

# Software License Agreement for PPCD ApS

This software license agreement (“**Agreement**”) is an agreement between you, as the licensee, (“**Licensee**”) and PPCD ApS, a Danish company registered under company number 39377594, as the licensor (“**PPCD**”).

## 1. SUBSCRIPTION TO LICENSE

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- 1.1 In consideration for the License Fees described in Section 5 and subject to the terms and conditions of this Agreement, PPCD will provide the Licensee a license as set forth in Section 2 and the Support Services as set forth in Section 3.
- 1.2 The Licensee shall expressly accept this Agreement on registration of an account at [www.PPCD.dk](http://www.PPCD.dk) by checking the appropriate checkbox.

## 2. THE LICENSE

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- 2.1 PPCD grants the Licensee a non-exclusive, non-transferable, limited internal business use license to use the Online Tool ordered by the Licensee at [www.PPCD.dk](http://www.PPCD.dk) (“**Software**”) in accordance with Section 4 during the license term solely for the intended purpose as described at [www.PPCD.dk](http://www.PPCD.dk).
- 2.2 A license for an Online Tool can only be used by one user at a time.
- 2.3 The Licensee shall not
- i) license, sublicense, rent, sell, resell, transfer, assign, distribute, or otherwise commercially exploit or make available to any Third Party the Software in any way,
  - ii) modify, disassemble, decompile or reverse engineer the object code of the Software (except as permitted by applicable law) nor permit any Third Party to do so,
  - iii) create “links” to the Software, or
  - iv) reverse engineer or access the Software in order to (a) build a competitive product or service, (b) build a product using similar ideas, features, functions or graphics of the Software, (c) copy any ideas, features, functions or graphics of the Software, or (d) for the purposes of investigating possible patent infringement.
- 2.4 The Licensee is responsible for all activity occurring under the Licensee’s accounts and shall abide by all applicable local, state, national, and foreign, laws, treaties and regulations in connection with the use of the Software, including those related to data privacy, international communications, and the transmission of technical or personal data.

- 2.5 The Licensee shall immediately notify PPCD of any unauthorized use of any password or account or any other known or suspected breach of security.

### **3. SUPPORT SERVICES**

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- 3.1 During the license term, PPCD will use best efforts to provide the support services set forth in this Section 3 for the Software licensed by Licensee from PPCD ("**Support Services**").
- 3.2 The Support Services will be provided only for the Software and not in respect of the interaction between the Software and the Licensee's IT equipment, browser, software, etc. The Support Services do not include use of the Software and do not include training and education related to the Software.
- 3.3 PPCD shall make Improvements available for the Licensee. PPCD is entitled to make any Improvements to the Software on a continuous basis when so deemed necessary by PPCD. Such Improvements will in no way restrict or alter the Licensee's obligations to PPCD, and the Licensee will not become entitled to claim any remedies for breach against PPCD as a result of such changes.
- 3.4 PPCD is entitled to change the functionality of the Software, including removing and/or changing features to the extent deemed required by PPCD to generally improve the Software. It is for PPCD to determine which functionalities meet this requirement. Such changes in the functionality of the Software will in no way restrict or alter the Licensee's obligations to PPCD, and the Licensee will not become entitled to claim any remedies for breach against PPCD as a result of such changes of the PPCD.
- 3.5 PPCD will be available for problem notification between 09:00-17:00 (CET) on all business days that are not holidays in Denmark. Any problems can be reported to [support@ppcd.dk](mailto:support@ppcd.dk). PPCD will use best endeavours to resolve any problems without undue delay.
- 3.6 PPCD is only obligated to provide Support Services for the at any time current version of the Software, which is accessible at [www.PPCD.dk](http://www.PPCD.dk).

### **4. LICENSE ORDERING, DELIVERY AND RENEWAL**

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- 4.1 The Licensee has ordered the types and quantities of licenses to use the Online Tool for the license term specified under the Licensee's billing details, which are found under the Licensee's account settings at [www.PPCD.dk](http://www.PPCD.dk).

- 4.2 All licenses shall be deemed delivered immediately upon the Licensee's confirmation of the order for licenses, provided the licensed Software are accessible by the Licensee.
- 4.3 After the first license term, the license will renew automatically for subsequent license terms equal in duration as the first license term, unless terminated in accordance with this Agreement. The License Fees for a subsequent license term will be based on the License Fees paid in the prior license term plus any Increases.

## **5. LICENSE FEES AND PAYMENT TERMS**

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- 5.1 The Licensee shall pay PPCD the fees ("**License Fees**") for the Software as set forth in the Licensee's order in PPCD's web shop at [www.PPCD.dk](http://www.PPCD.dk) for each license term. The Licensee's total payable License Fees are specified under the Licensee's billing details, which are found under the Licensee's account settings at [www.PPCD.dk](http://www.PPCD.dk).
- 5.2 Unless otherwise agreed in writing, the Licensee shall pay the License Fees by credit card. The License Fees are charged on the Licensee's credit card at the end of each month, and an invoice with the charged amount will be sent to the Licensee. All payments shall be in the currency stated in the Licensee's order, see Section 4.1.
- 5.3 If sufficient funds are not available on the Licensee's credit card to cover the monthly payment, and if PPCD has not received payment for any amounts due more than 5 days after due date, in addition to all other remedies that may be available, PPCD may (i) suspend the Support Services for the Software with immediate effect, and/or (ii) suspend or revoke its grant of a license hereunder.
- 5.4 The License Fees are exclusive of any applicable taxes, VAT, duties, and tariffs. All paid License Fees are non-refundable and non-cancellable and shall be paid without any deduction or tax withholding.
- 5.5 PPCD shall be entitled to charge interest on overdue amounts at a rate according to the Danish Interest Act.

## **6. CHANGE IN THE NUMBER OF LICENSES**

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- 6.1 The Licensee may at any time subscribe to new Online Tools, and /or increase and/or decrease the number of licenses to an Online Tool. Changes can be made only under the Licensee's "User Access" page in the "Account" drop-down menu at [www.PPCD.dk](http://www.PPCD.dk).

- 6.2 Any changes come into effect immediately. The total Licensee Fee after the changes have come into effects are specified under the Licensee's billing details, which are found under the Licensee's account settings at [www.PPCD.dk](http://www.PPCD.dk).
- 6.3 When subscribing for new Online Tools, the fees for the new Online Tools for the rest of the license term, in which the changes come into effect, will be charged immediately.
- 6.4 When increasing the number of licenses to an Online Tool, the fees for the additional number of licenses for the rest of the license term, in which the changes come into effect, will be charged immediately.
- 6.5 When decreasing the number of licenses to an Online Tool, the paid fees for the decreased number of licenses for the rest of the license term, in which the changes come into effect, will be credited to the Licensee's "Customer Credit Balance", which is automatically applied towards the Licensee's next invoice. Upon termination of all licenses of the Licensee, the Licensee shall be entitled to a cash refund of the credits on the Licensee's "Customer Credit Balance", which shall be paid to the Licensee no later than 30 business days after the termination date.

## **7. LIMITED WARRANTY**

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- 7.1 The Software is licensed on an "as is" basis without warranties of any kind, unless otherwise expressly provided in this Section 6.
- 7.2 PPCD warrants that the Software does not contain any unauthorized code, virus, trojan horse, worm or other software routine or hardware components designed to permit unauthorized access, disable, erase, or otherwise harm software or hardware.
- 7.3 PPCD does not warrant that the Software will operate uninterrupted or error-free, or that the applications contained in the Software are designed to meet all of the Licensee's business requirements.
- 7.4 As the Licensee's sole and exclusive remedy and PPCD's entire liability for any breach of the warranties in this Section 6, PPCD will promptly repair or replace the Software which failed to meet this limited warranty.
- 7.5 All express or implied conditions, terms, representations, and warranties including, without limitation, any implied warranty of merchantability or fitness for a particular purpose are excluded to the extent allowed by applicable law.

## **8. INDEMNIFICATION**

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- 8.1 The Licensee shall indemnify and hold PPCD harmless from and against any and all claims, costs, damages, losses, liabilities, and expenses arising out of or in connection with the Licensee's use of the Software, including but not limited to unauthorized or unintentional use of the Software.
- 8.2 PPCD will defend any action brought against the Licensee based upon a claim that the Software infringes any patent or copyright in the sovereign legal jurisdiction of the Licensee, and will pay the costs, damages and reasonable attorneys' fees attributable to such claim that are finally awarded against the Licensee or agreed upon by PPCD in settlement, provided that Licensee: (a) promptly notifies PPCD within 15 days in writing of the claim; (b) grants PPCD control of the defense and settlement of the claim; and (c) provides PPCD with all assistance, information and authority required for the defense and settlement of the claim.

## **9. LIMITATION OF LIABILITY**

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- 9.1 Except for the parties' warranty obligations in Section 6, indemnification obligations in Section 0, confidentiality obligations in Section 11, the Licensee's payment obligations in Section 5, each party's liability to the other from all causes of action and all theories of liability will not exceed the total Licensee Fees paid to PPCD by the Licensee in the 12 months preceding the date on which the claim first arose.
- 9.2 In no event will either party be liable to the other for any special, indirect, incidental or consequential damages (including product liability, loss of use, data, business or profits) arising out of or in connection with this Agreement or the use or performance of the Software or the Support Services, whether such liability arises from any claim based upon contract, warranty, tort (including negligence), Software liability or otherwise, and whether or not such party has been advised of the possibility of such loss or damage.
- 9.3 Notwithstanding Section 9.2, PPCD shall be liable for direct damages that are directly linked and attributed to the Software, provided (1) the damages are caused by erroneous calculations by the Software, and (2) the Licensee, the user and any other third party involved did not discover and, as professionals, could not have discovered or avoided the erroneous calculations (for example, if the calculations made by the Software shows unreasonable, unrealistic or nonsensical values, professionals could and should have discovered and avoided the erroneous calculations), and (3) the erroneous calculations are not directly or indirectly, fully or in part caused by wrong data or information provided by the Licensee, the user and/or any other third party involved. PPCD's liability under this Section 9.3 cannot exceed the highest amount of either: (i) the

amount calculated in accordance with Section 9.1, or (ii) the amount covered by PPCD's liability insurance at the time of the damages.

9.4 This section sets forth the entire allocation of risk as between the parties.

## **10. INTELLECTUAL PROPERTY RIGHTS**

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10.1 PPCD exclusively owns all worldwide right, title, interest and all other intellectual property right in and to all or any portion of the Software and any suggestions, ideas, enhancement requests, feedback, recommendations, or other information provided by the Licensee or any other party relating to the Software.

10.2 The Software is provided under a license. This Agreement does not constitute a sale to and does not convey to the Licensee any rights of ownership in or related to the Software or any other intellectual property rights owned by PPCD.

10.3 PPCD's name, logo, and the product names associated with the Software are trademarks of PPCD, and no right or license is granted to use them.

10.4 PPCD may refer to the Licensee as a client of PPCD on PPCD's website, in marketing materials, and in sales presentations.

## **11. NON-DISCLOSURE AND CONFIDENTIALITY**

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11.1 During the term and after termination of this Agreement, all confidential information of the parties shall be held in strict confidence.

11.2 Unless otherwise agreed to in advance, in writing, by the disclosing party or except as expressly permitted by a contract document between the parties, the receiving party shall not, except as required by law or court order or for the purposes of exercising its rights and carrying out its duties, use confidential information of the disclosing party or disclose it to any third party neither during the term of this Agreement nor after the termination of this Agreement.

11.3 The parties may only share confidential information with its agents, employees and advisors on a need to know bases. Prior to any disclosure of such confidential information to any such person, that person shall be made aware of the confidential nature of the confidential information and shall execute, or shall already be bound by, a non-disclosure agreement containing terms and conditions consistent with the terms and conditions of this Agreement.

- 11.4 In any event, the receiving party shall be responsible for any breach of this Section by any of its agents, employees and advisors.

## **12. DATA**

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- 12.1 The Licensee owns all business related data processed with the Software under the Licensee's licenses. The Licensee shall have the sole responsibility for the integrity, legality and appropriateness of the data and the processing of the data.
- 12.2 PPCD shall not be responsible or liable for the deletion, correction, destruction, damage, loss or failure to store any of the data. Unless otherwise agreed in writing, PPCD shall have no obligation to maintain or forward any data or other data generated as a result of the Licensee's use of the Software.
- 12.3 PPCD is processing personal data when users are creating and using an account at [www.PPCD.dk](http://www.PPCD.dk). The processing of personal data is described in PPCD's privacy policy, which can be found at [www.PPCD.dk/privacy](http://www.PPCD.dk/privacy).

## **13. TERM AND TERMINATION**

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- 13.1 This Agreement and any license hereunder remain in effect until terminated by either party in accordance with the terms of this Agreement.
- 13.2 Each party will have the right to terminate this Agreement or any license granted hereunder if the other party breaches any material term of this Agreement, including but not limited to non-payment, and fails to cure such breach within 30 days after written notice thereof.

## **14. AUDIT RIGHTS**

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- 14.1 PPCD may request, and the Licensee shall provide, certification of compliance with the terms of the scope of the licenses granted under this Agreement at any time.

## **15. INVALIDITY**

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- 15.1 If any provision of this Agreement is declared invalid or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect. The Licensee and PPCD undertake to negotiate in good faith for the replacement of such provision with a valid and enforceable provision.

**16. FORCE MAJEURE**

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16.1 Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed.

**17. TRANSFER OF RIGHTS**

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17.1 PPCD shall be entitled to transfer all rights and obligations under this Agreement to a third party in so far this is part of a whole or partial business transfer. This also includes the right to execute any restructuring of the business and dividing the business.

17.2 The Licensee shall have no right to assign this Agreement, without PPCD's prior written consent. Any attempt to assign this Agreement without such consent will be null and void.

**18. WAIVER**

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18.1 No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

**19. ENTIRE AGREEMENT AND CHANGES TO THIS AGREEMENT**

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19.1 This Agreement, including all referenced schedules, contains the complete understanding and agreement of the parties and supersedes all prior or contemporaneous agreements or understandings, oral or written, relating to the subject matter herein.

19.2 PPCD is entitled to change the terms of this Agreement upon a prior written notice of 30 days. This right of PPCD does not apply to price changes, which are subject to Section 4.3. If a change to the terms of this Agreement is substantial, the Licensee shall have an extraordinary right to terminate this Agreement by giving a written notice no later than 10 days after the date of PPCD's written notice about the change.



## **20. DEFINITIONS**

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- 20.1 "Increases" mean any increases to the License Fees. PPCD is entitled to charge any Increases in case of significant Improvements to the Software. PPCD shall notify the Licensee about any Increases no later than 10 days before the Licensee's deadline for cancelling a renewal of the licenses in accordance with Section 4.3.
- 20.2 "Improvements" mean all improvements, updates, enhancements, error corrections, release notes, upgrades and changes to the Software and published user documentation, as developed by PPCD and made generally available to other licensees who have licensed the Software.
- 20.3 "Online Tool" means one of the 6 online tools at [www.PPCD.dk](http://www.PPCD.dk), including Slabs, Point Foundations, Strip Foundations, Walls, Beams and Decks, that requires a license to be used.
- 20.4 "Third Party" means any party, person, entity, company, organisation or similar who is not an employee of the Licensee.

## **21. GOVERNING LAW AND JURISDICTION**

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- 21.1 This Agreement shall be governed and construed in accordance with Danish law without regard to conflict of law provisions and shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods.
- 21.2 All disputes arising out of or in connection with this Agreement shall be resolved by the Danish Institute of Arbitration under the rules of the Danish Arbitration Act.