

FMAD ENGINEERING PRODUCT EVALUATION “TRY AND BUY” AGREEMENT

This Evaluation Agreement and Purchase (the “Agreement”) is entered into between Licensor and the Evaluator set forth below to permit Evaluator to evaluate the products listed below including any documentation (together, the “Products”) at a specific site and for the period of time shown below.

_____ (“Evaluator”)	FMAD ENGINEERING LLC (“Licensor”)
_____	4023 Kennett Pike #50194 Wilmington, DE 19807
_____	USA

Print Name: _____ Title: _____	Print Name: _____ Title: _____
Signature: _____	Signature: _____
Date: _____	Date: _____

Product: **FMAD-**

Units: **1**

Location: _____

Evaluation Commences: Date of receipt of the equipment (the “Effective Date”). Evaluator will provide email notice to Licensor on the day of receipt.

Evaluation Period: 30 days

1. Evaluator Obligations.

1.1 Return of Products. At the end of the Evaluation Period, Evaluator shall either 1) return the units of Products to Fmad Engineering, or 2) at least one day prior to expiration of the Evaluation Period, notify Fmad Engineering in writing that it has decided to purchase the Products and provide a purchase order.

1.2 Evaluation. Evaluator is solely responsible for installing the Products, and for determining whether the Products are suitable, secure, and reliable for its evaluation purposes.

2. Use and License.

2.1 Grant. Subject to all the terms of this Agreement, Fmad Engineering grants Evaluator a non-sublicensable, non-transferable, non-exclusive right during the Evaluation Period to use the Products for its own internal business purposes.

2.2 Non-Exclusive. The rights granted to Evaluator hereunder are non-exclusive and nothing hereunder shall be deemed to limit Fmad Engineering’s ability to enter into any type of agreement with any other party anywhere in the world.

3. Restrictions.

Evaluator shall not (and shall not allow any third party to):

(a) decompile, disassemble, or otherwise reverse engineer the Products or attempt to reconstruct or discover any source code, underlying ideas, algorithms, file formats or programming interfaces of the Products by any means whatsoever (except and only to the extent that applicable law prohibits or restricts reverse engineering restrictions, and in such case Evaluator shall notify Fmad Engineering in advance of its intent to reverse engineer); and/or

(b) separate any software included in the Products from the Products themselves, or use any software included with the products separately from the Products.

4. Ownership.

4.1 Products Not Sold. During the Evaluation Period, Evaluator is licensing, not purchasing the Products; and the Product (including any software in the Product) is licensed, not sold, to Evaluator. Upon expiration of the Evaluation Period, Evaluator shall either return the Product or provide notice of its intent to purchase the Products as provided above.

4.2 Purchase. If Evaluator provides notice of its intent to purchase the Products, then upon payment of the purchase price, title to the Products shall pass to Evaluator. Evaluator may only purchase the Products on the exact terms set forth herein, and no additional or different terms shall be applicable to the purchase of the Products. Except to the extent expressly accepted in writing by FMAD, FMAD hereby affirmatively rejects any different or additional terms and conditions proposed by Evaluator or contained in any purchase order of Evaluator, notwithstanding FMAD's acceptance of payment of the purchase price, shipment of additional units to Evaluator, or any similar act of FMAD.

5. Termination. At such time when no Products are under evaluation by Evaluator, this Agreement shall terminate.

5.1 Expiration. This Agreement is effective as of the Effective Date and with respect to each Product expires at the end of the Evaluation Period specified above unless the Evaluator offers to purchase the Products, in such case, this Agreement shall survive as provided herein.

5.2 Termination. Fmad Engineering may terminate this Agreement with respect to any or all Products on 15 days' notice to Evaluator without cause, and may terminate this Agreement immediately upon notice upon any breach by Evaluator. Evaluator may terminate this Agreement with immediate effect, with respect to any Product upon notice. Upon termination, all Products in the possession of Evaluator that have not been purchased shall be promptly returned.

5.3 Survival. Sections 1.1, 1.2, 3, 4, 5.3, 6, 7, and 8 shall survive any termination or expiration of this Agreement.

6. Warranty Disclaimer. Fmad warrants that the Product will be free from defects for a period of twelve (12) months from the start of the Evaluation Period. EXCEPT FOR THE PRECEDING WARRANTY, THE PRODUCTS ARE PROVIDED "AS IS," WITHOUT WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO WARRANTIES OF TITLE, NONINFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IF THE EVALUATOR DECIDES TO PURCHASE THE PRODUCT, FMAD ENGINEERING SHALL PROVIDE ITS STANDARD TERMS AND CONDITIONS, INCLUDING ITS PRODUCT WARRANTY POLICIES.

7. Limitation of Remedies and Damages.

7.1 NEITHER PARTY SHALL BE LIABLE FOR ANY LOSS OF USE, LOST DATA, FAILURE OF SECURITY MECHANISMS, INTERRUPTION OF BUSINESS, OR ANY INDIRECT, SPECIAL,

INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING LOST PROFITS), REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, STRICT LIABILITY OR OTHERWISE, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE. THIS SECTION 7.1 SHALL NOT APPLY TO EVALUATOR WITH RESPECT TO ANY CLAIM ARISING UNDER THE SECTIONS TITLED "RESTRICTIONS" OR "CONFIDENTIAL INFORMATION".

7.2 EXCEPT FOR BREACH OF THE RESTRICTIONS PLACED IN SECTION 3 AND 8, BOTH PARTIES ENTIRE LIABILITY UNDER THIS AGREEMENT SHALL NOT EXCEED THE STANDARD LIST PRICE OF THE PRODUCTS.

7.3 The parties agree that the limitations specified in this Section 7 will survive and apply even if any limited remedy specified in this Agreement is found to have failed of its essential purpose.

7.4 This Section 7 shall not apply for claims based on gross negligence or willful misconduct by either party, or claims for personal injury or death arising out of or in connection with this Agreement.

8. Confidential Information. Evaluator agrees that all code, inventions, know-how, business, technical and financial information it obtains regarding the Products constitute the confidential property of Fmad Engineering ("Confidential Information"). Evaluator will hold in confidence and not use or disclose any Confidential Information except as expressly permitted in this Agreement.

Evaluator's nondisclosure obligation shall not apply to information which Evaluator can document: (i) is or has become public knowledge through no fault of Evaluator; or (ii) is required to be disclosed pursuant to a regulation, law or court order (but only to the minimum extent required to comply with such regulation or order and with advance notice to Fmad Engineering). Evaluator acknowledges that disclosure of Confidential Information would cause substantial harm to Fmad Engineering that could not be remedied by the payment of damages alone, and therefore that upon any such disclosure by Evaluator, Fmad Engineering shall be entitled to seek appropriate equitable relief. Evaluator will return all Fmad Engineering Confidential Information to Fmad Engineering upon termination or expiration of this Agreement and, if requested by Fmad Engineering at any later time, certify to such return in writing.

9. Other. This Agreement shall be governed by and construed under the laws of the State of Delaware, United States of America. All notices, requests and other communications under this Agreement must be in writing, and must be mailed by registered or certified mail, postage prepaid and return receipt requested, or delivered by electronic mail except for notices regarding breach or termination, or delivered by hand to the party to whom such notice is required or permitted to be given. This Agreement may not be assigned by Evaluator or amended without the prior written consent of both parties. Any purported assignment or amendment in violation of the foregoing shall be void. If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable for any reason, the remaining provisions hereof shall be unaffected and remain in full force and effect. This Agreement is the final, complete and exclusive agreement between the parties relating to the subject matter hereof, and supersedes all prior or contemporaneous understandings and agreements relating to such subject matter, whether oral or written.