**BETA TEST SITE AGREEMENT**

THIS AGREEMENT is made by and between The University of Texas \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ("University"), located at \_\_\_\_\_\_\_\_\_\_\_\_, a component institution of The University of Texas System ("System"), an agency of the State of Texas, whose address is 210 West 7th Street, Austin, Texas 78701, and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ("Licensee") having a principal place of business located at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

**Recitals**

A. University has developed \_\_\_\_\_\_\_\_\_\_\_ including modifications, enhancements, improvements, updates, additions, derivative works, documentation and related material ("Software").

B. University desires that the Software be tested prior to general release; and

C. Licensee wishes to serve as a Beta Test Site for such Software.

NOW, THEREFORE, in consideration of the mutual covenants and premises herein contained, the parties hereto agree as follows:

1. University grants to Licensee a non-exclusive, non-transferable license to use the Software on a single computer at Licensee's business location solely for Beta Site Testing and internal use until \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_ at which time the Software and all copies shall be returned to University.

2. In consideration for receiving a copy of the Software for testing, Licensee agrees to serve as a "Beta Test Site" for the Software and will notify University of all problems and ideas for enhancements which come to Licensee's attention during the period of this Agreement, and hereby assigns to University all right, title and interest to such enhancements and all property rights therein including without limitation all patent, copyright, trade secret, mask work, trademark, moral right or other intellectual property rights.

3. Licensee agrees that Software is the sole property of University and includes valuable trade secrets of University. Licensee agrees to treat Software as confidential and will not without the express written authorization of University:

(a) Demonstrate, copy, sell or market Software to any third party; or

(b) Publish or otherwise disclose information relating to performance of the Software or produced using Software to any third party; or

(c) Modify, reuse, disassemble, decompile, reverse engineer or otherwise translate Software or any portion thereof.

4. Software is prerelease code and is not at the level of performance and compatibility of a final, generally available product offering. Software may not operate correctly and may be substantially modified prior to first commercial shipment, or withdrawn. Software is provide "AS IS" without warranty of any kind. The entire risk arising out of the use or performance of Software remains with Licensee. In no event shall University or System be liable for any damage whatsoever arising out of the use of or inability to use Software, even if University or System has been advised of the possibility of such damages.

5. This License Agreement shall be governed, construed and enforced in accordance with the laws of the United States of America and of the State of Texas. Any notice required by this Agreement shall be given by prepaid, first class, certified mail, return receipt requested, addressed to:

University:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

or in the case of Licensee to:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

ATTENTION: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

or such other address as may be given from time to time under the terms of this notice provision.

6. This Agreement constitutes the entire and only agreement between the parties for Software and all other prior negotiations, representations, agreements, and understandings are superseded hereby. No agreements altering or supplementing the terms hereof may be made except by means of a written document signed by the duly authorized representatives of the parties.

7. Licensee shall comply with all applicable federal, state and local laws, regulations, and ordinances in connection with its activities pursuant to this Agreement.

8. Failure of University to enforce a right under this Agreement shall not act as a waiver of that right or the ability to later assert that right relative to the particular situation involved.

9. If any provision of this Agreement shall be found by a court to be void, invalid or unenforceable, the same shall be reformed to comply with applicable law or stricken if not so conformable, so as not to affect the validity or enforceability of this Agreement.

IN WITNESS WHEREOF, parties hereto have caused their duly authorized representatives to execute this Agreement.

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| University of Texas \_\_\_\_\_\_\_\_\_\_\_\_  By\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Name  Title  Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Licensee:  By\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Name  Title  Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |