

**END USER LICENSE AGREEMENT  
WITH UNIVERSITY OF MARYLAND**

**IMPORTANT – THIS IS A LEGAL AGREEMENT BETWEEN YOU ("You") AND THE UNIVERSITY OF MARYLAND, a public agency and instrumentality of the State of Maryland. ("US," "WE" or "University"). PLEASE READ THIS END USER LICENSE AGREEMENT ("EULA") BEFORE INSTALLING AND ACCESSING THE MARYLAND INTERSECTION AND INTERCHANGE DESIGN AND CAPACITY ANALYSIS PROGRAM ("MIDCAP", "Licensed Software"). THE TERMS OF THIS EULA GOVERN YOUR ACCESS TO AND USE OF MIDCAP. BY DOWNLOADING, INSTALLING, AND ACCESSING MIDCAP, YOU SIGNIFY THAT YOU HAVE READ, UNDERSTAND, ACCEPT AND AGREE TO ABIDE BY THESE TERMS AND CONDITIONS. IF YOU DO NOT ACCEPT THE TERMS OF THIS EULA, DO NOT INSTALL OR USE MIDCAP.**

**TERMS AND CONDITIONS**

- 1. MARYLAND INTERSECTION AND INTERCHANGE DESIGN AND CAPACITY ANALYSIS PROGRAM (MIDCAP)** means Maryland Intersection and Interchange Design & Capacity Analysis Program (MIDCAP) software and user interface produced by the University of Maryland and described in University of Maryland Intellectual Property Disclosure IS-2017-085.
- 2. LICENSE GRANT.** University hereby grants You a revocable, non-exclusive, non-transferable right and license to download, access, and use the Licensed Software for the State of Maryland projects through the Maryland State Highway Administration (SHA). **This grant is for executable file or object code only. Access to the source code is not permitted by this Agreement.**
- 3. RESTRICTIONS.** You agree **NOT** to:
  - a. modify, hide, delete or interfere with any notices that are included in MIDCAP;
  - b. attempt to access source code;
  - c. decompile, clone, reverse assemble or reverse compile Licensed Software, in whole or in part;
  - e. modify the Licensed Software;
  - f. **sell, license, sublicense or otherwise distribute the Licensed Software to third parties;**
  - g. publicly post or display Licensed Software, in whole or in part;
  - h. **use the Licensed Software for any purpose other than State of Maryland projects through the Maryland State Highway Administration (SHA);**
  - i. upload Licensed Software to a network;
- 4. YOUR RESPONSIBILITIES:**
  - a. You are solely responsible for the installation, use, and maintenance of the Licensed Software.
  - b. **You agree to seek out an additional agreement in order to use the Licensed Software for purpose(s) beyond the State of Maryland projects through the Maryland State Highway Administration (SHA).**
  - c. You shall take reasonable steps to protect against unauthorized access to, disclosure and use of the Licensed Software, using at least the same degree of care to protect MIDCAP that you use to protect your own proprietary information.
- 5. INTELLECTUAL PROPERTY.** The University owns all rights, title, and interest in MIDCAP. This EULA does not grant You any rights, title or interests in MIDCAP other than those expressly granted to you under this EULA.
- 6. DISCLAIMER AND LIMITATION ON LIABILITY.**
  - a. MIDCAP IS MADE AVAILABLE ON AN "AS IS" BASIS. UNIVERSITY DISCLAIMS ANY AND ALL REPRESENTATIONS AND WARRANTIES – WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, IN FACT OR ARISING BY

OPERATION OF LAW – WITH RESPECT TO THE LICENSED SOFTWARE INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT OF THE INTELLECTUAL PROPERTY OR PROPRIETARY RIGHTS OF ANY THIRD PARTY. UNIVERSITY MAKES NO REPRESENTATION OR WARRANTY THAT MIDCAP WILL OPERATE ERROR FREE OR IN AN UNINTERRUPTED FASHION.

- b. In no event will the University be liable to You for any incidental, special, punitive, exemplary or consequential damages of any kind, including lost profits or business interruption, even if advised of the possibility of such claims or demands, whether in contract, tort, or otherwise, arising in connection with Your access to and use of MIDCAP or other dealings. This limitation upon damages and claims is intended to apply without regard to whether other provisions of this EULA have been breached or proven ineffective.
- c. University is under no obligation to update the Licensed Software.

**7. INDEMNITY.** You hereby agree to defend, indemnify, and hold harmless the University and its employees, agents, directors, and officers from and against any and all claims, proceedings, damages, injuries, liabilities, losses, costs, and expenses (including reasonable attorneys' fees and litigation expenses) relating to or arising out of Your use of MIDCAP or Your breach of any term in this EULA.

**8. TERM AND TERMINATION**

- a. This EULA and your right to use MIDCAP will take effect when you "ACCEPT" the terms of this EULA.
- b. University reserves the right, at any time and without prior notice, to modify, discontinue or suspend, temporarily or permanently, Your use of MIDCAP (or any part thereof) without liability to You.

**9. MISCELLANEOUS**

- a. The University may modify this EULA at any time.
- b. No term of this Agreement can be waived except by the written consent of the party waiving compliance.
- c. If any provision of this EULA is determined by a court of competent jurisdiction to be void, invalid, or otherwise unenforceable, such determination shall not affect the remaining provisions of this Agreement.
- d. This Agreement does not create a joint venture, partnership, employment, or agency relationship between the Parties.
- e. There are no third party beneficiaries to this agreement. You may not assign this agreement without the University's prior written approval.
- f. This EULA shall be governed by and interpreted in accordance with United States copyright law and the laws of the State of Maryland without reference to its conflicts of laws rules. Nothing in this EULA is or shall be deemed to be a waiver by the University of any of its rights or status as an agency and instrumentality of the State of Maryland. The parties mutually agree to opt out of application of the Maryland Uniform Computer Information Transactions Act (MUCITA), Maryland Code Annotated [Commercial Law] 21-101 through 21-816 to the greatest extent authorized under MUCITA.
- g. This EULA represents the entire agreement between You and the University regarding the subject matter of paragraphs 1-10. There are no other understandings, written or oral, that are not included in this Agreement.

**10. REPRESENTATION.** You represent that You are at least 18 years of age.

**ACCEPT**

**DECLINE**