be held in the English language in Colorado Springs, Colorado, in accordance with the commercial arbitration Rules of the American Arbitration Association (for contracts entered into in the United States) or the International Chamber of Commerce (for contracts outside the United States). Any award rendered by the arbitrator(s) may include costs against either Party and may be entered into a court of competent jurisdiction for enforcement, but under no circumstances are the arbitrator(s) authorized or empowered to award special, punitive or multiple damages against either Party.

18.2.   In the interpretation of this Agreement, except where the context otherwise requires: "day" means calendar day; "including" or "include" does not denote or apply any limitation; "or" has the inclusive meaning "and/or;" "and/or" means "or" and is used for emphasis only; "$" refers to United States dollars;

the singular includes the plural, and vice versa, and each gender includes each of the others; captions or headings are only for reference and are not to be considered in interpreting the Agreement; "Section," and "Subsection" refer to a Section and Subsection, respectively, of this Agreement, unless otherwise stated in this Agreement; if an ambiguity arises in a Subsection's or Section's cross-reference to another Subsection or Section, the cross- referenced heading controls over the cross-referenced Section number; all references to time mean the time in Colorado Springs, Colorado.

18.3.   This Agreement will be governed by and construed in accordance with the laws of the State of Colorado, without regard to its conflicts of laws rules. This Agreement is performable in and the payment obligations are due in Colorado Springs, Colorado. This Agreement and the rights and obligations of the Parties will not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded by the Parties.

18.4.   The governing language of this Agreement is English as spoken in the United States. If this Agreement is translated, the English version will control over the translation. Any and all notices and other correspondence regarding this Agreement will be in English as spoken in the United States.

18.5.   All remedies provided for in this Agreement are cumulative and in addition to, and not in lieu of, any other remedies available to either Party at law, in equity or otherwise, except where expressly provided otherwise in this Agreement.

19. Miscellaneous Provisions

19.1.   This Agreement supersedes any previous or contemporaneous communications, representations, or agreements by either Company or Customer, whether verbal or written, including any terms and conditions on any Customer template purchase order which are not agreed to in the Order Form. Customer agrees that it has not relied upon any representations, oral or written, except as are made in this Agreement.

19.2.   Company may modify this Agreement by notifying Customer in writing. The modified terms will become effective upon Customer's next applicable renewal Term or as set forth in the notice. Company last modified this Agreement as of the date set forth in the footer of this Agreement.

19.3.   The following Sections will survive the expiration or termination of this Agreement for any reason: Section 1 (Definitions), Section 8 (Ownership and Confidentiality), Section 10 (Audit Rights), Section 11 (Export Restrictions), Section 12 (Indemnification and Limitation of Liability), Section 15 (Third Party Beneficiaries), and Section 18 (Disputes).

20. Marketing

Company may use Customer's name and logo as a reference for marketing purposes, including disclosing to prospective customers that Customer is a user of the Software; provided, that Company will only disclose the name and contact information of Customer's representative with the written permission of such representative.

21. U.S. Government Matters

This Section 21 applies to U.S. government Customers. The Software and Documentation (if permitted in writing to be installed Customer's equipment) have been developed at private expense and are licensed subject to RESTRICTED RIGHTS as "commercial items" and according to DFAR are deemed to be

"commercial computer software" and "commercial computer software documentation." Any use, modification, duplication, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement. Such use is subject to restrictions as set forth in subparagraph (c)(1)(ii) of The Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 or subparagraph (c)(1) and (2) of the Commercial Computer Software-Restricted Rights at 48 CFR 52.227-19, as applicable. Manufacturer is Applied Flow Technology, 2955 Professional Place, Suite 301, Colorado Springs, CO 80904, USA.

Should you have any questions concerning this Agreement, or if you desire to contact AFT for any reason, please write: Legal Department, Applied Flow Technology, 2955 Professional Place, Suite 301, Colorado Springs, CO 80904 USA.

Last modified January 15, 2025