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**7. TERM/TERMINATION.**

- 7.1 The term of this Agreement will commence on the Effective Date above and continue for one year or until terminated as described in Sections 7.2 or 7.3.
- 7.2 Licensee has the right to terminate this Agreement for convenience at any time with thirty (30) days written notice to Spatial. Spatial has the right to terminate this Agreement for convenience at any time with three (3) months prior written notice.
- 7.3 Spatial may, at its option and in addition to any other remedies to which it may be entitled, immediately terminate this Agreement if: (a) Licensee breaches any of its obligations under this Agreement, and such breach is not cured within thirty (30) days following the date of Spatial's notice to Licensee of such breach; or (b) Licensee attempts to assign its rights or obligations, in whole or in part, under this Agreement without the prior written consent of Spatial.
- 7.4 Upon termination of this Agreement, all licenses granted herein shall terminate, and Licensee shall: (a) immediately cease use of the Licensed Programs; (b) promptly return, or provide Spatial with written certification of the destruction of, the Licensed Programs and any related materials or documentation, to Spatial; and (c) provide Spatial with written certification of compliance with these requirements.

**8. GENERAL.**

- 8.1 **Confidential Information.** Licensee agrees that at all times, and notwithstanding any termination or expiration of this Agreement, Licensee will hold in strict confidence and not disclose to any third party, other than a third party developer as defined above, Spatial's Confidential Information. For the purposes of this Section, "Confidential Information" means any and all technical and non-technical information provided by Spatial whether or not marked with such Spatial's confidential or proprietary legend (or, if disclosed orally, identified as confidential or proprietary), including but not limited to the Licensed Programs, Documentation, ideas, samples, media, techniques, sketches, drawings, works of authorship, models, inventions, know-how, processes, apparatuses, equipment, or algorithms as disclosed by operation of the Licensed Programs or Documentation.
- 8.2 **Assignment.** Licensee may not assign, delegate or transfer any of its rights or obligations under this Agreement to any third party without the prior written consent of Spatial.
- 8.3 **Repossession of Licensed Programs.** This Agreement is executory in nature and so long as Licensee has any continuing obligations hereunder, Spatial shall be entitled to protect the Licensed Programs and, for this purpose, in the event that Licensee fails promptly to perform any obligation under this Agreement which would fully protect the proprietary rights of Spatial, Licensee hereby gives Spatial the right to repossess the Licensed Programs. This right shall continue notwithstanding the termination or expiration of this Agreement for any reason and is without prejudice to any accrued rights of Spatial hereunder.
- 8.4 **Independent Contractor.** Licensee's relationship to Spatial is that of an independent contractor, and neither party is an agent, employee or partner of the other. Neither party nor its agents will have, nor will it represent to any third party that it has, any authority to act on behalf of or bind the other party.
- 8.5 **Force Majeure.** Notwithstanding anything in this Agreement to the contrary, no default, delay or failure to perform on the part of Spatial will be considered a breach of this Agreement if such default, delay or failure to perform is shown to be due to causes beyond Spatial's reasonable control.
- 8.6 **Waiver.** The failure of either party to exercise any right shall not be construed to be a waiver unless agreed upon in writing. A waiver in any one instance will not constitute an amendment to this Agreement or indicate any continued waiver of such right on any other occasion.
- 8.7 **Survival.** The provisions of this Agreement that, by their sense and context, are intended to survive performance by either or both parties shall also survive the completion, expiration, termination or cancellation of this Agreement. The confidentiality obligations set forth in this Agreement shall survive termination of this Agreement and shall remain in effect until the Confidential Information enters the public domain or five (5) years following the date of receipt of Confidential Information, whichever occurs first.
- 8.8 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the state of Colorado without regard to its conflicts of laws principles. This Agreement shall not be governed by statutes on the International Sale of Goods, including the United Nations Convention on Contracts for the International Sales of Goods. *The parties specifically waive their right to a jury trial.*
- 8.9 **Notwithstanding** Section 8.2, the existence of this Agreement may be disclosed for business purposes.
- 8.10 **Entire Agreement / Amendments.** This Agreement constitutes the entire agreement between the parties relating to the subject matter hereof and supersedes all proposals, oral or written, and all communications between the parties relating to this Agreement. The terms and conditions of this Agreement will prevail against any variance submitted by Licensee through purchase order or other written instrument. This Agreement may only be modified by written amendment signed by both parties.

**Licensee acknowledges having read this Agreement, understanding it, and agrees to be bound by its terms and conditions.**



**LIST OF LICENSED PROGRAMS**

**THE SPATIAL UNIVERSITY PACKAGE** includes the following components:

- ACIS® 3D Modeler (with HOOPS/3DAF)
- ACIS® Deformable Modeling
- HOOPS/3D Application Framework with HOOPS Stream/Toolkit



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