RockWare, Inc. ("RockWare") 2221 East Street, Suite 101 Golden CO 80401 USA

RockWare Click-Wrap Software License Agreement ("License")

IMPORTANT - READ ALL OF THE TERMS AND CONDITIONS IN THIS LICENSE CAREFULLY BEFORE AGREEING TO AND ACCEPTING THIS LICENSE. BY CLICKING THE "ACCEPT" BUTTON ON THE ACCOMPANYING COMPUTER SCREEN, OR BY DOWNLOADING, INSTALLING OR OTHERWISE USING THE SOFTWARE, YOU AGREE TO BE BOUND BY ALL OF THE TERMS AND CONDITIONS OF THIS LICENSE. BY CLICKING THE "ACCEPT" BUTTON, YOU ACKNOWLEDGE THAT YOU HAVE FULLY READ AND UNDERSTAND ALL OF THE TERMS AND CONDITIONS THAT FOLLOW, INCLUDING THE WARRANTY DISCLAIMER, LIMITATION OF LIABILITY, AND TERMINATION PROVISIONS. IF YOU DO NOT AGREE TO ALL OF THE TERMS AND CONDITIONS OF THIS LICENSE, DO NOT DOWNLOAD, INSTALL OR OTHERWISE USE THIS SOFTWARE, AND YOU SHOULD NOT PROCEED WITH ANY ACTIVATION OF THIS SOFTWARE.

1. GRANT OF LICENSE. Provided that Licensee is in material compliance with all of the terms and conditions of this License and is in material compliance with all of the terms and conditions set forth in the Cash Sale or Invoice, that is associated with this License (hereinafter collectively referred to as the "Receipt"), RockWare hereby grants to you (either an individual or a single business entity, hereinafter referred to as the "Licensee"), and Licensee hereby accepts, a limited, nonexclusive license to use the computer program specified on the Receipt (along with upgrades, updates, modifications, corrections, bug fixes, additions, applicable network license manager programs, or enhancements provided by RockWare that are related to such computer program specified on the Receipt), in object code only, and any documentation available for installation with this License (collectively referred to as the "Software") only as authorized in this License. Use of the Software shall be further specifically limited by the "License Type" designations in the below, section 2. No source code is licensed or provided to Licensee under this License and this License does not grant any right, title or interest in any source code to Licensee. All rights not expressly granted to Licensee under this License are specifically reserved to RockWare.

2. LICENSE TYPES.

Receipt. The accompanying Receipt provides, among other things, the Software's title/name, level, pricing, Licensee name and address, the specification of the License Type ("License Type" as further described below in this section "2"), etc. The Receipt accompanying this Software and License, and all of the terms and conditions set forth in such Receipt, are incorporated herein by this reference and are made a material part of this License.

License Type - Single License. If the Receipt specifies that the Licensee purchased a Single License, RockWare grants Licensee the right to use one copy of the enclosed Software on <u>one</u> computer owned, leased, or otherwise controlled by Licensee. Access of the Software over a network or remote desktop (virtual machine) by Licensee or any other third party is prohibited. Simultaneous Users accessing the Software, whether on a networked system or by any other means, is prohibited.

License Type - Network License. If the Receipt specifies that the Licensee purchased a Network License, RockWare grants the Licensee the right to use the specified Software for that number of

Users, on the number of computers owned, leased, or otherwise controlled by Licensee, and with respect to such other terms and conditions as set forth in the Receipt. Simultaneous use of the Software, exceeding the number of Users specified in the Receipt, is prohibited. For a Network License, a Network License Manager program will be provided separately by RockWare, which limits the number of Users that can simultaneously access the Software.

Terms Applying to the Single and Network License Types. A "User" of the Software is defined as an individual accessing or otherwise utilizing the features and functions of the Software. A User also includes an individual using the Software or its database indirectly by means of a third party software application or tool even if the User is not identified and monitored by the Software as a User. Use of the Software by Users in excess of those permitted under the Receipt, or use in a manner not specified in this License, in the Receipt or in the definition of the License Type, is a violation of this License. Upon any such violation and solely at the discretion of RockWare, Rockware shall be entitled to: (a) require Licensee to upgrade its License Type, accept additional and appropriate License terms and conditions, and pay additional license fees; or (b) terminate this License.

3. ACADEMIC PRICING AND USE RESTRICTION. If Licensee purchased a Single License or Network License under an academic discount as specified in the Receipt, RockWare grants Licensee the right to install the Software as described above and in the Receipt, but with the following additional restrictions: The Software is to be used in academic classrooms only and/or in university-sponsored research so long as classroom education remains the primary purpose of its use. The Software cannot be used for any commercial purpose, and cannot be used by any person, including university faculty, staff, or students, in providing consulting services for the benefit of any third party. Not-for-profit, tax exempt, government organizations and research institutions, even if affiliated with a college or university, do not qualify for academic pricing.

4. GENERAL LICENSE TERMS.

- **4.1** Licensee may install and use the Software solely for the purpose of establishing, configuring, and operating such Software and subject to all terms and conditions set forth in this License and Receipt and for the License Type specified in the Receipt. Configuration and operation of the Software is limited to (i) employees of Licensee (and students, in the case of an educational institution); and (ii) independent contractors engaged by Licensee who require access to the Software to perform their tasks, subject to the limitations of this License, Receipt and specified License Type. Licensee shall be responsible for the acts and omissions of any Users of the Software under this License.
- **4.2** Licensee may only make (i) such number of copies of the Software as specified in this License and as specified in the Receipt, and (ii) one (1) additional copy of the Software strictly for backup or archival purposes. All copies must include all patent, copyright, and any other proprietary rights notices appearing on the original copy of the Software. No other copies of the Software may be made by Licensee without the express permission of RockWare.
- **4.3** Licensee shall not sell, sublicense, distribute, rent, lease, assign or otherwise transfer the Software, in whole or in part, to any other third party person or entity consistent with the Transfer Policy set forth in section 6 of this License and only upon written agreement with Rockware.
- **4.4** Licensee shall not, nor allow any third parties to, modify, alter, create derivative works of, translate, reverse-engineer, decompile, disassemble, reengineer, extract ideas, extract algorithms, extract procedures, with respect to the whole or any part of the Software, nor shall Licensee attempt to do any of the foregoing.

- **5. ROCKWARE RETURN POLICY.** Licensee shall have the right to return the Software for any reason within 30 days of its purchase. In the event of such a return, Licensee must contact RockWare at the address noted above within 30 days of purchase for a RAN (Return Authorization Number) and a Return Authorization Form. Licensee must complete and submit the Return Authorization Form, including the reason(s) for returning the product and proof of purchase, within the specified 30 days. Licensee's License shall terminate upon such return and as further provided in section 8 below. Licensee will be entitled to a refund of the purchase price subject to the following:
 - A) The Software must be uninstalled in accordance with 6 (C) below.
 - B) All output of the Software (models, graphic images, and any other output files) created by Licensee by using the Software must be destroyed and may not be retained or used. The Software cannot be returned if any output as described above has already been used or published.

Upon return of the Software, this License is terminated.

- **6. ROCKWARE'S TRANSFER POLICY**. RockWare, in its sole discretion, may allow Licensee to transfer this License to another person or entity upon the completion of such documentation requested by RockWare, including acceptable license agreement documents with the proposed transferee person or entity, and the following documentation by Licensee:
 - A) Licensee must accurately complete and submit a License Transfer Form to RockWare;
 - B) License must remove all copies of the Software from any computers on which it is installed; and
 - C) Licensee must provide a license removal code, which results from software removal, to RockWare staff if requested.

RockWare has the right to transfer and assign, in its sole discretion, its rights, benefits and obligations under this License and this License will inure to the benefit of any successors or assignee of RockWare and Licensee hereby consents to the same.

- 7. ROCKWARE'S INTELLECTUAL PROPERTY RIGHTS. Licensee acknowledges and agrees that RockWare owns all proprietary and intellectual property rights in and to the Software, including but not limited to patent, copyright, trademark, trade dress, trade secrets, confidential information and/or processes, and any and all other proprietary rights in and to the Software, as may exist under the laws of the United States of America or under any international or foreign laws or treaties. RockWare's ownership of proprietary and intellectual property rights shall further include any and all proprietary rights to Software upgrades, updates, modifications, corrections, bug fixes, enhancements or the like under such laws and treaties. Licensee further expressly acknowledges and agrees that all above-stated rights, title, and interest in and to the Software shall remain with RockWare. This License does not convey to Licensee any ownership, title or interest in or to the Software, but instead only grants to Licensee a limited license with the revocable right of use as specified in the terms and conditions of this License.
- **8. TERM AND TERMINATION.** This License is effective upon installation of the Software

and shall continue until terminated. Licensee may terminate this License at any time by returning all copies of the Software to RockWare or certifying in writing to RockWare that it has been removed from all computers on which it was installed and has been destroyed. RockWare may, upon notice to Licensee, terminate this License at any time if Licensee fails to comply with the terms and conditions of this License and those incorporated and material terms of the Receipt. Upon termination by RockWare, Licensee agrees to promptly return all copies of the Software to RockWare or certify in writing to RockWare that it has been removed from all computers on which it was installed and has been destroyed. Any such termination shall not impair RockWare's rights to seek further remedies, including without limitation, to collect any amounts due and owing by Licensee to RockWare at the time of termination.

- WARRANTY DISCLAIMER. ROCKWARE MAKES NO REPRESENTATION OR QUALITY, WARRANTY CONCERNING THE PERFORMANCE OR OTHER CHARACTERISTICS OF THE SOFTWARE. THE SOFTWARE IS PROVIDED "AS IS", WITH ALL FAULTS, AND THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, AND ACCURACY IS WITH THE LICENSEE AND USER. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ROCKWARE DISCLAIMS ANY AND ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT OF THIRD PARTY RIGHTS, OR THOSE ARISING OUT OF USAGE OF TRADE OR COURSE OF DEALING.
- **10. LIMITATION OF LIABILITY.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ROCKWARE SHALL NOT BE LIABLE TO LICENSEE OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES, INCLUDING DAMAGES FOR LOSS OF INFORMATION, REVENUE OR PROFITS, WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT PRODUCT LIABILITY OR ANY OTHER THEORY, EVEN IF ROCKWARE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- 11. **DISCLAIMER.** Some countries, states, or provinces do not allow the exclusion or limitation of implied warranties or the limitation of incidental or consequential damages so the above limitations and exclusions may be limited in their application to Licensee. When implied warranties may not be excluded in their entirety, they will be limited to the duration of the return policy. The return policy gives Licensee specific legal rights and Licensee may have other rights that may vary depending on local law.
- 12. GOVERNING LAW. This License is governed by and interpreted in accordance with the laws of the State of Colorado, U.S.A., without regard to conflict of law provisions. Venue and jurisdiction shall be exclusively and properly in the State of Colorado, County of Jefferson, U.S.A. and each party hereto fully and irrevocably consents to such exclusive and personal jurisdiction and venue. The United Nations Convention on Contracts for the International Sale of Goods specifically does not apply.
- **13. MODIFICATIONS**. RockWare may modify, revise and alter the terms of this License by giving Licensee thirty (30) days written notice of the same with such notice to be deemed given upon RockWare's electronically sending the same to the contact and/or email address(es) set forth in the Receipt. If Licensee does not agree to accept such modifications, Licensee's sole remedy shall be to terminate this License and discontinue Licensee's use of the Software.

- **14. EXPORT COMPLIANCE.** Licensee shall not export, re-export, or otherwise transmit, directly or indirectly, any software, information, data, or other materials received under this License except in full compliance with all laws of the United States of America and other applicable acts and regulations.
- **15. NOTICES**. All notices, requests, claims, and other communications hereunder shall be in writing and shall be delivered by hand, courier, facsimile, or email.
- **16. U.S. GOVERNMENT RIGHTS.** By installing the Software, Licensee accepts and agrees that the Software is provided as commercial computer software strictly under the terms and conditions of this License and includes only those rights customarily available to the public. Licensee is not authorized to permit disclosure or use by any agency or other part of the U.S. Federal Government that exceeds in any way the use and disclosure rights conveyed in this License.
- **17. SEVERABILITY.** Should any term of this License be declared void or unenforceable by any court of competent jurisdiction, such declaration shall have no effect on the remaining terms hereof.
- **18. NO WAIVER.** The failure of either party to enforce any rights granted under this License or to take action against the other party in the event of any breach hereunder shall not be deemed a waiver by that party as to subsequent enforcement or rights or subsequent actions in the event of future breaches.
- 19. UNDERSTANDING, AUTHORITY AND BINDING EFFECT. The Licensee agrees and acknowledges that it has fully read, understood, accepted and agree to each and every provision, term and condition contained in this License and the Receipt. The individual that has accepted the same, by clicking on the "accept" button for the License, warrants and represents that such individual is fully empowered and authorized to bind the Licensee to the provisions, terms and conditions of the License and Receipt.
- **20. HEADINGS**. The headings and titles to the sections of this License are inserted for convenience only and shall not be deemed a part of, or affect the construction or interpretation of, the provisions of this License.
- **21. COMPLETE AGREEMENT.** The parties acknowledge and agree that this License, including the Receipt, which is incorporated herein by reference, contains the entire agreement of the parties and supersedes any and all prior representations or agreements, whether oral or written, relating to the subject matter of this License.

[END OF LICENSE]