

**CADLearning by Eagle Point Software Enterprise
Subscription Agreement
TERMS AND CONDITIONS**

Please Note: Customer is purchasing a license to use the CADLearning Software described in the applicable Order Form and any related content, courses, or other materials made available by Eagle Point Software (the "CADLearning Content") as may be updated or added to from time-to-time. The CADLearning Software and CADLearning Content (collectively the "Services") is owned and remains the property of Eagle Point Software and/or its licensors and is protected by copyright and other intellectual property laws and international treaties. "Service Materials" means the Software, CADLearning Content and any materials used in connection with the Software or CADLearning Content, such as logos, designs, text, graphics, pictures, information, data, software and the selection and arrangement thereof.

This Agreement is between Eagle Point Software Corporation ("Eagle Point Software") and the company or legal entity identified in the Order Form (the "Customer") that references this Agreement. This Agreement shall govern Customer's license to the Services. All Order Forms are subject to written acceptance by Eagle Point Software. When mutually agreed and when submitted by Customer and acknowledged and accepted by Eagle Point Software whether or not signed by the Parties, each Order Form shall be and hereby is deemed to be incorporated into and governed by this Agreement.

Autodesk® is the registered trademark of Autodesk Inc.

Customer and Eagle Point Software are sometimes referred to individually as a "Party" and Collectively the "Parties."

1. GRANT OF LICENSE

1.1 Access to and Use of the Services. Subject to the terms and conditions of this Agreement, and provided Customer is not in default hereunder, Eagle Point Software hereby grants to Customer the nonexclusive, non-transferable (except as provided in [Section 11.3](#)), nonsublicensable (except as expressly provided for herein) right to use and access the Services, in accordance with any explanatory and informational materials concerning the Services, in printed or electronic format which Eagle Point Software has released for general distribution to its customers (the "Documentation") and this Agreement and solely for the internal training and best practices purposes of Customer and not for transfer, distribution, or disclosure to third parties or use for the commercial benefit of third parties.

1.2 User ID and User Limit. Customer shall issue each individual that: (i) Customer has authorized to use the Services; and (ii) is bound in writing or otherwise to comply with all restrictions of this Agreement (each an "Authorized User") a unique user identification code ("User ID") to enable such Authorized User to access and use the Services as permitted hereunder. Customer shall revoke the User ID of any Authorized User who ceases his or her employment, contractual engagement or enrollment as a student with Customer. User IDs shall not be shared or rotated among Authorized Users or issued on a concurrent-usage basis. Customer shall ensure that the total number of valid User IDs issued at any given time shall not exceed the maximum number of named Authorized Users who are authorized to access and use the Services hereunder, as specified in the applicable Order Form (the "User Limit"). Note: the User Limit (including unlimited, if applicable) and related Subscription and Content fee(s) are based on the number of Customer's employees and/or Autodesk® Licenses represented by Customer and referenced in the applicable executed and accepted Order Form and/or the Proposal. The User Limit and related Subscription and Content fees are subject to review and potential adjustment at each Renewal Term. Customer hereby agrees to notify Eagle Point Software in the event of any material change in the number of

Customer's employees and/or Autodesk® Licenses during the period commencing on the Deployment Date and ending on the first one year anniversary of the Deployment Date (the "Initial Term") or any Renewal Term (as defined in [Section 10.1](#) below), e.g. as a result of an acquisition or company expansion, after which Eagle Point Software and Customer will

determine in good faith if a prorated increase in the User Limit and related Subscription and Content fee(s) is merited.

1.3 Authorized Users. Customer must ensure that only Authorized Users have access to and use the Services. If Customer is notified or becomes aware that an unauthorized third-party has gained access to or used the Services, Customer shall promptly notify Eagle Point Software.

1.4 Restrictions. Customer shall not (a) use the Services in any manner which is not expressly authorized by this Agreement or which violates any applicable law; (b) copy or reproduce any of the Services, in whole or in part; (c) modify, translate, or create derivative works of any CADLearning Software or CADLearning Content; (d) reverse engineer, decompile, disassemble or otherwise reduce any CADLearning Software to source code form; (e) distribute, sublicense, assign, share, timeshare, sell, rent, lease, grant a security interest in, use for service bureau purposes, or otherwise transfer the Services or Customer's right to access and use the Services; (f) remove or modify any copyright, trademark, or other proprietary notice of Eagle Point Software or its licensors contained within CADLearning Software or CADLearning Content. ALL RIGHTS NOT EXPRESSLY GRANTED HEREUNDER ARE RESERVED TO EAGLE POINT SOFTWARE AND ITS LICENSORS.

1.5 Canadian Customers. If Customer purchases a License to the Software for use in Canada, Customer agrees to the following: the Parties confirm that it is their wish that this Agreement, as well as other documents relating hereto, including notices, have been and shall be written in the English language only. Les Parties ci-dessus confirment leur désir que cet accord ainsi que tous les documents, y compris tous avis qui s'y rattachent, soient rédigés en langue anglaise.

2. INTELLECTUAL PROPERTY RIGHTS

2.1 Ownership of Intellectual Property. Customer acknowledges and agrees that this Agreement conveys a limited right to use and access the Services or the Service Materials (including the CADLearning Software, and CADLearning Content), and does not convey title or ownership of the Services or the Service Materials to Customer. The Services and all Service Materials, including all associated intellectual property rights, shall remain at all times the sole, exclusive property of Eagle Point Software and its licensors.

2.2 Security. Customer shall take all reasonable steps to ensure that no unauthorized persons have access to the Services or Service Materials, and to ensure that no Authorized Users shall take any action which would be in violation of this Agreement. Such steps shall include, but shall not be limited to, imposing password restrictions on use of the Services, securing the Customer's system, and administering and monitoring use of the Services.

2.3 Reporting. Customer shall promptly report to Eagle Point Software any actual or suspected violation of Sections 2 and/or 3 hereof and shall take such further steps as may reasonably be requested by Eagle Point Software to prevent or remedy any such violation.

2.4 Relief. Customer agrees and acknowledges that unauthorized use of the Services is likely to diminish substantially the value of such Services, irreparably harm Eagle Point Software and will not be susceptible to cure by the payment of monetary damages. Therefore, if Customer breaches the provisions of [Sections 2 or 3](#) of this Agreement, Eagle Point Software shall be entitled to injunctive and/or other equitable relief, in addition to other remedies afforded by law, to prevent or restrain a breach of [Sections 2 or 3](#) of this Agreement.

3. CUSTOMER CONTENT

3.1 Customer Content. Subject to any storage capacity set forth in the Order Form, Customer may upload and publish its own content and course materials, text, images and/or other information ("Customer Content") in the CADLearning® Managed eLearning System.

3.2 Customer Content Warranty. Customer represents and warrants that (a) it has the authority and right to transmit Customer Content to Eagle Point Software; and (b) the use of Customer Content will not

infringe the intellectual property rights or other proprietary rights of any third party. Customer covenants that it will only supply Eagle Point Software with materials that Customer has the right to supply.

3.3 Use of Customer Content at Customer's Risk. Eagle Point Software shall have no responsibility for the accuracy, quality, integrity, legality, reliability, or appropriateness of Customer Content, and Eagle Point Software shall not be responsible or liable for the deletion, correction, destruction, damage, or loss of any Customer Content. Customer acknowledges that use of any Customer Content generated, obtained or acquired through the use of the Services is at Customer's sole risk and discretion. Eagle Point Software and its licensors are not liable or responsible for any results generated using Customer Content.

3.4 Customer Indemnification with respect to Customer Content. Customer agrees to indemnify and hold harmless Eagle Point Software from any and all claims, liabilities, damages, losses and expenses, including reasonable attorneys' fees and costs, relating to or arising out of any Customer Content generated, obtained or acquired through the use of the Services by the Customer, or any of its Authorized Users or any user gaining access to the Services through the Customer, including without limitation any claim of infringement or misappropriation of intellectual property or other proprietary rights.

4. USER COMPLIANCE. Customer acknowledges that all users of the Services are bound by the terms and conditions of the: (i) then current Eagle Point Software Terms of Service ("TOS") as described on the CADLearning website (www.CADLearning.com/terms-of-service); and (ii) the then current CADLearning Acceptable Use Policy ("AUP") as described on the CADLearning website (<https://www.cadlearning.com/acceptable-use-policy/>). Customer hereby agrees that it will not facilitate, enable, or cause any user to violate the terms and conditions of the CADLearning TOS and/or AUP and that Customer is obligated to provide immediately notice to Eagle Point Software in the event that Customer discovers any use of the CADLearning Services by any user or third party in violation of the CADLearning TOS and/or AUP.

5. CUSTOMER SUPPORT; SERVICE LEVEL AGREEMENT

5.1 Customer Support. As part of the Services, Eagle Point Software shall provide Customer with the standard support services as described on the CADLearning website (www.cadlearning.com/support). Additional services (e.g., training) may be provided by Eagle Point Software for an additional fee upon mutual agreement of the Parties in an Order Form.

5.2 SLA. Hosting services are provided by a third-party hosting provider and is subject the Service Level Agreement ("SLA") that can be found on the CADLearning website (www.CADLearning.com/SLA). Additional services (e.g., training) may be provided by Eagle Point Software for an additional fee upon mutual agreement of the Parties in an Order Form.

6. CONFIDENTIALITY. Each Party agrees to secure and protect the Confidential Information of the other in a manner consistent with the maintenance of the other Party's rights therein, using at least as great a degree of care as it uses to maintain the confidentiality of its own confidential information of a similar nature, but in no event less than reasonable efforts. "**Confidential Information**" means information that a disclosing Party considers to be confidential, including, but not limited to, business and technical information, pricing information, marketing plans, research, designs, plans, methods, techniques, processes and know-how, whether tangible or intangible and whether or not stored, compiled or memorialized physically, electronically, graphically or in writing. Confidential Information shall not include information which: (i) is, or as of the time of its disclosure or thereafter, becomes part of the public domain through a source other than the receiving Party; (ii) was rightfully known to the receiving Party as of the time of its disclosure; (iii) is independently developed by the receiving Party; (iv) is subsequently learned from a third party not under a confidentiality obligation to the disclosing Party; or (v) is required to be disclosed pursuant to a duly

authorized subpoena, court order, or government authority, whereupon the Party subject to same shall provide prompt written notice to the other Party prior to such disclosure, so that such Party may seek a protective order or other appropriate remedy. The Parties acknowledge that Confidential Information shall include (a) the product and service specifications; (b) any quotes and pricing, including the Order Form and Statement of Work provided to Customer; (c) the CADLearning Software; (d) the CADLearning Content; and (e) the Service Materials.

Eagle Point Software is hereby granted a limited license to Customer's Content only so that Eagle Point Software can process the data and provide any Services or support hereunder to Customer.

7. LIMITED WARRANTY; DISCLAIMER OF WARRANTY

7.1 Limited Warranty. Subject to scheduled outages for maintenance and other announced unavailability of the Services, Eagle Point Software shall use commercially reasonable efforts to make the Services available for use by Authorized Users during the Term (as defined in [Section 10.1](#) below) but makes no guaranty of continuous availability or uninterrupted use of the Services. Eagle Point Software's sole obligation and Customer's exclusive remedy for any unavailability of the Services is limited to any applicable credit specified in the SLA.

7.2 Limitation. The limited warranty set forth in this [Section 7](#) shall not be applicable in the event that any outage or Services failure arises from (a) any modification to the Services not made by or at the direction of Eagle Point Software, (b) use of the Services in a manner not described in the Documentation or this Agreement, (c) use of the Services in any unlawful, improper, or inappropriate manner or for any unlawful, improper or inappropriate purpose, (d) as a result of the negligence or intentional misconduct of Customer, (e) any content, equipment, software, service or resource not provided by Eagle Point Software, or (f) any portion of the Services which Eagle Point Software designed in accordance with specifications provided by Customer.

7.3 Exclusions. Eagle Point Software does not warrant that (a) the Services will meet Customer's specific requirements; (b) that access to the Services will be uninterrupted or error free; or (c) any results, scores, tests, or content curriculum generated or provided under the Services will be complete or error free. Customer shall evaluate the accuracy and completeness of any results, scores, tests, or content curriculum generated or provided under the Services and Eagle Point Software shall not be liable for any loss or damage caused by Customer's reliance on any such results, scores, tests, or curriculum content. In the event that there is a loss or corruption of Customer Content directly caused by use of or access to the Services, Eagle Point Software will use commercially reasonable efforts to restore or correct such Customer Content.

7.4 Security. Customer is responsible for implementing adequate firewall, password, and other security measures to protect Customer Content, systems, data, and applications from unwanted intrusion, whether over the Internet or by other means.

7.5 Dependencies. Customer acknowledges and agrees that (a) the Services require access to and use of the Internet and that the Internet is an unregulated, public network over which Eagle Point Software exerts no control and (b) Eagle Point Software has no responsibility for operating and maintaining Customer's servers and their connection to the Internet to access and use the Services.

7.6 DISCLAIMER OF WARRANTIES. EXCEPT AS STATED IN THIS SECTION 7, AND TO THE FULL EXTENT PERMITTED BY APPLICABLE LAW, EAGLE POINT SOFTWARE AND ITS LICENSORS DISCLAIM ALL WARRANTIES AND CONDITIONS, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES AND SERVICE MATERIALS, INCLUDING ALL IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, NONINFRINGEMENT, COMPLETENESS, ACCURACY AND FITNESS FOR A PARTICULAR PURPOSE, OR ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE. EAGLE POINT SOFTWARE AND ITS LICENSORS SPECIFICALLY DISCLAIM ANY WARRANTY THAT THE SERVICES OR SERVICE MATERIALS WILL MEET CUSTOMER'S REQUIREMENTS OR WILL OPERATE IN COMBINATIONS OR IN A MANNER SELECTED FOR USE BY CUSTOMER, OR THAT THE SERVICES, THE OPERATION OF THE CADLEARNING SOFTWARE OR

USE OF THE CADLEARNING CONTENT OR OTHER SERVICE MATERIALS WILL BE UNINTERRUPTED OR ERROR FREE.

8. LIMITATION OF LIABILITY

8.1 LIMITATION OF LIABILITY. EAGLE POINT SOFTWARE'S AGGREGATE LIABILITY TO CUSTOMER UNDER THIS AGREEMENT SHALL BE LIMITED TO THE FEES ACTUALLY RECEIVED BY EAGLE POINT SOFTWARE UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY.

8.2 EXCLUSION OF CONSEQUENTIAL DAMAGES. IN NO EVENT SHALL EAGLE POINT SOFTWARE BE LIABLE FOR COSTS OF PROCUREMENT OF SUBSTITUTE PRODUCTS BY CUSTOMER. IN NO EVENT SHALL EAGLE POINT SOFTWARE (INCLUDING ITS LICENSORS) BE LIABLE TO THE CUSTOMER FOR ANY DAMAGES RESULTING FROM LOSS OF DATA, LOSS OF CONTENT, LOST PROFITS, LOSS OF USE OF EQUIPMENT OR LOST CONTRACTS OR FOR ANY SPECIAL INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES IN ANY WAY ARISING OUT OF OR IN CONNECTION WITH THE SERVICES, THE USE OR PERFORMANCE OF THE CADLearning SOFTWARE, CADLEARNING CONTENT, OR RELATING TO THIS AGREEMENT, HOWEVER CAUSED, EVEN IF EAGLE POINT SOFTWARE OR SUCH LICENSOR HAS BEEN MADE AWARE OF THE POSSIBILITY OF SUCH DAMAGES.

8.3 EXCLUSION OF HIGH RISK ACTIVITIES. THE SERVICES ARE INTENDED FOR EDUCATIONAL AND TRAINING PURPOSES ONLY. AS SUCH THE SERVICES ARE NOT FAULTTOLERANT AND ARE NOT DESIGNED, MANUFACTURED OR INTENDED FOR USE IN HAZARDOUS APPLICATIONS REQUIRING FAIL-SAFE PERFORMANCE, INCLUDING IN ANY OTHER APPLICATION IN WHICH THE FAILURE OF THE COMPONENT SYSTEMS COULD LEAD DIRECTLY TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE ("HIGH RISK ACTIVITIES"). ACCORDINGLY, WE DISCLAIM ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS FOR HIGH RISK ACTIVITIES. YOU AGREE THAT EAGLE POINT SOFTWARE SHALL NOT BE LIABLE FOR ANY CLAIMS OR DAMAGES ARISING FROM OR RELATED TO THE USE OF THE SERVICES IN SUCH APPLICATIONS.

8.4 Acknowledgment. Customer acknowledges and agrees that the Subscription Fee has been set based on the application of the limitations described in Sections 8.1, 8.2 and 8.3 above.

9. INFRINGEMENT INDEMNIFICATION

9.1 Obligation to Indemnify. Eagle Point Software shall defend Customer, at Eagle Point Software's expense, in any third-party suit, claim, or proceeding arising from a claim that Customer's use of the Services, CADLearning Software, or CADLearning Content, as authorized under this Agreement infringes or violates any currently issued United States patent, copyright, trademark or trade secret of any third party, and Eagle Point Software will indemnify Customer for all damages, settlements, costs and expenses (including reasonable attorneys' fees) awarded against Customer; provided, however, that Customer (i) promptly notifies Eagle Point Software in writing of such suit, claim, or proceeding, (ii) gives Eagle Point Software reasonable information, assistance, and cooperation required to defend such suit, claim, or proceeding, and (iii) allows Eagle Point Software (or its designee) to control the defense of any such action and all negotiations for its settlement or compromise. Customer may be represented in the defense of any such claim, at Customer's expense, by counsel of Customer's selection. Eagle Point Software shall have no liability for settlements made or costs incurred without its consent.

9.2 Injunctive Relief. In the event that an injunctive restraint is obtained against Customer's use of the Services by reason of infringement or violation of any patent, copyright, trademark, or trade secret, or if in Eagle Point Software's opinion the Services is likely to become the subject of such an injunction, Eagle Point Software shall have the right, at its option, to do one of the following: (i) procure for Customer the right to continue to use the Services as provided in this Agreement, (ii) replace or modify the Services so that it becomes non-infringing (so long as the

functionality of the Services is not materially impaired), or (iii) if neither of the preceding clauses (i) and (ii) are reasonably practicable, terminate this Agreement and refund to Customer a prorated portion of the Subscription Fee.

9.3 Exclusions. The provisions of Section 9.1 notwithstanding, Eagle Point Software shall not have any liability to Customer, and Customer shall indemnify Eagle Point Software, to the extent that any claim is based upon (i) use of the Services in conjunction with any software or content (including Customer Content or any software, content or informational materials provided by third parties), equipment, service, software or resource not provided by Eagle Point Software, where the Services alone would not be infringing or otherwise be the subject of the claim, (ii) any modification to the Services not made by or at the direction of Eagle Point Software, (iii) use of the Services in any unlawful manner or in any manner not authorized under this Agreement, (iv) any claim of infringement or violation of any patent, copyright, trademark or trade secret in which Customer has a pecuniary or other material interest, or (v) any portion of the Services or CADLearning Content which Eagle Point Software designed or developed in accordance with specifications provided by Customer.

9.4 Exclusive Remedy. The indemnification remedies set forth in this Section 9 shall constitute the exclusive remedies of Customer and the sole liability of Eagle Point Software with respect to claims of intellectual property infringement or violation.

10. TERM AND TERMINATION

10.1 Term. Unless earlier terminated pursuant to Section 10.2, this Agreement shall remain in effect from the date Customer signs and submits the applicable Order Form (the "Effective Date") until the end of the Initial Term.

10.2 Termination. Either Party may terminate this Agreement: (a) upon sixty (60) days written notice prior to the expiration of the Initial Term or the then-current Renewal Term; or (b) if the other Party commits a material breach of this Agreement which is not cured within thirty (30) days after written notice thereof is given by the non-defaulting Party.

10.3 Effect of Termination. Upon any termination of this Agreement: (a) all Subscription Fees due to Eagle Point Software shall be due immediately; (b) Customer shall, and shall cause all Authorized Users to, immediately cease using the Services; (c) Eagle Point Software may immediately deactivate Customer's account(s); and (d) following (90) days after the termination date, Eagle Point Software may destroy Customer's account and all related data; provided that upon Customer's written request to Eagle Point Software received by Eagle Point Software no later than thirty (30) days from the effective date of such termination, Eagle Point Software shall permit Customer temporary access to the Services for a period not to exceed five (5) days and for the sole purpose of permitting Customer to retrieve any Customer Content accessible through the Services.

10.4 Survival. Any provisions of this Agreement which by their nature should reasonably survive termination or expiration of this Agreement will survive such termination or expiration, including, Sections 3, 4, 6, 7, 8, 9.3, 9.4, 10.3 and 11, as well as any obligations to make payments of fees and other amounts accrued prior to termination.

11. GENERAL PROVISIONS

11.1 Conflicting Terms. With respect to any CADLearning Enterprise Subscription Customer and in the event of any conflicting terms between this Agreement and the CADLearning TOS, the terms and conditions of this Agreement shall control.

11.2 Dispute Resolution. In the event any dispute, claim, question or difference between the Parties (each, a "Dispute") arises with respect to this Agreement or the Parties' performance, enforcement, breach or termination thereof, the Parties shall use their best efforts to settle the Dispute by utilizing the following procedures: (i) before bringing a lawsuit of any kind, a Party (the "Complainant") must first give notice to the other Party (the "Recipient") of a Dispute (the "Dispute Notice") which must be in writing, set out in reasonable detail the basis for the Dispute; (ii) if the alleged breach is not cured during the thirty (30) days following

receipt of the Dispute Notice, then senior representatives of the Parties with full authority to resolve the Dispute shall hold a meeting and attempt to negotiate in good faith a resolution prior to pursuing other remedies; (iii) if within thirty (30) days after such meeting, the Parties have not succeeded in resolving the Dispute; either Party may protect its interests by any lawful means available to it.

11.3 Governing Law; Submission to Jurisdiction. In interpreting the terms of this Agreement, the Parties agree that the laws of the State of Iowa shall be applicable, without giving effect to the conflicts of law provisions. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. Each Party: (i) each Party hereby irrevocably submits to the exclusive jurisdiction of any federal court of competent jurisdiction situated in the United States District Court for the District of Iowa and to any state court situated in Iowa; (ii) each Party irrevocably waives any objection which it may now or hereafter have to the laying of such venue of any Dispute brought in such courts; (iii) each Party irrevocably waives any claim that any such Dispute brought in such courts has been brought in an inconvenient forum or that any such court does not have jurisdiction over such Party; and (iv) each Party hereby irrevocably consents to the service of process by registered mail, postage prepaid, or by personal service within or without the State of Iowa. Nothing contained herein shall affect the right to serve process in any manner permitted by law. This Agreement shall be deemed to have been executed and delivered by both Parties in the State of Iowa

11.4 Assignment. Neither this Agreement nor the rights granted hereunder shall be assigned or transferred by Customer without the prior written consent of Eagle Point Software, such consent not to be unreasonably withheld. Any attempted transfer without such consent shall be void and have no force or effect. Eagle Point Software may assign this Agreement. This Agreement shall inure to the benefit of the Parties and their permitted successors and assigns.

11.5 Third Party Beneficiary. Customer understands that portions of the CADLearning or CADLearning Content and related Documentation may have been licensed to Eagle Point Software by third parties and that such third parties are intended third-party beneficiaries of Eagle Point Software's rights under this Agreement. Notwithstanding the foregoing, no such third party licensor shall be considered a party hereto or have any obligations hereunder.

11.6 Amendments; Waivers. This Agreement may be amended or modified only by a writing signed by both Parties. Any waiver by a Party of any breach of any provision of this Agreement by the other Party must be in writing to be effective and shall not constitute a waiver of any subsequent breach of the same or any other provision.

11.7 Complete Agreement. The Parties agree that this Agreement (including the Proposal and Order Form), SLA, and AUP is the complete and exclusive statement regarding the subject matter hereof and supersedes all prior agreements, understandings, and communications, oral or written, between the Parties regarding the subject matter of this Agreement. Except as otherwise provided herein, additional or conflicting terms contained in any standardized form or correspondence of or from Customer are expressly unenforceable under this Agreement unless such terms and conditions are contained in an amendment to this Agreement duly executed by both Parties hereto. In the event any terms contained in an Order Form conflict with the terms and conditions of this Agreement, the terms in the Order Form shall control only if such Order Form has been signed by an authorized representative of Eagle Point Software.

11.8 Notices. Any notice by a Party under this Agreement shall be in writing and either personally delivered, delivered by facsimile, or sent via reputable overnight courier (such as Federal Express) or certified mail, postage prepaid and return receipt requested, addressed to the other Party at the address specified on the Order Form or such other address of which either Party may from time to time notify the other in accordance with this Section 11.7. All notices shall be in English and shall be deemed effective on the date of personal delivery, upon confirmation of a facsimile transmission, one day after deposit with an overnight courier, or five days after deposit in the mail.

11.9 Compliance with Law. Customer shall, and shall ensure that all Authorized Users, comply with all applicable laws and regulations which

may govern access to and use of the Services and CADLearning Software by Customer and its Authorized Users, including without limitation any United States and foreign laws and regulations relating to export and import control and access, use, disclosure, storage, or transmission of any personal or other data in connection with use of the Services by Customer and its Authorized Users.

11.10 Commercial Software. If Customer is an agency, department, or other entity of the United States Government, or funded in whole or in part by the United States Government, or if any CADLearning Software is acquired by or on behalf of a unit or agency of the United States Government, the Government agrees that such CADLearning Software is "commercial computer software" or "commercial computer software documentation" and that, absent a written agreement to the contrary, the government's rights with respect to such CADLearning Software, including the use, duplication, reproduction, release, modification, disclosure, or transfer of the CADLearning Software and Documentation is limited by the terms of this Agreement, pursuant to FAR § 12.212 and/or DFARS § 227.7202, as applicable. For purposes of any public disclosure provision under any federal, state or local law, it is agreed that the CADLearning Software is a trade secret and a proprietary commercial product and not subject to disclosure

11.11 Publicity. Each Party may issue press releases announcing the relationship contemplated by this Agreement. Eagle Point Software shall be entitled to refer publicly to Customer as one of its customers.

11.12 Force Majeure. Except for the obligation to make payments, neither Party will be liable for any failure or delay in its performance under this Agreement due to any cause beyond its reasonable control, including acts of war, acts of God, earthquake, flood, embargo, riot, sabotage, labor shortage or dispute, governmental act or failure of the Internet, provided that the delayed Party: (a) gives the other Party prompt notice of such cause and (b) uses its reasonable commercial efforts to promptly correct such failure or delay in performance. If Eagle Point Software is unable to provide the Services for a period of thirty (30) consecutive days as a result of a continuing force majeure event, Customer may cancel the affected service(s).

End of TERMS AND CONDITIONS