

# STANDARD TERMS AND CONDITIONS

## (Professional Services Agreement)

### 1. SERVICES AND MILESTONES

1.1 Dassault Systemes Canada Inc. and its Affiliates (“GEOVIA”) agree to provide the Client with the Services outlined in an agreed statement of work signed (either together or in counterparts) by both parties (“SOW”). In return, the Client agrees to pay GEOVIA the non-refundable, non-reimbursable professional services fees (the “Service Fees”) in the amounts, at the milestones and payment schedule set out in the relevant SOW on the terms set out in this Agreement. The Client further agrees that it shall be responsible for the payment of any testing and/or certification fees in connection with the Services listed in the relevant SOW, and identified to the Client by GEOVIA in the SOW.

1.2 GEOVIA will render all Services provided under this Agreement and any SOW in a professional and workmanlike manner. GEOVIA may procure its affiliates and subcontractors to perform certain of its obligations and services hereunder and, for purposes of this Agreement, all references to GEOVIA will be deemed to include such affiliates and subcontractors.

1.3 The Client agrees to cooperate with and provide GEOVIA with such technical assistance as is reasonably necessary for GEOVIA to understand Customer’s requirements and equipment so that GEOVIA may perform the Services in the relevant SOW. In particular, and without limiting the generality of the foregoing, the Client will, free of charge to GEOVIA:

- (i) supply all pertinent data in appropriate and usable form and information and give such assistance as may reasonably be requested by GEOVIA to perform such Services and in particular provide GEOVIA with such specific and detailed information regarding Customer’s business systems, procedures and hardware as GEOVIA may reasonably request;
- (ii) grant licences or obtain licences for such software as may be reasonably necessary for GEOVIA to perform the Services; GEOVIA acknowledges that no transfer of ownership or assignment of rights shall be deemed to arise from such licenses;
- (iii) make available to GEOVIA Customer’s facilities, computer resources, software programs, personnel, and business information as will be required for GEOVIA to perform any Services hereunder; and
- (iv) perform such additional duties and responsibilities as required to execute the applicable SOW.

If the Client fails to fulfill its responsibilities in a proper and timely manner and such failure is a direct cause of a delay in the performance of its Services or results in additional cost to GEOVIA, then GEOVIA will provide to the Client a written specification of such delay and GEOVIA’s estimate of the resulting cost (if any). The Client will pay to GEOVIA the cost at GEOVIA’s Standard Rates and any time limits for performance will be extended by a period equal to the length of the delay. In addition, the parties agree to negotiate in good faith to adjust the Service Fees should the project prove to be more difficult or time consuming than anticipated by the parties at the time of signing the relevant SOW. The Client and GEOVIA agree that the data supplied to GEOVIA from the Client is the Client’s property. If the data is provided to GEOVIA in an unusable manner GEOVIA will endeavour to clean and modify the data to make it useful to the project. Any efforts to this end are not part of the initial scope of work and the Client agrees to pay for all addition effort on a time and materials basis. Furthermore, if GEOVIA delivers its work product only to find out that the Client supplied data was faulty the Client is liable to fulfill the contract in terms of its payment obligations.

1.4 The work product created from GEOVIA’s Services is intended for the sole use of the Customer. GEOVIA’s services work products are not authorized to be used or relied upon by any third party, without GEOVIA’s prior written consent. The findings presented in this work product are those that can be reasonably determined from the data and from our knowledge of current and professional practice. Any limitations resulting from the data are identified where possible but both these and our findings may require amendments should additional information become available.

1.5 For each SOW, including without limitation any SOW that may be incorporated into this Agreement GEOVIA and the Client will develop a project plan that identifies each party’s responsibilities for such Services. The project plan will describe in detail the tentative schedule and the scope of Services that GEOVIA will provide. The Client will establish the overall project direction, including assigning and managing Customer’s project personnel team. The Client must assign a project manager who will assume responsibility for management of the project. The Client must ensure that any equipment is operational, accessible and supported at the times agreed to by the parties in the project plan. If the parties do not develop a project plan in any instance, GEOVIA will nonetheless provide the Client with Services on an as-directed basis in accordance with the relevant SOW.

1.6 The parties agree that once the Client and GEOVIA have scheduled a specific time during which GEOVIA will provide Services under the terms of this Agreement and any SOW, the Client will be obligated to pay GEOVIA for such Services as if GEOVIA had performed such Services on the date scheduled, unless the Client has notified GEOVIA that the Client would like to reschedule or cancel the provision of such Services at least 10 business days prior to the date which GEOVIA is scheduled to perform such Services. The Client agrees to pay any rescheduling costs associated with resources required to complete the Services under a SOW. Without limiting the foregoing, nothing in this Section 1.5 will act in any way to reduce Customer’s obligation to GEOVIA in connection with any obligations hereunder. Services hereunder may not be terminated by the Client other than as specifically set out herein.

1.7 The Client acknowledges input is required from the Client and third parties in order for GEOVIA to meet the milestones dates set out in an SOW. Accordingly, the Client acknowledges that the milestone dates are estimates only and GEOVIA shall have no liability for not meeting the milestone dates. In the event of delay where input from the Client and/or third parties was not provided in a timely manner, the milestone dates may be rescheduled to a later date.

1.8 If the Client postpones the performance of Services under this Agreement and any SOW for more than 90 days, the Client will be deemed to have terminated this Agreement and the relevant SOW. Any payments owing shall be immediately due and payable to GEOVIA.

1.9 If the Client makes, or causes another person to make, any modifications, changes or customizations to any Materials or Improvements without GEOVIA’s express authorization (collectively, “Non-GEOVIA Modifications”), GEOVIA will not be obligated to correct problems caused by, or provide assistance in respect of, any such Non-GEOVIA Modifications.

1.10 Any deliverables under this Agreement or a SOW will be subject to such testing and review by the Client as required under the relevant SOW, where compliance of such deliverables with any of Customer’s requirements referred to the relevant SOW is agreed to be the sole criteria for acceptance. The Client shall notify GEOVIA in writing of any faults or deficiencies which the Client believes need to be corrected or amended in any deliverables within 10 Business Days of delivery of such deliverables (the “Acceptance Testing Period”). Upon any such faults or deficiencies being corrected or amended, the provisions of this clause will again apply. If the Client does not respond within the Acceptance Testing Period, then the Client will be deemed to have accepted the applicable deliverables, and GEOVIA shall be under no further obligation to provide any repairs or fixes for such deliverables thereafter.

### 2. CHANGE REQUESTS

2.1 The Client may make change requests (“Change Request”) to the Services and/or an SOW in writing to GEOVIA. Change Requests must include a full description of the requested change. GEOVIA agrees that it shall consider Change Requests in a timely manner and provide the Client with a written report of the Change Request in terms of the consequences to, but not limited to, such SOW, timelines and any additional Service Fees and expenses. Upon the parties’ agreement to the Change Request and all consequences of such change, GEOVIA shall implement the Change Request and such Change Request shall form part of the relevant SOW. No Change Request will be implemented unless both parties approve the Change Request in writing.

### 3. FEES, PAYMENT AND TAXES

3.1 Fees and other amounts payable under this Agreement are as set out and payable by the Client to GEOVIA as follows:

Service Fees for any Services or additional work as agreed between the parties, as set out in the relevant SOW and, if applicable, any Change Request, including without limitation, reimbursement of GEOVIA’s reasonable travel and living expenses; and

3.2 Except as otherwise agreed between the parties, GEOVIA shall invoice the Client any applicable fees and reimbursable expenses on a monthly basis, and based upon acceptance of certain milestones as set out in a relevant SOW from time to time. The Client shall pay GEOVIA within 30 business days from receipt of an invoice by wire transfer to a bank account pursuant to instructions provided by GEOVIA to Customer, or by providing to GEOVIA a letter of credit, in form and from such financial institution as is satisfactory to GEOVIA, in its sole discretion, in the full amount of such invoice.

3.3 Expense reimbursement is subject to any statutory reimbursement limitations imposed on the Client contractors, and the Client will provide GEOVIA with a copy of such limitations before GEOVIA incurs expenses. All costs will be charged at cost plus a ten percent (10%) fee to cover administrative expenses.

3.4 If evacuation of GEOVIA staff (employee or contractor) become necessary for whatever reason from the customer’s facility for matters including but not limited to medical emergency, political or civil unrest, or do to a natural disaster the Client is responsible for arranging and funding the evacuation at a standard no less applicable to other employees, contractors, ex-patriot employees or contractors, or management. If evacuation is not made available by the Client then GEOVIA shall make appropriate arrangements to extract our employees and contractors, the cost

of which will be reimbursed by the Client in accordance with section 3 of this Agreement. If GEOVIA is required to provide security to GEOVIA staff and consultants in getting to, from and while at the Customer's facility, the Client will reimburse GEOVIA in accordance with section 3 of this Agreement.

3.5 GEOVIA may charge a late fee on any payment that is past-due under this Agreement. Late fees will be calculated at one and a half percent (1.5%) per month or annualized at eighteen percent (18%) per annum on the compounded balance of the account.

3.6 Applicable tax amounts (if any) are not included in the fees set forth in this Agreement and any agreed SOW. The Client shall pay all duties and taxes (including any *ad valorem* taxes) imposed by any governmental authority with respect to any Services pursuant to an SOW. In the event any exemptions to taxes or charges are available which the Client wishes to claim, the Client shall provide GEOVIA with reasonable documentary evidence of such exemption.

3.7 All monetary amounts under this Agreement are stated in the applicable SOW in the appropriate currency. If no currency is specified the amounts due in a SOW are payable to GEOVIA in US Dollars.

#### **4. CONFIDENTIALITY**

4.1 Confidential Information shall be disclosed either: (a) in writing and conspicuously marked as being the disclosing party's Confidential Information; or (b) orally, visually or by delivery of non-tangible items, which is identified as Confidential Information at the time of disclosure and confirmed and identified in writing within fifteen days of disclosure. Each party will keep strictly confidential and will not disclose or use for any purpose other than for performing its obligations under this Agreement, or any SOW hereunder, any Confidential Information of the other party, for a period of three years from receipt of such Confidential Information. Neither party will obtain any interest in the other party's Confidential Information by reason of this Agreement or by reason of the disclosure of such Confidential Information pursuant to this Agreement. Each party will take the steps reasonably necessary to protect the confidentiality of the other party's Confidential Information. Each party may disclose the other party's Confidential Information only to its directors, officers, agents, employees, and professional advisors (and, in the case of GEOVIA, to its direct and indirect affiliates, and its and their respective directors, officers, agents, employees and professional advisers) who have a need to know such Confidential Information for the performance of this Agreement, provided that such directors, officers, agents, employees and professional advisors are bound by obligations of non-disclosure and non-use substantially no less protective in scope than those contained in this Article 4. Nothing in this Article 4 will restrict a party's use or disclosure of its own Confidential Information.

4.2 Notwithstanding any provisions of this Article 4, either party may disclose the Confidential Information of the other party to applicable regulatory authorities or if required by judicial or administrative process or timely disclosure requirements imposed by law or by stock exchange policies, provided that such party first provides to the other party prompt notice of such required disclosure and maintains confidentiality to the greatest extent permissible.

4.3 Each party agrees not to publicize or disclose the existence or terms of this Agreement or any SOW to any third party, without the prior written consent of the other, except as may be required by law or legal process.

#### **5. SOLICITATION & RECRUITMENT**

5.1 The Client Neither Party shall during the term of this Agreement and for a period of 12 (twelve) months following its termination, persuade, induce, encourage or procure any employee employed by or on behalf of the other Party ("Non-Recruiting Party"), and which employee is directly involved in the execution of this Agreement, to become employed by or contracted to or be associated directly or indirectly in any manner whatsoever with the Party or in any business of the Party that is similar to or competitive with the Non-Recruiting Party's business. The Client agrees to not recruit or offer for hire any GEOVIA employee that had been engaged in a project

5.2 Should a Party be in breach of the provisions of clause 5.1, the soliciting Party shall pay to the non-soliciting Party within 30 (thirty) days of receipt of notice to that effect, the sum equal to 100% (one hundred percent) of the annual wage cost to company of such personnel, by way of compensation and costs of recruitment and training associated with the replacement of such personnel member and the Parties agree that such conduct shall constitute a material breach of the provisions of clause 5.1 and that the amount contemplated herein shall constitute pre-estimated damages to be suffered by the non-soliciting Party as a result of the breach of this clause.

#### **6. INTELLECTUAL PROPERTY**

6.1 Upon payment of the applicable fees, GEOVIA shall grant to Client a perpetual, worldwide, non-transferable and non-exclusive license to use Service Materials for its own internal purposes only. No right to: (1) adapt, copy, distribute or modify such Service Materials (except for limited rights of copying, if any, as are set forth in the applicable SOW) or prepare derivative works based upon such Service Materials or (2) to authorize others to do any, some, or all of the foregoing, is granted to Customer, unless Customer obtains GEOVIA's prior written permission through an amendment of this Agreement.

6.2 Unless otherwise provided in a separate licence agreement with GEOVIA, no express or implied term of this Agreement conveys to the Client any patent rights, copyrights, trademarks, trade names, know-how, trade secrets and other intellectual property rights which are protected by domestic and international laws and regulations (collectively, "**Proprietary Rights**") in any Services, Materials, software or other products provided by GEOVIA, and the Client acknowledges GEOVIA's exclusive rights thereto. No provision of this Agreement will be construed to grant to Customer, either expressly, by implication or by way of estoppel, any licence under any other Proprietary Rights of GEOVIA covering or relating to any other product or invention of GEOVIA, or any combination of the Services with any other Materials, software or other products of GEOVIA. Any rights not expressly granted in this Agreement are expressly reserved by GEOVIA.

6.3 GEOVIA shall be the sole owner of any and all modifications, enhancements, changes or new proprietary information that is developed in relation to its Services, Materials, software or other products during the term of this Agreement ("**Improvements**") including, without limitation, Improvements generated by any and all suggestions, ideas, concepts, comments or feedback ("**Feedback**") that is provided to GEOVIA by the Client in relation to the Services or other Proprietary Rights and GEOVIA shall have all rights associated with any Feedback. To the extent such Improvements do not immediately vest in GEOVIA, the Client hereby assigns all right, title and interest in and to such Improvements to GEOVIA and covenants and agrees to do all such other things and to execute, or have executed, without further consideration, such documents as may be required by GEOVIA to obtain and maintain the Proprietary Rights and for assigning, transferring, conveying and securing to GEOVIA the exclusive right, title, property, benefit and interest in and to such Proprietary Rights and all Improvements.

6.4

#### **7. WARRANTY**

7.1 GEOVIA represents and warrants as follows:

(a) Company warrants that the Services and Deliverables that Company provides Client shall, for ninety (90) days from the date of delivery to Client, materially conform as described in the applicable SOW, subject to the terms of this Section. Company does not, however, warrant or represent that Services and Deliverables will be error free. Company is not responsible for (i) any modification of a Deliverable made by Client or a third party without Company's consent; or (ii) any use of a Deliverable in combination with items not provided by Company (but only to the extent such combination created the non-conformity). In the event of a noncompliance with this ninety (90) day warranty, Company shall promptly correct, replace or modify the applicable Service or Deliverable without charge. If Company fails to correct the non-complying portion of the applicable Service or Deliverable within sixty (60) days after notice of the non-conformity, as Client's sole remedy for breach of the foregoing warranty, Company shall refund to Client all fees paid to Company for the non-conforming portion of the applicable Service or Deliverable.

(b) Unless expressly provided in a SOW, Company shall have no obligation to support, maintain or enhance any computer software, documentation, materials or Deliverable provided under this Agreement.

(c) Any written or oral statements concerning results or goals that may be attained during the performance of Services and all surveys, forecasts, recommendations and opinions contained in any proposal, report, presentation, or Deliverable are made on the basis of then current information available to Company, including, but not limited to, information provided by Client. Under no circumstances shall any such statement be deemed or construed as a representation, undertaking or warranty, whether express or implied, of achievable results or goals.

(d) Company warrants that it, and not Client, is responsible for the employer/employee relationship with its personnel assigned to provide Services and that it shall pay all related employment taxes, maintain any legally required employment-related insurance and take all other actions legally required as an employer.

7.2 EXCEPT AS EXPRESSLY SET FORTH ABOVE, ANY AND ALL SERVICE MATERIALS, DOCUMENTATION AND SOFTWARE TOOLS (COLLECTIVELY, "MATERIALS") PROVIDED BY GEOVIA UNDER THIS AGREEMENT ARE PROVIDED "AS IS" AND AT CUSTOMER'S SOLE RISK. EXCEPT AS SET FORTH IN THIS AGREEMENT, GEOVIA MAKES NO OTHER WARRANTY, REPRESENTATION OR CONDITION AND, TO THE MAXIMUM EXTENT PERMITTED BY LAW, GEOVIA EXPLICITLY DISCLAIMS ALL WARRANTIES, REPRESENTATIONS AND CONDITIONS, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, OF ANY KIND WHATSOEVER WITH RESPECT TO ANY SERVICES AND/OR MATERIALS PROVIDED UNDER THIS AGREEMENT OR ANY SOW, IN WHOLE OR IN PART, INCLUDING BUT NOT LIMITED TO TITLE, QUALITY, MERCHANTABILITY, WORKMANSHIP, HIDDEN DEFECT OR FITNESS FOR A PARTICULAR PURPOSE OR USE. GEOVIA EXPRESSLY DOES NOT WARRANT THAT THE SERVICES OR MATERIALS IN WHOLE OR IN PART, WILL BE ERROR FREE, OPERATE WITHOUT INTERRUPTION, OR DELIVERED FREE OF ANY THIRD PARTY CLAIMS BY WAY OF INFRINGEMENT OR OTHERWISE. GEOVIA DOES NOT WARRANT NOR MAKE ANY CONDITION OR REPRESENTATION THAT THE SERVICES OR MATERIALS WILL MEET THE REQUIREMENTS OF CUSTOMER. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY GEOVIA OR OTHERS SHALL CREATE A WARRANTY, CONDITION OR REPRESENTATION OR IN ANY WAY EXTEND THE SCOPE OF THE PROVISION OF THE MATERIALS.

## 8. LIMITATION OF LIABILITY

8.1 GEOVIA'S LIABILITY FOR DAMAGES IN CONNECTION WITH THE SERVICES, MATERIALS OR ANY OTHER MATTER RELATING TO THIS AGREEMENT WILL NOT EXCEED THE FEE THAT THE CLIENT ACTUALLY PAID TO GEOVIA FOR SUCH SERVICES, MATERIALS OR OTHER MATTER (OR, IF NO DISCRETE FEE IS IDENTIFIED, THE FEE REASONABLY ASCRIBED BY GEOVIA) IN THE 12 MONTH PERIOD PRIOR TO THE OCCURRENCE OF THE CAUSE OF ACTION GIVING RISE TO THE CLAIM FOR THE MATTER WHICH CAUSED THE DAMAGES.

8.2 NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, IN NO EVENT WILL GEOVIA BE LIABLE TO THE CLIENT FOR ANY SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, WHETHER BASED ON BREACH OF CONTRACT, CIVIL LIABILITY, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE) PRODUCT LIABILITY, OR OTHERWISE, AND WHETHER OR NOT GEOVIA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

## 9. INDEMNITY BY CUSTOMER

9.1 The Client shall indemnify and hold harmless GEOVIA, its employees, contractors, officers, directors, representatives, successors, assigns and agents from and against any and all claims, suits, demands, judgments, losses, injuries, obligations, liabilities, costs, damages, and expenses of whatever form or nature, including, without limitation, attorneys' fees, experts' and consultants' fees, and other costs of legal defense (collectively, "Damages") resulting in whole or in part from: (a) the negligent acts or omissions or willful misconduct of the Client or Customer's employees, contractors, officers, directors, agents or representatives (the "Client Personnel"); (b) Customer's, or the Client Personnel's, use of the Services, Materials, GEOVIA's Confidential Information, or any Proprietary Rights therein, or failure to use the Services, Materials, GEOVIA's Confidential Information, or any Proprietary Rights therein, in accordance with the terms and conditions of this Agreement or the relevant SOW; (c) Customer's or the Client Personnel's violation of the rights of any third parties; or (d) any other breach of this Agreement or the relevant SOW by the Client or the Client Personnel; provided that the foregoing indemnity obligation shall not apply to the extent that any Damages are determined by a final judgment to be caused by the negligence or willful misconduct of GEOVIA.

## 10. TERMINATION

10.1 The Client may terminate for convenience any SOW, or any portion thereof, by providing a thirty (30) day written notice to Company. Upon receipt of such notice, Company will immediately stop all activities associated with the terminated SOW and make no further deliveries. Company will be paid for Services performed through the date of termination, and any other unrecoverable costs and expenses that Company has paid or is obligated to pay relating to its performance for the term of the SOW or termination of the SOW. Such payment shall constitute Client's entire liability in case of any such termination.

10.2 GEOVIA may terminate this Agreement and all SOW's in effect under this Agreement immediately without any further obligation or any liability to the Client if the Client is in material breach of this Agreement or any SOW and the Client does not remedy such material breach within 10 business days after its receipt of notice of such breach from GEOVIA.

10.3 The parties may mutually agree in writing to terminate this Agreement and all SOW's in effect under this Agreement at any time.

10.4 The Client shall pay all amounts owing under this Agreement at the termination date. For Services performed on a Time and Materials basis, the Client shall pay the applicable Fees and all related reimbursable expenses for the Services completed through the termination date. For Services performed on a "fixed price" basis for the Services as a whole, the Client shall pay any outstanding amounts yet to be paid of the full amount of the fixed-price. For Services performed on a "fixed price" basis for each successive milestone of the overall project, the Client shall pay any outstanding amounts yet to be paid of the full amount of the fixed price for the current milestone and any unpaid amounts for all previous milestones. Upon expiry or termination of this Agreement, the Client must promptly return all copies of GEOVIA's Confidential Information in Customer's possession.

10.5 The following shall survive termination of this Agreement: Articles 3, 4, 5, 7, 8, 9 and 11.

10.6 The right of either party to terminate is not an exclusive remedy, and either party shall be entitled, in appropriate circumstances, alternatively or cumulatively, to damages for breach of this Agreement, to an order requiring performance of the obligations of this Agreement, or to any other remedy available under the laws of the applicable jurisdiction.

## 11. GENERAL

11.1 **Force Majeure.** Neither party shall be liable for any delay or failure to perform hereunder due to floods, riots, strikes, freight embargoes, acts of God, acts of war or hostilities of any nature, laws or regulations of any government (whether foreign or domestic, federal, provincial, state, county or municipal), or any other similar cause beyond the reasonable control of the party affected, except that lack of funds or credit shall not constitute a force majeure. A party relying on such an event to excuse its performance hereunder shall immediately notify the other party in writing of the nature of that event and the prospects for that party's future performance and shall thereafter, while that event continues, respond promptly and fully in writing to all requests for information from the other party relating to that event and those prospects. A party relying on such an event to excuse its performance hereunder shall not be excused from paying all amounts as they become due and payable by that party under this Agreement.

11.2 **Waivers and Amendments.** The delay or failure by either party to exercise or enforce any of its rights under this Agreement shall not constitute or be deemed a waiver of that party's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right. No amendment or waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against which it is sought to be enforced.

11.3 **Precedence.** Each SOW will be governed by the terms of such SOW. In the event of any conflict between these standard terms and conditions in this Schedule and a SOW, the provisions of this Schedule will prevail, unless expressly stated otherwise.

11.4 **Severability.** If any provision of this Agreement is held to be void or unenforceable, the remaining provisions shall remain valid and shall be construed in such a manner as to achieve their original purposes in full compliance with the applicable laws and regulations.

11.5 **Entire Agreement.** This Agreement, and any SOW hereunder, contains the entire understanding of the parties with respect to its subject matter, and supersedes and extinguishes all prior oral and written communications between the parties about its subject matter. Any purchase order or similar document which is issued by the Client in connection with this Agreement does not modify this Agreement. No modification of this Agreement will be effective unless it is in writing, is signed by each party, and expressly provides that it amends this Agreement.

11.6 **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. With the exception of GEOVIA's right to subcontract hereunder and Geovia's right to assign, delegate or otherwise transfer (including without limitation, by way of merger or contribution), any of its rights or obligations hereunder and/or otherwise subcontract any of its obligations hereunder, in whole or in part, to any DS Group Company, neither party shall assign, delegate or otherwise transfer any right or obligation hereunder without the prior written consent of the other party, such consent not to be unreasonably withheld. Any transfer of this Agreement through merger or acquisition does not require consent. DS Group Company means Dassault Systèmes, a French "société anonyme" or any entity in which Dassault Systèmes, directly or indirectly, (i) owns more than 50% of the outstanding equity or ownership interest, or (ii) has the power to designate the managing authority.

11.7 **Written Communications.** All notices, orders and other communications provided for hereunder shall be in writing and shall be delivered by registered mail, courier, facsimile, or electronic mail as set forth in the relevant SOW or as otherwise notified in writing to the other party and shall be effective upon receipt. In addition, any notices to GEOVIA must include a copy to:

Dassault Systemes Canada Inc.  
Attention: CFO or General Counsel  
1066 West Hastings Street, Suite 1100,  
Vancouver BC, V6E 3X1,  
Canada  
Fax: 1.604.684.3541

11.8 **Execution in Counterparts.** This Agreement and any Appendices, SOW's and Change Requests forming part of the Agreement, may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute but one and the same agreement. This Agreement may be executed or delivered by facsimile or electronic mail. Any such facsimile or electronic mail transmission shall constitute the final agreement of the parties and conclusive proof of such agreement.

11.9 **Informal Dispute Resolution.** During the Term of this Agreement, prior to the initiation of any litigation (other than to seek injunctive or similar interim relief), the parties shall first attempt to resolve their dispute on an informal basis in accordance with this Section. The party believing itself aggrieved (the "**Invoking Party**") shall call for management involvement in the dispute negotiation by written notice to the other party. The parties shall use reasonable commercial efforts to arrange personal meetings and/or telephone conferences as needed between the negotiators for the parties, who shall be senior management executives for each party. If a resolution to a dispute is not achieved within 60 days, then either party shall have the right to either: (a) subject to Sections 10.2 and 10.4, terminate this Agreement and all SOW's in effect under this Agreement; or (b) commence litigation proceedings in a trial to the court. Each party agrees to continue performing its obligations under this Agreement while any dispute is being resolved unless and until such obligations are terminated by the termination or expiration of this Agreement.

11.10 **Governing Law.** This Agreement shall be governed and construed in accordance with the laws in effect in the state or province of the Federal jurisdiction in which the GEOVIA office performing the engagement is located. In the event of a dispute, parties hereby submit to the exclusive jurisdiction of the courts in which the GEOVIA office performing the engagement is located. In the case of a dispute of the laws or jurisdiction in this section the laws of England and Wales and the courts of England and Wales will apply.

11.11 **Independent Contractors.** Each party hereto is an independent contractor and not the legal representative or agent of the other party for any purpose and shall have no right or authority to incur, assume or create in writing or otherwise, any obligations over the other party.

## 12. DEFINITIONS

In this Agreement, the following terms shall have the respective meanings ascribed to them as follows:

"**Acceptance Testing Period**" has the meaning ascribed to that term in Section 1.10.

"**Affiliate**" means any corporation, association or other entity who directly or indirectly controls, is controlled by, or is under common control with, the respective party, where "**control**" means the possession of 50% of common stock and/or voting rights of such corporation, association or other entity.

"**DS Group Company**" means Dassault Systèmes, a French "société anonyme" or any entity in which Dassault Systèmes, directly or indirectly, (i) owns more than 50% of the outstanding equity or ownership interest, or (ii) has the power to designate the managing authority.

"**Business Day**" means any day except Saturday, Sunday or any day on which banks are generally not open for business in the City of the GEOVIA office performing the services under this Agreement.

"**Change Request**" has the meaning ascribed to that term in Section 2.1.

"**Claims**" has the meaning ascribed to that term in Section **Error! Reference source not found.**

"**Confidential Information**" means any information, technical data or know-how including, but not limited to, that which comprises or relates to the party's confidential and proprietary trade secrets, hardware, software, including source code and object code, screens, specifications, designs, plans, drawings, data, prototypes, discoveries, research, developments, processes, procedures, intellectual property, market research, marketing techniques and plans, business plans and strategies, the Client names and other information related to customers, price lists, pricing policies and financial information or other business and/or technical information and materials, in oral, demonstrative, written, electronic, graphic or machine-readable form and any analyses, compilations, studies or documents, and also includes the terms of this Agreement and any related SOW; Confidential Information excludes any information that: (i) is or becomes publicly available without breach of this Agreement; (ii) is disclosed to a party by a third party, provided such information was not obtained by said third party, directly or indirectly, from the other party on a confidential basis; (iii) is already known to a party without confidentiality obligations; or (iv) is independently developed or discovered by a party without reference to Confidential Information of the other party. Confidential Information does not include ideas and concepts that may occur to individuals who have been exposed to Confidential Information.

"**The Client Personnel**" has the meaning ascribed to that term in Section 9.1

"**Damages**" has the meaning ascribed to that term in Section 9.1

"**Invoking Party**" has the meaning ascribed to that term in Section 11.9.

"**Materials**" has the meaning ascribed to that term in Section 7.2.

"**Non-GEOVIA Modifications**" has the meaning ascribed to that term in Section 1.9.

"**Services**" means such professional services to be provided by GEOVIA to the Client in relation to the Licensed Software, as defined in any agreed SOW.

"**SOW**" or "**Statement of Work**" means each statement of work as agreed and signed by the parties.

"**Time and Material Basis**" means the provision of Services and goods based on the actual amount and cost of time and materials required for such provision.