NON-EXCLUSIVE SOFTWARE LICENSE AGREEMENT

Program: **XPAT**

Organization obtaining License ("LICENSEE"): _____

LICENSEE Business Contact Person: _____

Business Address: _____

_____

_____

Business Phone & Email _____

This Agreement is made by and between The Regents of The University of Michigan, a constitutional corporation of the State of Michigan, ("MICHIGAN") and LICENSEE.

BACKGROUND

1. The University of Michigan through its University Library has developed a proprietary computer program and related documentation, known as XPAT, for use by trained individuals as an SGML-aware search engine to help handle large and highly structured documents and metadata, (this program and documentation, as well as any updates which may at MICHIGAN'S sole discretion be provided to LICENSEE from time to time, are referred to in this Agreement as "PROGRAM"); and

2. LICENSEE desires to obtain and MICHIGAN, consistent with its mission of education and research, desires to grant a license to use the PROGRAM subject to the terms and conditions set forth below.

The parties therefore agree as follows:

I.   LICENSE
     MICHIGAN hereby grants to LICENSEE a non-exclusive, non-transferable right to use the PROGRAM on the number of servers indicated in Section III, in executable form only and subject to the terms and conditions of this Agreement.

II. LIMITATION OF LICENSE AND RESTRICTIONS
     A. LICENSEE shall not use, print, copy, translate, reverse engineer, decompile, disassemble, modify, create derivative works of or publicly display the PROGRAM, in whole or in part, unless expressly authorized by this Agreement.

     B. LICENSEE agrees that it shall use the PROGRAM only for LICENSEE'S sole and exclusive use, and shall not disclose, sell, license, or otherwise distribute the PROGRAM to any third party without the prior written consent of MICHIGAN. LICENSEE shall not assign this Agreement, and any attempt by LICENSEE to assign it shall be void from the beginning. LICENSEE agrees to secure and protect the PROGRAM and any copies in a manner consistent with the maintenance of MICHIGAN'S rights in the PROGRAM and to take appropriate action by instruction or agreement with its employees who are permitted access to the PROGRAM in order to satisfy LICENSEE'S obligations under this Agreement. LICENSEE is authorized to make one copy of the PROGRAM for backup purposes only. MEMBER may install the LICENSED PRODUCT on a second computer for development purposes only.

III. CONSIDERATION
LICENSEE agrees to pay to MICHIGAN the following license royalties upon execution of this License Agreement:

1st copy of PROGRAM to be run on a single server	$15,000.00
Subsequent copies of PROGRAM, $12,000 each per single server	$_____
Support per year, $5,000	$_____
Handling	$____30.00
TOTAL LICENSING FEES	$_____

Support shall be limited to 40 hours within 12 months of date PROGRAM's delivery and provided primarily via email to a representative identified by LICENSEE to evaluate reports of apparent bugs and consultation on how to integrate and run the PROGRAM. The University will make a reasonable effort to provide timely responses consistent with its academic and research missions.

Payment shall be made by approved credit card, electronic bank transfer, or check in U.S. currency, paid to the order of "The Regents of The University of Michigan", and sent to the Technology Management Office, Wolverine Tower, Room 2071, 3003 S. State Street, Ann Arbor, MI 48109-1280, USA.

IV. TITLE AND OWNERSHIP
A. No ownership rights of MICHIGAN in the PROGRAM are conferred upon LICENSEE by this Agreement.

B. LICENSEE acknowledges MICHIGAN'S proprietary rights in the PROGRAM and agrees to reproduce all copyright notices supplied by MICHIGAN on all copies of the PROGRAM, and on all PROGRAM outputs and copies of PROGRAM outputs.

V. DISCLAIMER OF WARRANTY AND LIMITATION OF LIABILITY
A. THE **PROGRAM** IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. **MICHIGAN** DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE **PROGRAM** WILL MEET **LICENSEE'S** REQUIREMENTS OR THAT OPERATION WILL BE UNINTERRUPTED OR ERROR FREE. MICHIGAN shall not be liable for special, indirect, incidental, or consequential damages with respect to any claim on account of or arising from this Agreement or use of the PROGRAM, even if MICHIGAN has been or is hereafter advised of the possibility of such damages. Because some states do not allow certain exclusions or limitations on implied warranties or of liability for consequential or incidental damages, the above exclusions may not apply to LICENSEE. In no event, however, will MICHIGAN be liable to LICENSEE, under any theory of recovery, in an amount in excess of the license fee paid by LICENSEE under this Agreement.

B. Except as expressly defined elsewhere in this Agreement, MICHIGAN has no obligation to provide to LICENSEE any maintenance, support, or update services.

C. If the physical CD provided hereunder contains any defects upon receipt by LICENSEE, LICENSEE shall have thirty (30) days in which to return said defective CD and MICHIGAN shall provide a replacement CD free of charge.

VI. WARRANTY OF LICENSEE
LICENSEE warrants and represents that a competent System Administrator will install the PROGRAM, and that the System Administrator will carefully review all documentation included with the PROGRAM prior to installation.

VII. TERMINATION
If LICENSEE at any time fails to abide by the terms of this Agreement, MICHIGAN shall have the right to immediately terminate the license granted herein, require the return or destruction of all copies of the PROGRAM from LICENSEE and certification in writing as to such return or destruction, and pursue any other legal or equitable remedies available.

VIII. MISCELLANEOUS

    A. This Agreement shall be construed in accordance with the laws of the State of Michigan. Should LICENSEE for any reason bring a claim, demand, or other action against MICHIGAN, its agents or employees, arising out of this Agreement or the PROGRAM licensed herein, LICENSEE agrees to bring said claim only in the Michigan Court of Claims.

    B. THIS AGREEMENT REPRESENTS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN **MICHIGAN** AND **LICENSEE** AND SUPERSEDES ALL PRIOR AGREEMENTS, PROPOSALS, REPRESENTATIONS AND OTHER COMMUNICATIONS, VERBAL OR WRITTEN, BETWEEN THEM WITH RESPECT TO USE OF THE **PROGRAM**. THIS AGREEMENT MAY BE MODIFIED ONLY WITH THE MUTUAL WRITTEN APPROVAL OF AUTHORIZED REPRESENTATIVES OF THE PARTIES.

    C. The terms and conditions of this Agreement shall prevail notwithstanding any different, conflicting, or additional terms or conditions which may appear in any purchase order or other document submitted by LICENSEE. LICENSEE agrees that such additional or inconsistent terms are deemed rejected by MICHIGAN.

    D. Unless otherwise exempt therefrom, LICENSEE agrees that it will be responsible for any sales, use or excise taxes imposed by any governmental unit in this transaction except income taxes.

    E. The PROGRAM is subject to the United States Department of Commerce Export Regulations. Export, reexport, diversion, duplication, or other transfer of the PROGRAM is prohibited unless done in full compliance with those Regulations.

    F. MICHIGAN and LICENSEE agree that any xerographically or electronically reproduced copy of this fully-executed agreement shall have the same legal force and effect as any copy bearing original signatures of the parties.

IX. Where LICENSEE is the United States Federal Government or an Agency thereof, or any agent acting for or on behalf of the Government in licensing the PROGRAM, the following restriction shall apply:

UNITED STATES GOVERNMENT RESTRICTED RIGHTS

THE PROGRAM and any associated documentation is provided with RESTRICTED RIGHTS. Use, duplication or disclosure by the Government is subject to restrictions as set forth in subdivision (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at 252.227-7013. Contractor/manufacturer is The University of Michigan, Ann Arbor, MI 48109.

UNDERSTOOD, ACCEPTED AND AGREED TO: FOR LICENSEE	FOR THE REGENTS OF THE UNIVERSITY OF MICHIGAN
By_____ (authorized representative)	By_____ (authorized representative)
Typed Name_____	Typed Name_____
Title_____	Title_____
Date_____	Date_____