END USER LICENSE AGREEMENT

This End User License Agreement ("Agreement") concerns the use of CD-adapco software products developed or owned by the licensor company named below, or its affiliates or licensors ("Licensor"), and licensed to the end user named below ("Licensee"). Licensee’s right to use the software products is subject to consent of these license terms and conditions.

This Agreement is entered into on the "Effective Date" by and between:

Effective Date: ____________________

ANALYSIS & DESIGN APPLICATION CO., LTD. (marketing name “CD-adapco”)  
Business Address: 60 Broadhollow Road, Melville, New York 11747  
("Licensor").

and

END USER LEGAL COMPANY NAME
Business Address:
("Licensee").

1.0 Definitions

“Software” means the computer programs and related Documentation identified in the Schedule. “Software” includes all subsequent modifications, enhancements and version releases of the computer programs and Documentation provided to Licensee.

“Documentation” means the user manual and other written materials supplied for use with the Software.

“Term” means the Software license lease period identified in the Schedule, or if not specified then a period of one (1) year, beginning on the date of delivery.

“Premises” means the physical location(s) at the address(es) that the Software is installed and accessible as indicated in the Schedule.

“Registered Platform(s)” means the computer terminals, servers or hosts on which the Software is installed and accessible, as identified in the Schedule. If the Registered Platform(s) is not identified in the Schedule, then the Registered Platform(s) are those registered by Licensee on the records of Licensor at the time of license generation.

“Schedule” means the End User License Agreement Schedule attached hereto.
2.0 License

(a) Subject to the terms and conditions of this Agreement and payment of applicable fees specified in the Schedule, Licensor hereby grants Licensee a non-exclusive, non-transferable license to use the Software, for internal business or academic use, within the Premises and on the Registered Platform(s).

(b) This license does not confer on Licensee any ownership rights or copyright in the Software. Licensee’s use of the Software is limited to loading and operating the Software in accordance with the Software Documentation and only as set forth in this Agreement.

(c) Licensee acknowledges that the formulas, algorithms, ideas and know-how incorporated into the Software are proprietary to Licensor and are to be treated as confidential information not to be used by or disclosed to third parties, except as expressly permitted by Licensor.

(d) This license is location and machine specific and does not apply to locations or machines of the Licensee other than the Premises and Registered Platform(s). The Premises and Registered Platform(s) to which this license applies may be changed only with the prior written consent of Licensor, and subject to payment of license fees that may be attributable to these changes if applicable.

(e) Licensee may not do any of the following without the prior written consent of Licensor:
   (i) Copy the Software, except as authorized by Licensor for the use of Software;
   (ii) Use the Software other than on the Premises and Registered Platform(s);
   (iii) Transfer or otherwise disclose the Software to third parties;
   (iv) Purport to grant rights in the Software to third parties;
   (v) Alter, reverse-engineer, reverse-assemble or decompile the Software in whole or in part;
   (vi) Modify, adapt or translate the Software; or
   (vii) Remove any copyright or other proprietary rights notices contained in the Software and Documentation.

3.0 Delivery, Installation

Licensor will deliver the Software upon acceptance of this Agreement and Licensee’s order. Licensee agrees to cooperate with the installation of the Software on such mutually acceptable delivery date.

4.0 Support and Consulting Services

(a) The following Software support is provided for licenses that include paid-up maintenance:

   - Help desk technical support for assistance and guidance in the implementation and operation of the Software up to a maximum total of support hours specified in the Schedule. Help desk support is available during Licensor’s regular business hours.
   - Software modifications, refinements and enhancements, as they become available, that Licensor incorporates into and makes part of the Software and does not separately price or market.

(b) Unless otherwise agreed upon in writing, Software support must be for all the Software licensed under this Agreement. Software support services must be continuous, i.e. support that is discontinued by Licensee will be subject to re-instatement fees if reinstated.

(c) The obligation of Software support will not extend to Software: (i) that has been modified by Licensee, (ii) if Licensee fails to implement current versions of Software modifications, refinements or enhancements released by Licensor, except when the use of an older version is required by Licensor for the correct operation of a currently-released version, (iii) failure or error of the Licensee’s Registered Platform(s) or...
operating system, or (iv) for reasons beyond the reasonable control of Licensor including acts of God or government, war, accident, fire, strike, labor disputes, or action or inaction of Licensee.

(e) Additional services beyond the scope of Software support is available from the Licensor under separate service agreements and fees at then current service rates. Additional service includes, but is not limited to, upgrades, customization, consulting and analysis services, or additional Help Desk technical support.

5.0 Term / Termination / Renewal

(a) This Agreement becomes effective on the Effective Date first written above, and will continue for the Software license Term(s) and any subsequent renewals.

(b) Renewals of Software licenses, or renewals of Software support in accordance with Section 4.0, or the license of additional or new Software, may be made under this Agreement subject to payment of then applicable fees and execution of Schedule(s) referencing this Agreement which shall be incorporated as an annex hereunder. Licensee shall be notified of its renewal option in advance of renewal periods.

(c) This Agreement will terminate: (i) upon expiration of the license Term and the license is not renewed, or (ii) upon declaration of Licensee’s default under this Agreement and the default is not cured within a reasonable time. If this Agreement governs more than one Software license and the license Terms are not coterminous, then this Agreement will remain in effect for the last remaining license Term through its expiration or termination.

(d) Upon termination Licensee agrees to immediately de-install and cease use of Software and all copies and, upon request by Licensor, certify in writing such de-installation and cessation of use.

(e) The terms of this Agreement which by their nature would be intended to be applicable following termination, specifically, without limitation, the obligations of confidentiality and non-disclosure, will survive.

6.0 Payment of Fees

(a) Licensee will pay the fees specified in Schedule, or subsequent renewal Schedule(s).

(b) License fees may be increased if there are changes in the Premises or Registered Platform(s). Licensee agrees to pay promptly any increase in license fees attributable to changes in the Premises or Registered Platform(s).

(c) Licensee will be responsible for paying all sales, use, excise, or other tax or government charges imposed on the licensing or use of the Software, Documentation or services hereunder. If Licensee claims tax exempt status, Licensee will provide Licensor with a copy of an exemption certificate acceptable to the relevant taxing authority.

(d) Unless other terms of payment are agreed upon in the Schedule, payment terms are Net 30 days from invoice.

(e) Overdue payments may be subject to interest at the maximum rate of interest allowed by applicable law.

(f) The Software is covered by Licensor’s warranty. License fees are non-refundable.

7.0 Confidentiality

Licensee acknowledges that the Software and Documentation contains valuable trade secrets and confidential information developed by Licensor and/or its licensors. Licensee covenants and agrees that it will act consistent with Licensor’s right to and ownership of all copyright and trade secrets embodied in the Software and Documentation and will not in any way harm such intellectual property rights that Licensor has in the Software and Documentation. Licensee agrees to keep in confidence, and prevent any unauthorized use, reproduction, publication, or distribution and not to permit any third party or entity access to the Software except for access by only those employees of Licensee who need such information in performing their duties. Licensee will ensure that all employees or persons with a need to know who have access to the information included within the Software and Documentation are advised of the obligations of confidentiality with respect to such information and will otherwise exercise strict control over disclosure and dissemination of such
information. Any other disclosures to be made between the parties containing confidential information outside the scope of this Section will be subject to separate agreements.

8.0 Warranty

(a) Licensor warrants that the Software under normal use will conform substantially to its associated Documentation for a period of twelve months from the initial date of delivery.

(b) If the Software does not conform with applicable Documentation or is otherwise defective, Licensor’s sole obligation will be to: (i) correct the non-conforming Software within a reasonable time so that it conforms to the warranty, or (ii) if the Documentation is in error, modify the Documentation to accurately reflect the Software’s intended functionality.

(c) Licensor makes no warranty with respect to Software that has been altered by Licensee or used other than in accordance with this Agreement or applicable Software Documentation.

(d) The foregoing shall be Licensee’s sole remedy for breaches of warranty other than the warranty of infringement contained in the following Section.

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9.0 Infringement

(a) If Licensee receives a notice or claim that its use of the Software infringes registered intellectual property rights of a third party, Licensee will so inform Licensor as soon as it received notice of the claim. Licensor will have the right to defend and settle any such claim and Licensee will fully cooperate in the defense of such claim. Licensor will bear all costs in connection with such defense.

(b) Licensor will not be liable to bear such costs if the Software has been used other than in accordance with this Agreement or Software Documentation, including instances in which the Software has been altered or used in connection with hardware configurations other than the Registered Platform(s).

10.0 Export Restrictions

Licensee agrees to comply with all applicable import, export control and sanctions laws, regulations and orders, as they may be amended from time to time, including without limitation those of the United States, the United Kingdom, and jurisdictions in which Licensor and Licensee are established and from which items are supplied. Licensee also agrees to comply with the requirements of any applicable licenses, authorizations or license exceptions that apply to Licensee’s receipt, use, transfer, release, export or re-export of any equipment, software, technology or information relative to any Software and material provided to Licensee by Licensor. Notwithstanding anything to the contrary in this Agreement, Licensee will not, and will not permit its employees to, directly or indirectly, use, transfer, release, export or reexport any such items, including without limitation any Licensor Software or technology, in violation of such applicable laws, regulations or orders or the requirements of any licenses, authorizations or license exceptions relating thereto. Without limiting the generality of the foregoing, Licensee will not, and will not permit its employees to, use any such items for the benefit of, or transfer, release, export or re-export any such items to, or if it is aware or has grounds for suspecting that such items are intended for:
(i) any country, destination or person that is the subject of applicable sanctions or an applicable embargo imposed by the United States or the European Union or pursuant to a resolution of the United Nations ("Sanctioned Destinations"), which Sanctioned Destinations currently include without limitation Cuba, Iran, Syria and Sudan, and persons designated by any relevant government as terrorists or as persons to whom the supply, export or re-export of such items requires a license or other authorization (including any such persons on the U.S. Treasury Department’s List of Specially Designated Nationals and Blocked Persons or the Bank of England Consolidated List);

(ii) any person on the U.S. Commerce Department’s Denied Parties List, the U.S. Commerce Department’s Entity List or equivalent lists of the U.K. or other relevant jurisdiction to whom the supply, export or re-export of such items requires a license or other authorization; or

(iii) any country, destination or person, including any person employed by or working for Licensee, for which the U.S., U.K. or other relevant government requires a license or other approval for export, re-export, transfer, sale or supply, without first having obtained any required license or other approval. Licensee recognizes and agrees that items (i) through (iii) change from time to time, and Licensee will fully cooperate with Licensor and its licensors to effect compliance with any such changes. Further, Licensee acknowledges and agrees that Licensee will not use, sell, supply, transfer, export or reexport, or permit the use, sale, supply, transfer, export or re-export of any item provided by Licensor, including without limitation the Licensor Software, related Documentation or technology where it has been informed, is aware or has grounds for suspecting that such items will be used in connection with the design, development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or nuclear explosive devices, or the development, production, maintenance or storage of missiles capable of delivering such weapons, or for prohibited military end-uses. Licensor shall have no obligation to support or transfer Software, including maintenance updates, if performing such support or transfer of Software is in violation of export regulations at the time of such Software transfer or support. This Section 10.0 will survive termination of this Agreement.

### 11.0 Government Restricted Rights

If the Software or Documentation to be furnished hereunder is to be used in the performance of a government contract or the Licensee is a government end user, the Software is provided on a “restricted rights” basis only. Licensor will not be subject to any flow down provisions required by the governmental customer unless agreed to by Licensor in writing.

### 12.0 Miscellaneous

(a) Any variance from or addition to the terms and conditions of this Agreement will be of no effect unless agreed to in writing and signed by both Licensee and Licensor authorized representatives.

(b) The unenforceability of any provision of this Agreement will not affect the enforceability of any other provision.

(c) Failure to require performance of any provision of this Agreement will not affect the right to subsequently require performance; nor will a waiver by either party of a breach of this Agreement constitute a waiver of any subsequent breach of this Agreement.

(d) This Agreement shall be governed by the laws of the State of New York and the parties agree to the exclusive jurisdiction of the New York Courts.

(e) Signed copies of this Agreement provided via facsimile will be deemed binding to the same extent as original documents.

**AGREED AND ACCEPTED by Authorized Representatives of:**

**Licensor:** Analysis & Design Application Co., Ltd.  
**Licensee:**

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