STREAMSIM TECHNOLOGIES INC. SOFTWARE LICENSE AGREEMENT

License Agreement #:_____

STREAMSIM: **STREAMSIM TECHNOLOGIES, INC.**
(a California corporation)
865 25th Avenue, San Francisco, CA 94121
Primary Contact: Marco R. Thiele
Tel: 415-386-0165 Fax: 415-386-4513
E-mail: thiele@streamsim.com

LICENSEE: _____
(a _____ corporation)
_____
_____
Primary Contact:_____
Tel:_____Fax:_____
E-mail:_____

Billing Contact:_____
_____
_____
Tel:_____Fax:_____
E-mail:_____

EFFECTIVE DATE:_____

THIS SOFTWARE LICENSE AGREEMENT (this "Agreement") is made as of the Effective Date set forth above by and between STREAMSIM and LICENSEE (collectively referred to herein as the "Parties") as identified above. The Parties hereby agree to the attached **License Definitions and Fees Schedule** and **Terms of Use and Restrictions**.

IN WITNESS WHEREOF, the Parties have signed and executed this Agreement by their duly respective authorized representatives.

STREAMSIM TECHNOLOGIES, INC.	**LICENSEE:**
By: Print Name:_____ Title:	By: Print Name:_____ Title:

STREAMSIM TECHNOLOGIES, INC. SOFTWARE LICENSE AGREEMENT

LICENSE DEFINITIONS AND FEES SCHEDULE

The following definitions shall apply to the terms as used in the attached Terms of Use and Restriction.

Licensed Program	**All STREAMSIM software solutions invoiced to LICENSEE under the Terms of Use and Restriction of this Agreement.**
License Type	**Network**
License Term	**XX Months from Effective Date. Automatically converts to Perpetual term if software is purchased before the end of the License Term.** **Perpetual**
Licensee Platform	**All platforms available for download at www.streamsim.com**
License Fee	**All license and maintenance fees are invoiced according to the price schedule published at www.streamsim.com/solutions/pricing or a quote issued to LICENSEE and valid at time of invoicing, whichever is less.**
Licensee Fee Payment Schedule	**Within sixty (60) days from date of invoice.**
Maintenance Term & Support	**Standard Maintenance & Support included. See Section 4 of Terms of Use and Restrictions.**
Engineering Consulting Fee	**n/a**
Agent(s)/Reseller(s)	**n/a**

STREAMSIM TECHNOLOGIES, INC. SOFTWARE LICENSE AGREEMENT

TERMS OF USE AND RESTRICTIONS

1. LICENSE GRANT AND RESTRICTIONS

1.1. License Grant. STREAMSIM hereby grants to LICENSEE a non-transferable, non-exclusive license to use the Licensed Program in object code format for Licensee's internal business use, subject to the terms and conditions of this Agreement.

1.2. Restrictions. LICENSEE may use the Licensed Program to the extent defined by the License Type, License Term, and Licensee Platform as set forth in the attached License Definitions and Fees Schedule, and subject to the payment to STREAMSIM of all applicable Fees. LICENSEE shall not: (i) modify or create any derivative works of the Licensed Program or documentation, including translation or localization; however, use of output from the Licensed Program such as charts or data may be incorporated into databases, electronic files, or other works by LICENSEE without constituting a violation hereunder; (ii) modify the Licensed Program or reverse assemble, disassemble, decompile, or otherwise attempt to derive source code from the software; (iii) redistribute, encumber, sell, rent, lease, sublicense, assign or otherwise transfer rights to the Licensed Program except to any successors in interest to the Licensee pursuant to a merger or acquisition of the Licensee; or (iv) remove or alter any trademark, logo, copyright or other proprietary notices, legends, symbols or labels in the Licensed Program.

1.3. Licensee's Use. LICENSEE shall be exclusively responsible for the supervision, management and control of its use of the Licensed Program. LICENSEE is solely responsible for LICENSEE's selection of the Licensed Program to achieve LICENSEE's desired results, for its installation, management, operation, use, maintenance and upgrading, and for the results obtained from using the Licensed Program.

1.4. Confidentiality. LICENSEE shall not provide, disclose or otherwise make available the Licensed Program, or any part thereof, in any form, to any person or entity other than LICENSEE's employees or contractors without the prior written consent of STREAMSIM. LICENSEE shall use the same degree of care to safeguard the confidentiality of the Licensed Program as it uses to protect its own confidential information but under no circumstances less than a reasonable degree of care. LICENSEE shall take appropriate action by instruction, agreement or otherwise with its employees, affiliates or contractors to satisfy its obligations under this Agreement with respect to use and security of the Licensed Program. Both STREAMSIM and LICENSEE agree that neither Party shall use the name of the other or refer to this Agreement for publicity, advertising, press release or announcements without the prior review and written consent of the other Party unless otherwise required by a court of competent jurisdiction.

1.5. Network License. A Network License is administered by a License Manager with a valid license key installed on LICENSEE's network. A License Manager is third-party software provided by STREAMSIM and installed on a License Server computer on LICENSEE's network to allow LICENSEE the use the Licensed Program as set forth in the License Definitions and Fees Schedule. STREAMSIM will only guarantee that computers running on the same subnet as the License Server can correctly use the Network License. The same subnet is defined as both the client computer and the computer on which the License Manager is installed sharing the same first three (3) numbers of their respective IP addresses. To the best of its ability, STREAMSIM will provide assistance to

ensure LICENSEE to use the Licensed Program on computers outside of the License Server's subnet. STREAMSIM however, does not guarantee that the Licensed Program will function correctly across subnets.

1.6. Changing License Server. LICENSEE may change the License Server at no charge at the time of expiration of the annual license key. If LICENSEE changes the License Server before the expiration of the current license key, LICENSEE agrees to pay the pro-rated annual fee based on STREAMSIM's then current yearly lease rate of the Licensed Program and License Type. Upon request by LICENSEE, and acceptance and signature of STREAMSIM 's License Server Change Agreement, Streamsim may issue a new license key locked to a new License Server before expiration of the current license key.

1.7. Virtual Server. Upon request by LICENSEE, STREAMSIM may issue a license key that is locked to a virtual machine. For a license key locked to a virtual machine, LICENSEE agrees to install the license server on one virtual machine only. Running the license server on two or more virtual machines simultaneously represents a breach of this Agreement

2. OWNERSHIP

2.1. Ownership. The Licensed Program and all related documentation are the proprietary information of and the property of STREAMSIM. STREAMSIM shall retain all right, title and interest, including all intellectual property rights, in and to the Licensed Program and all related software and documentation developed by STREAMSIM. STREAMSIM obtains no right, title and interest, including all intellectual property rights, in and to any of LICENSEE's data or the results obtained from the Licensed Program under this Agreement.

2.2. Markings. LICENSEE shall not remove or obscure any of STREAMSIM's proprietary rights notices, or fail to reproduce them on any authorized copies, of the Licensed Program and related documentation in any form.

3. FEES AND PAYMENT

3.1. Fees. The applicable License Fee and other fees are set forth in the attached License Definitions and Fees Schedule or shall be set forth by agent(s)/reseller(s) of STREAMSIM.

3.2. Payment Terms. The License Fee Payment Schedule is set forth in the attached License Definitions and Fees Schedule. LICENSEE shall pay all sales, use, excise or other taxes relating to the license and use of the Licensed Program under this Agreement and not based on STREAMSIM's income.

3.3. Overdue Payment. If LICENSEE fails to pay the license fee when due, STREAMSIM may invoice, and LICENSEE shall pay, a late payment charge of one percent (1%) of the undisputed amount per month. If LICENSEE disputes a bill or portion thereof, LICENSEE shall, prior to the due date of the bill, give written notice to STREAMSIM of the amounts it disputes and provide with such written notice the specific details and reasons for disputing the amount.

4. MAINTENANCE, SUPPORT AND CONSULTING

4.1. Standard Maintenance and Support. During the License Term and subject to current payment of all License and Maintenance Fees, STREAMSIM shall provide the following standard maintenance and support to LICENSEE:

4.1.1. Updates. STREAMSIM may make and release from time to time improvements, refinements, bug fixes, error corrections, updated documentation, modifications and other updates to the Licensed Program.

4.1.2. New Versions. STREAMSIM may make and release from time to time a new version of the Licensed Program incorporating Updates and other functional improvements.

4.1.3. Support. STREAMSIM will provide telephone and email support during normal business hours (9:00 am to 5:00 pm, Monday through Friday, excluding holidays, local STREAMSIM office times), relating to the installation and running the then current version of the Licensed Program.

Notwithstanding the above, STREAMSIM is obligated to provide standard support and maintenance to LICENSEE only if LICENSEE is using the then current version of the Licensed Program as provided by STREAMSIM to LICENSEE, together with any updates released by STREAMSIM. Standard support and maintenance do not include Engineering Consulting services.

4.2. Engineering Consulting. In the event that LICENSEE requires Engineering Consulting, LICENSEE and STREAMSIM shall agree to the terms and conditions thereof in writing under a separate services agreement. Engineering Consulting may include: technical and scientific support to LICENSEE in the use of the Licensed Program; project investigation, planning and execution; presentation of results in electronic, verbal or hardcopy formats; and other services which may be agreed to by STREAMSIM.

4.3. Expired Maintenance. In the event that LICENSEE does not renew Standard Maintenance and Support for a perpetual license, LICENSEE may request (1) a one-time, non-expiring license key locked to a unique hardware MAC-address for the version of the Licensed Program existing at the date of maintenance expiration or (2) an annual license key renewable for two years from date of maintenance expiration for the version of the Licensed Program existing on the date of maintenance expiration permitting LICENSEE to change the License Server at each anniversary. Beyond two years, a permanent non-expiring license key locked to a unique hardware MAC-address will be issued.

5. WARRANTIES AND INFRINGEMENT DEFENSE

5.1. Authority. Each Party warrants that it has the full right, power and authority to enter into this Agreement, and is capable of performing all obligations under this Agreement.

5.2. Limited Warranty. STREAMSIM warrants that the Licensed Program will materially conform to the Licensed Program functional specifications set forth in the then current Licensed Program data sheet for a period of 30 days after the Effective Date of this Agreement. STREAMSIM does not warrant that the operation of the Licensed Program will be uninterrupted or error free. This limited warranty does not apply to defects resulting from: (i) use with software not supplied by STREAMSIM; (ii) modifications by LICENSEE; or (iii) operation outside of the systems requirements as indicated by STREAMSIM. In the event of non-conformity during the warranty period, STREAMSIM will use diligent efforts to correct such non-conformity; or if after a reasonable period of time, STREAMSIM is unable to correct such non-conformity, LICENSEE will be entitled to a pro-rated refund of the License Fee paid during such warranty period.

5.3. Warranty Disclaimer. **STREAMSIM MAKES NO OTHER REPRESENTATIONS, WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, WRITTEN OR ORAL,**

ARISING BY LAW OR OTHERWISE, WITH RESPECT TO THE QUALITY, ACCURACY, CORRECTNESS, COMPLETENESS OR USEFULNESS OF THE LICENSED PROGRAM. STREAMSIM SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE.

5.4. Infringement Defense. STREAMSIM will defend LICENSEE against any claims, suits or proceedings to the extent based on any allegations that the Licensed Program constitutes an infringement of any United States patent or copyright of a third party, provided: STREAMSIM is notified promptly in writing and given full authority, information, and assistance for the defense of such claim, suit or proceeding; and STREAMSIM is given all reasonable cooperation from LICENSEE in any effort to settle, or mitigate damages from, such claim, suit or proceeding. At any time during the course of any such third party infringement claim, suit or proceeding, or if in STREAMSIM's opinion the Licensed Program is likely to become the subject of a claim of infringement, STREAMSIM may, at its option and expense: (i) procure for LICENSEE the right to continue using the Licensed Program; (ii) replace or modify the Licensed Program so that it does not infringe; or (iii) terminate this Agreement and return the License Fee to LICENSEE less reasonable depreciation for use and obsolescence upon its return to STREAMSIM.

5.5. Infringement Defense Limitations. STREAMSIM will have no liability to LICENSEE under this Section if any alleged infringement claim is based on: (a) LICENSEE's use of the Licensed Program in connection or in combination with equipment, devices of licensed program not delivered by STREAMSIM, if such infringement claim could have been avoided by the use of the Licensed Program with other equipment, devices or licensed program; or (b) LICENSEE's use of the Licensed Program in a manner for which it was not authorized or intended, if such infringement claim would have been avoided but for such use.

THE RIGHTS GRANTED TO LICENSEE UNDER THIS SECTION SHALL BE LICENSEE'S SOLE AND EXCLUSIVE REMEDY FOR ANY ALLEGED INFRINGEMENT OF ANY U.S. PATENT, COPYRIGHT, TRADE SECRET OR OTHER PROPRIETARY RIGHT.

6. LIMITATION OF LIABILITY

IN NO EVENT SHALL STREAMSIM BE LIABLE, WHETHER BASED ON CONTRACT, TORT, WARRANTY OR OTHER LEGAL THEORY, FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL LOSSES OR DAMAGES (INCLUDING LOST DATA OR LOST PROFITS) ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE LICENSED PROGRAM, OR THE USE OF LICENSED PROGRAM, EVEN IF STREAMSIM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND LICENSEE HEREBY RELEASES STREAMSIM FROM ANY LIABILITY FOR ALL SUCH LOSSES AND DAMAGES. IN NO EVENT SHALL STREAMSIM'S TOTAL CUMULATIVE LIABILITY FOR CLAIMS OF ANY KIND ARISING FROM THIS AGREEMENT EXCEED THE LICENSE FEE PAID DURING THE WARRANTY PERIOD, AND AFTER THE WARRANTY PERIOD IN NO EVENT SHALL EXCEED THE MOST RECENT FEE FOR THE MAINTENANCE PLAN, AND LICENSEE HEREBY RELEASES STREAMSIM FROM ANY LIABILITY IN EXCESS OF SUCH AMOUNT. THIS LIMITATION OF LIABILITY SHALL ALSO PROTECT STREAMSIM'S

DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS, AND SHALL APPLY REGARDLESS OF THE FAULT, NEGLIGENCE OR STRICT LIABILITY OF STREAMSIM AND SUCH OTHER PARTIES.

7. TERM AND TERMINATION

7.1. Term. Unless otherwise terminated earlier under this Section, this Agreement shall commence as of the Effective Date and shall continue for the License Term as set forth in the attached License Definitions and Fees Schedule. There shall be no refund of any paid fees to LICENSEE if LICENSEE decides to no longer use the software during the current maintenance period.

7.2. Yearly Maintenance Renewal. Depending on the License Term, LICENSEE may extend the Maintenance Term under this Agreement by one calendar year. STREAMSIM or agent(s)/reseller(s) will invoice a renewal cost to LICENSEE within 30 days of the active Maintenance Term expiration date. The renewal cost for Maintenance of the Licensed Program will be based on STREAMSIM's price schedule at the time of renewal and agent(s)/reseller(s) fees if applicable. If payment is received by STREAMSIM within 90 days following the last active Maintenance Term expiration date, the Maintenance Term will be automatically extended under this Agreement by one calendar year.

7.3. Expiration of License Term. If the License Term is limited and LICENSEE has not renewed or extended the License Term, upon expiration of the License Term period, the Licensed Program will automatically cease operating. LICENSEE is solely responsible for saving all data and results that may be generated by the Licensed Program prior to the expiration of the License Term. Upon STREAMSIM's request, LICENSEE shall, within ten (10) days after the date of expiration, destroy all copies of the Licensed Program and certify in writing to STREAMSIM that such destruction has occurred. Using the program beyond the License Term represents a breach of this Agreement.

7.4. Termination for Breach. If LICENSEE breaches any of its obligations under this Agreement, STREAMSIM may, in addition to other remedies which it may have, terminate this Agreement immediately by written notice. If STREAMSIM terminates this Agreement pursuant to this Section, LICENSEE shall, within ten (10) days after the date of termination, destroy all copies of the Licensed Program and certify in writing to STREAMSIM that such destruction has occurred. STREAMSIM will not refund LICENSEE for any fees paid for the remaining License Term.

7.5. Survival. Notwithstanding any termination of this Agreement, the following Sections shall survive: Section 1.4 (Confidentiality); Section 2 (Ownership); Section 5.3 (Warranty Disclaimer); Section 5.5 (Infringement Defense Limitation); Section 6 (Limitation of Liability); Section 8 (Other Provisions).

8. OTHER PROVISIONS

8.1. Relationship. The relationship of the parties under this Agreement is that of independent contractors, and neither Party is an employee, agent, partner, or joint venturer of the other. All notices shall be given in writing to the contact person first set forth above, by certified mail, fax or courier, each with return receipt confirmation.

8.2. Entire Agreement. This Agreement along with all attachments constitutes the sole and entire understanding between the parties and supersedes all previous understandings either oral or written on the subject matter of the Agreement.

8.3. Modifications and Waivers. No modification, amendment or other change in this Agreement shall be effective for any purpose unless specifically set forth in writing signed by both parties. Either Party may at any time insist upon strict compliance with these terms and conditions notwithstanding any previous custom or practice to the contrary. Neither Party's failure to exercise any of its rights shall constitute or be deemed a waiver or forfeiture of such rights.

8.4. Purchase Orders. LICENSEE may submit purchase order(s) for the Licensed Program listed in this Agreement and/or related maintenance services (and any requested changes to such order(s)) to STREAMSIM in writing. Such purchase order(s)—or change order(s)—shall contain all information required by STREAMSIM to fulfill such order(s) and each order(s) must refer to the License Agreement number listed on the cover page of this Agreement and Effective Date. Any information, terms and/or conditions, or other language contained in any document(s) or purchase order(s) furnished by LICENSEE to STREAMSIM in excess of or outside of such information, terms and/or conditions or in conflict with any terms and conditions contained in this Agreement are null and void.

8.5. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of California, without reference to conflict of laws principles. Any legal actions arising out of this Agreement shall be brought in San Francisco County, California. LICENSEE shall comply with all applicable U.S. laws and regulations that may govern the export of the Licensed Program abroad.

8.6. Export or Re-Export. The Licensed Program is exported from the United States in accordance with the Export Administration Regulations with an ECCN classification on 0D999. Any diversion contrary to US law is prohibited.

8.7. Force Majeure. Neither Party shall be liable for failure in performance under this Agreement (except for payment obligations) if occasioned by any cause beyond the control of the parties, such as fire, flood, strikes, unavoidable accidents, war, embargo, governmental regulations, etc. (a "Force Majeure event"). In the event of a Force Majeure event, the affected Party shall promptly notify the other Party, and undertake to do its utmost in order to reestablish conditions favorable for the performance of this Agreement.

[END]