

Pre-Release Agreement

THIS PRE-RELEASE AGREEMENT GOVERNS YOUR ACCESS TO AND USE OF THE PRODUCT, AS WELL AS YOUR PARTICIPATION IN RELATED PRODUCT INFORMATION SESSIONS SUCH AS SPRINT REVIEWS, USER EXPERIENCE SESSIONS, ETC. YOU REPRESENT THAT YOU HAVE THE POWER AND AUTHORITY TO ENTER INTO THIS AGREEMENT WITH HCL ON BEHALF OF YOUR COMPANY, AND THAT YOU ARE BINDING YOURSELF AND YOUR COMPANY TO THIS AGREEMENT BY SIGNING BELOW. "YOU" SHALL REFER TO YOU AND YOUR COMPANY.

1. Product

License. The Product made available to You under this Agreement will be specified in the attached Exhibit (the "Transaction Document"). If the Product is made available to You for installation, HCL grants you a non-exclusive, revocable, limited, non-sublicensable, non-transferable license to use the Product during the time specified in the Transaction Document ("Testing Period") for testing purposes only. HCL may also provide You access to the Product and/or related information remotely (e.g., web session, teleconference, etc.) or via live Product demos. Quantity/Use limits are set forth in the Transaction Document.

Restrictions. You are expressly prohibited from using the Product for development or for other commercial purposes. Any testing in a production environment shall be "AS IS", without warranty and at Your sole risk. You may not (a) copy, in whole or in part, the Product(s), (b) modify, reverse compile, reverse engineer, reverse assemble, benchmark or perform competitive analysis on the Product(s) except solely to the extent permitted under applicable law without the possibility of contractual waiver, or (c) distribute, disclose, market, rent, or lease the Product(s) to third parties, without the prior written consent of HCL.

Ownership. Title and ownership of the Product will at all times remain with HCL. This Agreement does not grant You any license or rights relating to the Product except as expressly stated herein.

Feedback. You agree that HCL may, on a perpetual and irrevocable basis, use any feedback provided by You related to a Product for any HCL business purposes (including but not limited to, reproduction and preparation of derivative works based upon such feedback and distribution of such derivative works), without requiring consent or payment.

2. Term & Termination

This Agreement shall be effective upon the execution of the Agreement and shall remain in force during the Testing Period, unless terminated earlier in accordance with the terms of this Agreement.

Either party may terminate this Agreement and/or any Testing Period hereunder with reasonable notice.

You may be invited to evaluate more than one Product or release from time to time via multiple Transaction Documents that will be governed by this Agreement. The Testing Period for a Product will terminate at the earlier of (a) the end of the specified Testing Period or (b) when HCL makes the Product commercially available.

Within seven (7) days after the termination of the Testing Period or upon termination or expiration of the Agreement, You must either return to HCL or destroy the Product and all related materials. If requested by HCL, You agree to certify such return or destruction in writing.

3. Confidential Information

In performance of this Agreement, You may have access to know-how, trade secrets and other confidential information of HCL, including the Product ("Confidential Information"). During and after the term hereof, (a) You agree to keep all Confidential Information confidential and not permit anyone to have access to such Confidential Information other than Your Company's authorized employees; (b) you agree not to copy, disclose, publish, display or otherwise make available the Confidential Information, or any information gained from Your use of the Confidential Information to any third party, except as expressly allowed hereunder, without HCL's prior written consent; (c) You agree to protect the Confidential Information and any copies thereof in a manner consistent with Your obligations herein, which in any event is not less than reasonable care; and (d) You agree to use the Confidential Information only as authorized by HCL.

During the Testing Period, if You provide HCL certain materials relating to Your computing environment to facilitate pre-release activities for the Product, HCL agrees to maintain the confidentiality and limit access to such materials to only those HCL personnel necessary to the pre-release testing activities. You warrant and represent that You have all the necessary rights to provide these materials to HCL. Notwithstanding the above, You shall not provide HCL access to any personally-identifiable information.

4. Warranty & Limitation of Liability

The Product is a pre-release version of the Product. HCL does not guarantee that the commercially available release, if any, will be identical to the pre-release version. YOU AGREE THAT HCL MAKES NO WARRANTIES OR REPRESENTATIONS WITH RESPECT TO THE MATERIALS PROVIDED HEREUNDER, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS OR SUITABILITY FOR A PARTICULAR PURPOSE AND TITLE AND ANY WARRANTY OR CONDITION OF NON-INFRINGEMENT AND THAT IN NO EVENT WILL HCL BE LIABLE TO YOU OR TO ANY OTHER PARTY FOR ANY DAMAGES, LOSS OR LIABILITY, INCLUDING WITHOUT LIMITATION, DIRECT, INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGE, LOSS OR LIABILITY, TIME, MONEY OR GOODWILL WHICH MAY ARISE DIRECTLY OR INDIRECTLY FROM OR RELATED TO YOUR OR ANY OTHER PERSON'S USE OF SUCH MATERIALS WHETHER IN CONTRACT, TORT, OR BREACH OF STATUTORY DUTY OR OTHERWISE TO THE EXTENT PERMITTED BY LAW. ALL MATERIALS PROVIDED BY HCL HEREUNDER ARE "AS IS" AND WITHOUT WARRANTY OF ANY NATURE. ANY DATA ENTERED OR CONFIGURATIONS OF THE PRODUCTS DURING THE TESTING PERIOD MAY NOT BE AVAILABLE AFTER THE TESTING PERIOD.

5. Product

You acknowledge that the Product(s) are subject to control under export and import laws (including control under U.S. law, for instance under the Export Administration Regulations (15 CFR 730-774)) and agree to comply with all applicable import and export laws and regulations and further agree that the Product will not be exported, re-exported or transferred in violation of the applicable import and export laws or used for any purpose connected with chemical, biological or nuclear weapons or missile applications.

6. Miscellaneous

Entire Agreement. This Agreement, along with the Transaction Documents, is the entire agreement between HCL and You relating to the Product and it supersedes all prior or contemporaneous oral or written communications, proposals and representations with respect to the Product.

Assignment. This Agreement may not be assigned to any third party directly or by operation of law without HCL's prior written consent.

Governing Law. FOR COMPANIES LOCATED WITHIN THE US, THIS AGREEMENT SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT REFERENCE TO (I) ANY CONFLICTS OF LAW PRINCIPLE THAT WOULD APPLY THE SUBSTANTIVE LAWS OF ANOTHER JURISDICTION TO THE PARTIES' RIGHTS OR DUTIES; (II) THE 1980 UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS; OR (III) OTHER INTERNATIONAL LAWS. FURTHERMORE, EACH PARTY (I) HEREBY IRREVOCABLY AGREES TO SUBMIT TO THE JURISDICTION AND VENUE IN THE COURTS OF THE STATE OF CALIFORNIA FOR ALL DISPUTES AND LITIGATION ARISING UNDER OR RELATING TO THIS AGREEMENT AND (II) WAIVES ANY RIGHT TO A JURY TRIAL IN ANY PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT. FOR COMPANIES LOCATED OUTSIDE THE US, BOTH PARTIES AGREE TO THE APPLICATION OF THE LAWS OF THE COUNTRY IN WHICH COMPANY OBTAINED THE PRODUCT LICENSE TO GOVERN, INTERPRET, AND ENFORCE ALL OF COMPANY'S AND HCL'S RESPECTIVE RIGHTS, DUTIES, AND OBLIGATIONS ARISING FROM, OR RELATING IN ANY MANNER TO, THE SUBJECT MATTER OF THIS AGREEMENT, WITHOUT REFERENCE TO (I) ANY CONFLICTS OF LAW PRINCIPLE THAT WOULD APPLY THE SUBSTANTIVE LAWS OF ANOTHER JURISDICTION TO THE PARTIES' RIGHTS OR DUTIES; (II) THE 1980 UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS; OR (III) OTHER INTERNATIONAL LAWS. FURTHERMORE, ALL RIGHTS, DUTIES, AND OBLIGATIONS ARISING FROM, OR RELATING IN ANY MANNER TO, THE SUBJECT MATTER OF THIS AGREEMENT, ARE SUBJECT TO THE JURISDICTION OF THE COURTS OF THE COUNTRY IN WHICH COMPANY OBTAINED THE PRODUCT LICENSE. UNLESS OTHERWISE REQUIRED BY APPLICABLE LAW WITHOUT THE POSSIBILITY OF CONTRACTUAL WAIVER OR LIMITATION: (I) NEITHER PARTY WILL BRING A LEGAL ACTION, REGARDLESS OF FORM, FOR ANY CLAIM ARISING OUT OF OR RELATED TO THIS AGREEMENT MORE THAN TWO (2) YEARS AFTER THE CAUSE OF ACTION AROSE; AND (II) UPON THE EXPIRATION OF SUCH TIME LIMIT, ANY SUCH CLAIM AND ALL RESPECTIVE RIGHTS RELATED TO THE CLAIM LAPSE.

Audit: Upon reasonable notice, HCL may audit Your software logs relating to the Product, in order to verify their use in compliance with this Agreement. Such verification will be conducted in a manner that minimizes disruption to Your business, and may be conducted on Your premises, during normal business hours. HCL may use an independent auditor to assist with such verification.

Pre Release Offer: Upon successful completion of the pre-release process HCL may offer You a contract for the discounted use of the GA solution. Additional terms and conditions will apply.

HCL Technologies Limited

Company: _____

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

TRANSACTION DOCUMENT/EXHIBIT TO PRE-RELEASE AGREEMENT

LICENSEE (COMPANY: _____

COMPANY/END USER ADDRESS: _____

PRODUCT: _____

TESTING PERIOD: _____

QUANTITIES/USE LIMIT: _____