

HIPTTEST/_____
FIXED TERM LICENSE AGREEMENT

BETWEEN THE UNDERSIGNED:

Hiptest, a company incorporated under California Law, with its principal place of business at 5, Embarcadero Center 4, Suite 2550, San Francisco, CA 94111, USA

Duly represented by Mr. Laurent Py, in his capacity as President.

Hereinafter referred to as "**Hiptest**",

AND:

[FULL COMPANY NAME], a company incorporated in _____ with its principal place of business at [ADDRESS]

Duly represented by _____, in his/her capacity as _____,

Hereinafter referred to as "**Licensee**".

Hiptest and Licensee are hereinafter collectively referred to as the "Parties", or individually referred to as a or the "Party".

WHEREAS,

- A.** Hiptest develops and publishes agile tests management tools, which are marketed as SaaS (Software as a Service) and on-premise solutions.
- B.** Licensee acknowledges that prior to entering into this Agreement, it has received all necessary information and advice from Hiptest to analyze Hiptest's software "on-premise" offering, and that it has been offered the possibility to test Hiptest's solution. In this context, Licensee has deemed that such offering by Hiptest meets its expectations and needs, and it wishes to benefit from a Fixed Term License (as defined below).

NOW, THEREFORE, AND AFTER A PERIOD OF DISCUSSION, THE PARTIES AGREE AS FOLLOWS:

Section 1 - Definitions

The following terms, wherever used herein, have the meanings set forth below, irrespective of whether they are in the singular or in the plural:

"Administrator" means the User with an administrator role within Licensee's organization, designated by Licensee to manage the User Accounts, whose identity and contact details are defined in exhibit 1.

"Agreement" means this document, including its recitals, its exhibit 1 and any potential Amendment; any Order in accordance with section 5.1 being incorporated by reference to the Agreement.

"Amendment" means any change to the Agreement after the Effective Date, under the terms

defined in section 20.1.

“Application” means the software application(s) to be tested as part of Licensee’s Project.

“Business Day(s)” means a day other than a Saturday, Sunday or public holiday when banks in New York City are open for business.

“Business Hour(s)” means from 9:00 am - 6:00 pm (Eastern Standard Time) throughout the Business Days.

“Certified Environment” means the technical pre-requisites as defined on the Hiptest Site, that correspond to Licensee’s computer equipment (computer hardware, operating system, databases, third-party software and any change thereof), required for the launching and use of the Software at the Effective Date and any evolution thereof throughout the License Term.

“Confidential Information” means information or materials provided by the disclosing Party to the receiving Party, which are in tangible form and marked or identified as “confidential” or the like, or, information which a reasonable person knew or should have known to be confidential. License Keys, information relating to Hiptest’s pricing, product roadmaps or any strategic and/or marketing information, and any non-public information or materials relating to the Software are deemed to be Confidential Information, whether or not marked or identified as such. Confidential Information does not include: (i) any information, documents and/or tools held by the receiving Party before the date of communication thereof, as shown in a valid way by the receiving Party, notably that such information has been communicated to the latter by a third-party, in a lawful way and in good faith and not subject to any restrictions on disclosure; (ii) any information which has come into the public domain at the time of its communication or since its communication, without any breach of its non-disclosure obligations by the receiving Party; (iii) any information which is developed independently by the receiving Party, provided that the latter proves that it has not accessed, used or made reference to any Confidential Information as part of the development of such information and/or (iv) any information which is disclosed pursuant to judicial order or lawful requirement of governmental agency or by operation of law; provided that the disclosing party is provided reasonable notice so that it can object to or seek to limit the disclosure of its Confidential Information.

“Current Version” means the most recent version of the Software.

“Documentation” means the English version of the electronic written material (if any) - as updated from time to time, generally within the framework of the provision of major Updates - made available to Licensee under the Agreement, which includes the main processes and guidelines to facilitate the use of the Software.

“Effective Date” means the date of entry into force of the Agreement, as defined in exhibit 1.

“Error” means any repetitive and reproducible failure or malfunction of the unmodified Software, when used in accordance with the terms and conditions of the Agreement and the Documentation.

“Fixed Term License” or “License” means the on-premise Software license granted under the Agreement, which includes the provision of Maintenance.

“Hiptest Site” means Hiptest’s website (<https://hiptest.net>), on which the Software, the current version of the Certified Environment and the Open Source Components are described.

“Intellectual Property Rights” means all worldwide intellectual property rights, including without limitation, author rights, copyrights, trademarks, service marks, patents, patent applications, inventions, trade secrets, know-how, moral rights and all other proprietary rights, whether registered or unregistered.

“Licensee” means the legal entity as stated in the header of the Agreement.

“License Fees” means the non-refundable yearly fees payable by Licensee to Hiptest with respect to the granting of the License.

“License Key” means the code provided by Hiptest to the Administrator that enables the Software to operate on the Server.

“Licensee’s Project” means the Application testing operation performed by Licensee with the Software within the Scope of the License under the Agreement.

“License Term” means the fixed term of the License, as defined in exhibit 1, unless early

termination or renewal pursuant to the terms and conditions of the Agreement.

“Maintenance” means Technical Support and Upgrade Maintenance provided under the License, as defined in section 7 of the Agreement.

“Named User” or “User” means a specific individual (Licensee’s employee, consultant and/or contractor) authorized by Licensee to use the Software, on behalf of Licensee and who has a User Account, regardless of whether such individual is actively using the Software, subject to Licensee’s strict compliance with the terms and conditions of the Agreement.

“New Version” means a version of the Software which contains new functionalities and Updates, which Hiptest generally makes available to its customers as part of Upgrade Maintenance. Additional modules are not included in a New Version.

“Open Source Software” means third-parties’ software components embedded with the Software and provided under separate license terms, which can be found in a specific file provided within the Software and on Hiptest Site.

“Order” means any ordering document to extend the Scope of the License, in accordance with the terms of section 5.1.

“Party/Parties” means individually Hiptest or Licensee, and collectively Hiptest and Licensee.

“Scope of the License”: the initial License pack for which license rights are granted to Licensee, as defined in exhibit 1, and that may be extended subject to an additional Order.

“Server” means the computer equipment (computer hardware and/or software) on which the Software is hosted, owned by Licensee or whose Licensee owns the necessary rights to conclude and execute the Agreement; the choice of the location of the Server being at Licensee’s discretion.

“Software” means the English version of the standard non-custom computer program(s) developed and published by Hiptest - in executable code - as defined in exhibit 1, for which a License is granted under the Agreement, including the Documentation, any Updates, and any modified version of the Software provided to Licensee under the Agreement; any and all copies thereof in whole or in part.

“Technical Support” means the provision of support services relating to the Software, notably through Maintenance, pursuant to the terms and conditions of section 7.1 of the Agreement.

“Update(s)” means the English language version of the bug corrections and/or enhancements of the Software, in the form of files and/or object code, including the Documentation updates if any. Updates may include new additional features at Hiptest’s sole discretion.

“Upgrade Maintenance” means the provision of Updates in accordance with the provisions of section 7.2 of the Agreement.

“User Account” means each User’s account that is necessary to access and use the Software for the purpose of performing Licensee’s Project, as created by the User upon invitation by the Administrator.

Section 2 - Purpose

The purpose of the Agreement is to define the terms and conditions whereby Hiptest grants Licensee the non-exclusive right to use the Software, and provides Licensee with the related Maintenance, in consideration for the full payment of the corresponding License Fees.

Section 3 - Technical prerequisites

The Certified Environment at the Effective Date is defined on Hiptest Site.

Licensee is responsible for the purchase, the use and the maintenance of the licenses and - if applicable - for the subscriptions required by the Certified Environment to run the Software. In general, Licensee shall have the necessary technical means to run the Software properly.

Updates and/or New Versions of the Software may require the change of the Certified Environment, it being agreed that - to the extent reasonably practicable - Hiptest shall inform Licensee by any means and Licensee shall have full financial and operational responsibility, for

making any such required changes.

Licensee acknowledges and agrees that any configuration which does not comply with the Certified Environment may alter the functioning of the Software, for which under no circumstances shall Hiptest be liable.

Section 4 - Provision of the Software

4.1 Hiptest shall inform Licensee in writing about the availability of electronic download of the Software, and shall provide the Administrator with the License Key. The Administrator shall be responsible for the invitation of Users to create their User Accounts and of the management of the License within the organization of Licensee.

For the avoidance of doubt, each User may create several User Accounts; each User Account being counted as a Named User as part of the Scope of the License.

Licensee is solely responsible for confidentiality and security of the Users' Accounts and guarantees Hiptest against any third-party use.

Any Order relating to an extension of the Scope of the License shall give rise to the provision by Hiptest to the Administrator of an additional License Key.

4.2 Licensee acknowledges that it is responsible for the installation of the Software (including its Updates) on the Server. Under no circumstances shall Hiptest be liable for any damage or loss caused to Licensee's hardware, or for any loss of data caused by the installation of the Software. Hiptest may assist Licensee with the installation of the Software as part of related services under a separate agreement.

Section 5 - License grant

5.1 Software

5.1.1 Rights granted

Hiptest grants to Licensee throughout the License Term, the limited, personal, non-exclusive and non-transferable (except as otherwise set forth in the Agreement) right to:

- use the Software in the Certified Environment in accordance with the provisions of the Documentation and the terms and conditions of the Agreement, solely for Licensee's internal activity and to perform Licensee's Projects within the limit of the Scope of the License, as defined in exhibit 1 (unless amended in accordance with the terms of the Agreement), in particular with respect to the authorized number of Users;
- enable a third-party service provider to access and use the Software, on Licensee's behalf and for the sole purpose of delivering services to Licensee, provided that Licensee shall be fully responsible for such third-party's compliance with the terms and conditions of the Agreement and any breach of the Agreement by such third-party service provider shall be deemed to be a breach by Licensee;
- transfer the Software to one (1) computer and/or hard disk to another, provided that the Software is always used within the limits for which the rights of use have been granted under the Agreement;
- make one (1) copy of the Software for back-up purposes only, provided that Licensee reproduces all the intellectual proprietary notices which appear on or in the version provided by Hiptest; the copy version shall remain subject to the Agreement;
- use the Software to conduct internal performance testing and benchmarking studies, provided that Licensee does not publish the results of such studies, which constitute Confidential

Information.

Licensee shall be solely responsible for any use of the Software by the Users.

The Agreement represents the firm order for the Scope of the License as defined in exhibit 1. Any extension of the Scope of the License is subject to an additional Order which references this Agreement and is accepted in writing by Hiptest. All Order documents are governed by and incorporated by reference into this Agreement.

5.1.2 License restrictions

Without Hiptest's prior written consent, Licensee must not and must not allow any third-party to:

- assign, sublicense, distribute and more generally transfer the rights pertaining to the Software to a third-party, in whole or in part and by any means whatsoever;
- share its right to use the Software or use the Software for the purpose of rental and/or in an application service provider, or similar capacity for third-parties;
- reproduce, adapt, alter the Software, modify, create derivative works from the Software or enable a third-party to perform such acts, including for the purpose of correcting errors, without the prior written consent of Hiptest;
- translate, reverse-engineer, decompile, disassemble the Software or enable third-parties to perform such acts, except as otherwise authorized by non-waivable provisions of applicable law to achieve interoperability of the Software with other software. Whenever Licensee wishes to access information in order to achieve the interoperability of the Software with other software, Licensee shall firstly ask Hiptest - before performing any decompilation task - whether such information is promptly and/or easily accessible;
- alter or remove the copyright identification, trade names, logos, trademarks and any other intellectual property notice of Hiptest and/or its licensors, appearing on or included in the Software;
- use the back-up copy of the Software as authorized hereinabove (or enable any third-party to use such back-up copy) for any other purpose than to replace the original copy of the Software in the event that it has been destroyed or become unusable;
- disclose to any third-party the results of any benchmarking testing or comparative analysis of the Software done by or on demand by Licensee.

5.2 Rights on the Documentation

Licensee may (i) print the Documentation for the sole purpose of using the Software, (ii) transfer the corresponding files on Licensee's intranet server for the sole purpose of an Intranet use and/or (iii) transfer the Documentation on a hard drive for the sole purpose of using the Software. Licensee may not distribute the Documentation to third-parties and/or make the Documentation available through the Internet or by any means whatsoever.

5.3 Open Source Software

Notwithstanding anything herein to the contrary, any Open Source Software embedded within the Software is licensed to Licensee under such Open Source Components applicable license terms. Consequently, the provisions of the Agreement do not apply to such Open Source Components, and under no circumstances shall Hiptest be liable for any damages suffered by Licensee or a third-party arising directly or indirectly from their use.

Section 6 - Software warranty

6.1 As from the notice of availability for the provision of the License Key in accordance with section 4.1 and for a thirty (30) days period thereafter (the "Warranty Period"), Hiptest warrants to

Licensee that the Software (excluding Updates) substantially conforms to the Documentation relating to the corresponding major version, when properly installed and used at all times in accordance with the applicable Documentation and the Agreement.

As Licensee's sole and exclusive remedy and Hiptest's sole liability throughout the term of the Warranty Period, and provided that Licensee notifies Hiptest in writing of the alleged non-conformity prior to the expiration of the Warranty Period, Hiptest shall, at its sole option, either (i) replace the defective media or (ii) replace the Software, it being agreed that the replacement Software will be warranted for the remainder of the original Warranty Period, or (iii) terminate the Software license of use and refund the corresponding pre-paid License Fees.

6.2 The warranty in section 6.1 shall not apply to any breach caused by (i) any change to the Software, except where such change was made by Hiptest as part of Maintenance, (ii) Licensee's failure to provide a suitable installation or operating environment for the Software, (iv) use of the Software in a configuration which does not comply with the Certified Environment, and/or generally (v) failure of Licensee (and/or any User) to comply with the Documentation and/or the Agreement.

6.3 THE ABOVE WARRANTY IS IN LIEU OF AND HIPTTEST DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, RELATING TO THE SOFTWARE OR THE DOCUMENTATION PROVIDED TO LICENSEE UNDER THIS AGREEMENT, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTIES ARISING BY STATUTE, OPERATION OF LAW, COURSE OF DEALING OR PERFORMANCE, OR USAGE OF TRADE. HIPTTEST DOES NOT WARRANT THAT (i) THE SOFTWARE (INCLUDING ITS DOCUMENTATION) WILL MEET LICENSEE'S REQUIREMENTS, OR THAT (ii) IT WILL OPERATE IN THE COMBINATIONS THAT LICENSEE MAY SELECT FOR USE, OR THAT (iii) ITS OPERATION WILL BE ERROR FREE OR UNINTERRUPTED, AND/OR THAT (iv) THE RESULTS AND PERFORMANCE OF THE SOFTWARE. NOTHING IN THIS AGREEMENT SHALL BE CONSTRUED OTHERWISE.

Section 7 - Maintenance

Hiptest provides Licensee with Maintenance throughout the License Term.

7.1 Technical Support

7.1.1 Hiptest provides Licensee with technical support services by e-mail in the English language and throughout the Business Hours:

- e-mail: **support@hiptest.net**.

7.1.2 Licensee shall appoint and maintain the Administrator trained to the use of the Software, who will be the sole person authorized to communicate with Hiptest to request Technical Support. The Administrator shall be empowered to make decisions and shall have sufficient experience to communicate efficiently with Hiptest. Licensee shall promptly inform Hiptest of any change of the Administrator; it being agreed that the substitute Administrator will have sufficient skills and experience, to carry out the relationship with Hiptest technical support and that Licensee shall bear any costs incurred by the required training and/or Hiptest certification of the substitute technician.

7.1.3 Licensee shall promptly inform Hiptest of all Errors and requests for Technical Support in chronological order, and record them on an incident record book.

7.1.4 Hiptest shall take reasonable care and skill and use all reasonable endeavors to correct or to circumvent Errors arising under the use of the unmodified Software provided that Technical

Support only concerns the Current Version, as used in compliance with the specifications set forth in the related Documentation and the provisions of the Agreement.

7.1.5 The proper performance of Technical Support implies an active and regular collaboration of the Parties and, in particular, Licensee's effective involvement. Licensee shall take into account the instructions and recommendations of Hiptest within the framework of Technical Support (notably with respect to the implementation of testing procedures and of the necessary procedures), and generally, implement in good faith the means necessary to enable Hiptest to perform its obligations under the Agreement without delay. As a consequence, each Party shall (i) provide the other Party, without delay, with the information and documents necessary to perform Technical Support, (ii) promptly inform the other Party of any difficulty, given that both Parties will work together to implement the best solution without delay. Licensee shall ensure that it has the necessary configuration, the organization and the internal skills necessary for the efficient management of the Errors by Hiptest and of Hiptest's actions in accordance with the terms related to Technical Support.

7.1.6 Hiptest shall not be liable under Technical Support in the following cases:

- error caused by (i) a use of the Software with another environment than the Certified Environment, and notably with third-party software; and/or (ii) the use of a version of the Software different from Current Version, and/or the use of a version of the Software modified by Licensee or by a third-party; and/or (iii) in general, any use of the Software non-compliant with the provisions of the Agreement and with the Documentation, or any other reason independent from the Software and/or Hiptest;
- loss of data; Licensee being solely responsible for the backup and the storage of its data;
- negligence, willful misconduct, or fault of Licensee or of its personnel;
- adjunction, connection or installation of a third-party software;
- errors resulting from disruption or interruption of service provided by third-parties (network, telecommunications, etc.);
- repairing, installations, maintenance works, modifications, on-site interventions not provided by Hiptest's personnel;
- Virus.

7.1.7 Hiptest assumes no obligation to save and/or archive Licensee's data; such regular savings and/or archival being under Licensee's sole responsibility.

7.2 Upgrade Maintenance

Hiptest will inform the Administrator in writing of the availability of Updates and will make such Updates available to Licensee (including the related Documentation, if available) in accordance with the terms of section 4.

Any Update constitutes a same and single product with the Software and is subject to the terms and conditions of the Agreement.

The Upgrade Maintenance excludes (i) any software and/or module not expressly covered by the Agreement, and (ii) any other environment than the Certified Environment.

Hiptest may take into account Licensee's requests concerning the change of the Software or the development of new functionalities, if such requests are likely to become a standard and to be commercialized to all of Hiptest's licensees. In such circumstances, Licensee expressly agrees that Hiptest shall be the sole owner of all intellectual property rights pertaining to the corresponding changes and/or developments.

Section 8 - Mutual Representations

Each Party hereby represents and warrants (i) that it is duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation; (ii) that it has the legal right and authority to enter into and perform its obligations under this Agreement; and (iii) that the execution and performance of this Agreement will not conflict with or violate any provision of any law having applicability to such Party; and (iv) that this Agreement, when executed and delivered, will constitute a valid and binding obligation of such Party and will be enforceable against such Party in accordance with its terms.

Section 9 - Intellectual property rights; indemnification

9.1 Intellectual property rights

The Software is licensed, not sold. The Software is the sole and exclusive property of Hiptest and/or its licensors. Hiptest and/or its licensors retain all intellectual property rights in the Software (including the Updates). In addition, all the results, works, realized under Technical Support, the methods, tools, and/or know-how developed under the Agreement are the sole and exclusive property of Hiptest and/or its licensors, that retain all Intellectual Property Rights therein and all prerogatives thereto. Consequently, Licensee shall have no rights on or to the Software, the results and/or works accomplished under Technical Support, other than the right to use them in accordance with the terms of the Agreement. The Agreement does not give Licensee any license or right to use Hiptest and/or its licensors' trademarks and any other identification notices.

Licensee shall promptly notify Hiptest if it becomes aware of any unauthorized use of the Software by any person. If, further to such notice, Hiptest decides to take legal action against any such person, Licensee shall provide all the necessary assistance that Hiptest may reasonably require.

9.2 Intellectual property indemnification by Hiptest

9.2.1 Defense and indemnification

Subject to the remainder of this section 9.2, Hiptest will defend Licensee, at Hiptest's own expense, against any third-party claim that the Software infringes any United States patent, trademark or copyright of a third-party (each a "Claim").

In addition to Hiptest's defense obligations above, Hiptest will indemnify Licensee from the resulting damages finally awarded against Licensee by a court of competent jurisdiction in connection with Claim or agreed to in settlement, as well as from any reasonable costs and expenses paid by Licensee for its defense, including reasonable legal fees.

The foregoing obligations are applicable only if Licensee (i) promptly notifies Hiptest in writing of any such Claim, (ii) enables Hiptest to have sole control over the defense for the Claim and any negotiation of a settlement, and (iii) reasonably cooperates with Hiptest, as requested by Hiptest, in connection with the defense and settlement of such Claim.

In no event, shall Licensee settle or compromise any Claim without Hiptest's prior written consent.

9.2.2 Remedies

In the event any Claim is filed against Licensee in connection with the use of the Software, or if Hiptest deems that a Claim is likely to be asserted, Hiptest may, at its sole option and own expense, (i) either obtain for Licensee the right to continue the use of the affected Software, (ii) replace or modify the infringing component of the Software in order to stop to such alleged infringement, or (iii) terminate the License to the affected Software and discontinue Maintenance, and upon Licensee's certified deletion of the affected Software, refund the pre-paid License Fees attributable to the License and Maintenance to be provided after the date such License and Maintenance are stopped.

Nothing in this section 9.2.2 shall limit Hiptest's obligations under section 9.2.1, provided that Licensee replaces the allegedly infringing Software upon Hiptest's making alternate Software available to Licensee and/or Licensee discontinues using the allegedly infringing Software upon receiving Hiptest's notice terminating the affected License.

9.2.3 Exclusions

Notwithstanding the foregoing, Hiptest shall have no liability for, and expressly disclaims all liability with respect to any Claim relating to (i) the use of a version of the Software other than the Current Version, when such infringement could have been avoided with the use of the Current Version, (ii) any modification of the Software by Licensee or any third-party acting on its behalf, (iii) any use of the Software not in compliance with the Documentation and/or the Agreement and notably any modification to the Software without Hiptest's express written approval and/or use of the Software for a purpose or in a manner for which the Software was not designed, (iv) any use of the Software in combination with non-Hiptest products and used in an unmodified form), (v) any claim that relates to Open Source Software.

9.2.4 THIS SECTION 9.2 STATES HIPTTEST'S ENTIRE LIABILITY AND LICENSEE'S SOLE AND EXCLUSIVE REMEDY AS TO THE INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS. LICENSEE ACKNOWLEDGES AND AGREES THAT HIPTTEST SHALL IN NO EVENT BE HELD LIABLE BEYOND WHAT IS PROVIDED IN THIS SECTION 9.2.

Section 10 - Limitation of liability; insurance

10.1 LIMITATION OF LIABILITY

10.1.1 EXCLUSION OF DAMAGES

TO THE MAXIMUM EXTENT MANDATED BY LAW, IN NO EVENT SHALL HIPTTEST HAVE ANY LIABILITY WHATSOEVER FOR ANY LOSSES OR DAMAGES WHICH MAY BE SUFFERED BY LICENSEE, ITS USERS AND/OR A THIRD-PARTY, FOR INTERRUPTED PERFORMANCE OF THE SOFTWARE, LOSS OF OR CORRUPTION TO DATA, FILES AND/OR PROGRAMS, LOSS OF PROFITS, LOSS OF REVENUE, LOSS OF GOODWILL, LOSS OF OPPORTUNITIES, BUSINESS INTERRUPTION OR REPUTATION, REPROCUREMENT AMOUNT, AND/OR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, EVEN IF HIPTTEST HAS BEEN NOTIFIED OF ANY SUCH DAMAGES, WHETHER BASED IN CONTRACT, TORT, NEGLIGENCE, PRODUCT LIABILITY, OR OTHERWISE.

10.1.2 LIMITATION OF LIABILITY

Notwithstanding the nature and/or the cause for the action:

- HIPTTEST shall only be liable for direct damages, provided that Licensee has established a direct causal link between the alleged damage and the evidence of the breach of the Agreement by HIPTTEST;
- **HIPTTEST'S AGGREGATE LIABILITY TO LICENSEE THROUGHOUT THE OVERALL TERM OF THE AGREEMENT SHALL NOT, IN ANY EVENT, REGARDLESS OF WHETHER THE CLAIM IS BASED IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, EXCEED THE AMOUNT OF THE LICENSE FEES RECEIVED BY HIPTTEST FOR THE LICENSE OF THE SOFTWARE GIVING RISE TO THE CLAIM.**

THE FOREGOING LIMITATIONS APPLY REGARDLESS OF WHETHER HIPTTEST HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

10.1.3 Licensee acknowledges that the License Fees reflect the allocation of the risks under the Agreement and the economical balance required by the Parties, and that the Agreement would not have been concluded without the limitations of liability defined in this section 10.1. The Parties

further agree that in any event, any claim for damages against Hiptest arising in connection with the Agreement will be time-barred twelve (12) months after the event that generated the claim.

10.2 Insurance

The Parties certify that they have taken out a professional liability insurance policy which covers any and all activities related to the Agreement and notably all the financial consequences of their liability, whether professional, contractual or in tort, with respect to personal injury and/or material or immaterial damages sustained by the other Party and any third-party in connection with the performance of the Agreement. The Parties declare that such insurance policy was taken out in well-known and solvent insurance companies, and that the premiums are duly paid and will remain paid on time. Each Party shall - upon request by the other Party - provide the latter with any and all receipts and certificates, in particular concerning the nature of the risks covered and the premium payments.

Section 11 - Financial conditions

11.1 License Fees and payment terms

Except as may be otherwise stated in exhibit 1, Hiptest shall invoice and Licensee shall pay annually in advance to Hiptest the License Fees without discount or off-set, unless otherwise specified in such exhibit 1. The applicable License Fees for the initial yearly period are defined in exhibit 1 and may be amended in accordance with section 11.3 and/or 14.1 throughout the License Term.

All invoices issued by Hiptest are payable in United States Dollars and payments shall be made by wire transfer of immediately available funds within thirty (30) days of receipt of invoice.

11.2 Taxes

All prices set forth in the Agreement are stated exclusive of any taxes, customs duties and similar charges imposed by any governmental authority, which will be for the account of and payable additionally by Licensee. All fees charged pursuant to the Agreement are final, binding and non-refundable, unless otherwise stated in the Agreement.

11.3 Adjustment

In the event that the Scope of the License is extended during the License Term, an adjustment invoice shall be issued in advance in accordance with the applicable rates at the date of the corresponding order, unless otherwise stated in exhibit 1. Such extension shall be allocated on a prorated basis until the expiration of the then current contractual period; it being understood that such an adjustment shall be taken into account in the calculation of the amount of the License Fees in case of renewal of the License.

11.4 Late payment

Any amount not paid when due shall bear interest which shall be charged on a daily basis, at the rate of one and one-half percent (1.5%) calculated on a monthly basis for the period of lateness, or the highest rate allowable by applicable law, whichever is less. In addition, Hiptest may, at its sole option, withhold the performance of Maintenance, beginning five (5) Business Days after formal notice of late payment has remained without effect without prejudice to Hiptest's rights and remedies. Such suspension shall not be deemed as a breach of its contractual obligations by Hiptest, and shall not in itself entitle Licensee to any damages.

Licensee shall bear the costs and the consequences of such withholding of performance, notably the price increases and the delays in performance. The rights in this section are cumulative to any other rights under the Agreement.

11.5 Expenses

Out-of-pocket expenses, if any, related to travel and similar expenses incurred in connection with the performance of the Agreement by Hiptest shall be invoiced to Licensee on a monthly basis and at their effective cost, and shall be paid by Licensee upon presentation of the relevant receipts.

Section 12 - Records and audit

During the License Term and for two (2) years after the expiration or termination for any reason whatsoever, Licensee shall maintain accurate records of the use of the Software, sufficient to show compliance with the terms of the Agreement. During this period, and no more than once in any twelve (12) month period, Hiptest will have the right to audit Licensee's use of the Software during regular hours, to confirm compliance with the terms of the Agreement. Such audit is subject to a five (5) Business Days written notice given to Licensee, and will not unreasonably interfere with Licensee's business activities. Hiptest - or a third-party appointed by Hiptest - may at its own costs inspect and audit Licensee's books and records and/or premises, to ensure that Licensee's use of the Software complies with the terms and conditions of the Agreement. Licensee shall reasonably cooperate with Hiptest and/or any third-party auditor and provide access to Licensee's records, and allow Hiptest to make and remove copies of Licensee's records for the purpose of the audit. Licensee shall, without prejudice to any other rights of Hiptest, address any non-compliance identified by the audit, by promptly paying additional License Fees at the then-current price list to the extent necessary to bring Licensee into compliance. In addition, Licensee shall reimburse Hiptest for all costs incurred by Hiptest in performing the audit, if such audit reveals either underpayment of more than five (5%) percent of the License Fees payable by Licensee for the period audited, or that Licensee has materially failed to maintain accurate records of the Software use.

Section 13 - Non-disclosure; references

13.1 Non-disclosure

The receiving Party may (i) use Confidential Information of the disclosing Party for the exclusive purpose of exercising its rights and performing its obligations under the Agreement, and (ii) disclose Confidential Information only to its employees or contractors who have a need to know such Confidential Information for purposes of the Agreement, and agree to be bound by a duty of confidentiality, no less restrictive than the receiving Party's duty of confidentiality hereunder.

Generally, the receiving Party shall protect Confidential Information from any unauthorized use, access or disclosure, in the same manner as the receiving Party protects its own confidential and proprietary information of a similar nature, but not less than a high degree of care.

The undertaking provided in this section shall come into force as from the period of negotiations between the Parties and shall survive during three (3) years after the termination or expiration of the Agreement for any reason whatsoever, it being agreed that in any event, such undertaking - when it relates to any Confidential Information relating to the Software - shall remain valid during the term of the related Intellectual Property Rights.

13.2 References

Notwithstanding section 13.1, Licensee expressly allows Hiptest to use its name and logo as a business reference, notably to post Licensee's logo on its website or any website of its affiliates, or otherwise, provided that Hiptest complies with Licensee's guidelines with respect to such use, if such guidelines are provided. In addition, the Parties may agree to issue a mutually agreed press release, given that such press release will then serve as a reference account for Hiptest.

Section 14 - Term, termination, end of the Agreement

14.1 Term and renewal

The Agreement is effective as from the Effective Date, and the License shall continue for the License Term, unless earlier terminated in accordance with sections 14.2 or 14.3.

At least forty-five (45) days before the expiration of each current yearly period, Hiptest may provide Licensee in writing with the applicable License Fees for the next yearly period.

Unless either Party has notified the termination of the Agreement in accordance with section 20.8 at least thirty (30) Business Days before the expiration of the current yearly period, the Agreement shall be renewed for successive one (1) year periods automatically without any formal procedure at its anniversary date of the Agreement, on the basis of the License Fees provided by Hiptest in accordance with the above paragraph, or in the event Hiptest does not provide notice of the applicable License Fees for the next year, the Agreement shall be renewed at the same financial conditions and for the same Scope of the License as the year ending.

14.2 Termination for breach

Without prejudice to each right or remedy of a non-breaching Party, either Party may terminate the Agreement for material breach by written notice, effective thirty (30) days after receipt of notice unless the other Party first cures the breach.

14.3 Termination for insolvency

To the extent permitted by law, either Party may terminate the Agreement if the other Party (i) becomes insolvent, (ii) files any proceeding in bankruptcy or acquires the status of a bankrupt, (iii) has a receiver or receiver manager appointed with respect to it or any of its assets, (iv) seeks the benefit of any statute providing protection from creditors or takes or suffers any similar procedure, action or event in consequence of debt in any jurisdiction.

14.4 Effect of termination or expiration

Upon any termination or expiration of the Agreement (i) the License shall immediately terminate, (ii) Hiptest shall cease to perform Maintenance, (iii) Licensee shall cease all use of the Software, and return to Hiptest or destroy all copies of the Software, (iv) Licensee shall return any Hiptest Confidential Information in its possession or control, and certify in writing to Hiptest that Licensee has fully complied with these requirements, and (v) Licensee shall immediately pay any and all amounts due to Hiptest under the Agreement, without any possibility of compensation or deduction; it being agreed that all the amounts paid to Hiptest under the Agreement are not refundable.

Any terms of the Agreement which by their nature extend beyond termination or expiration of the Agreement will remain in effect until fulfilled, in particular sections 1 ("Definitions"), 5.3 ("Open Source Software"), 9 ("Intellectual property rights"), 11 ("Financial conditions"), 12 ("Records and audits"), 13 ("Non-disclosure; references"), 10 ("Limitation of liability"), 14.2 and 14.3 ("Termination") and 20 ("General").

Section 15 - Non-competition

Licensee shall not develop, directly or indirectly, any competitive software during the License Term and for a twelve (12) month period from the date of termination of the License for any reason whatsoever.

Section 16 - Non-solicitation

Neither Party shall, directly or indirectly, solicit for employment and/or hire a collaborator and/or employee of the other Party under any status whatsoever, and this, during the term of the Agreement and for a twelve (12) month period from the date of termination of the License for any reason whatsoever.

In the event that a Party does not comply with the above obligation, such Party shall pay a fee to the other Party in the amount of the annual gross salary paid to such employee over the twelve (12) month period before his/her departure.

Section 17 - Relationship between the Parties

The Parties are independent contractors. The Agreement does not create a partnership, franchise, joint venture, agency or employment relationship between the Parties. Each Party is responsible for paying its own employees, including employment related taxes and insurances.

Section 18 - Assignment; subcontractors

18.1 Assignment

Neither Party shall assign, dispose or otherwise transfer the Agreement - in whole or in part - to any third-party, without the prior written consent of the other Party. Notwithstanding the foregoing, and subject to prior written information, either Party may assign or transfer this Agreement and any of its rights hereunder without the other Party's consent to a successor (provided such successor is not a direct competitor of the other Party) either by merger or consolidation, a purchaser of all or substantially all of the Party's assets relating to this Agreement, or an entity (provided that such entity is not a direct competitor of the other Party) that directly or indirectly controls, is under the control of, or is under common control with the Party.

18.2 Subcontracting

Hiptest may subcontract its contractual obligations in whole or in part, it being agreed that Hiptest shall remain solely responsible for the execution of the contractual obligations as stated in the Agreement.

Section 19 - Compliance with laws and regulations

Each Party shall comply with all laws and regulations applicable to the actions contemplated by the Agreement, in particular any applicable data privacy regulations, applicable export or import laws and/or regulations of the applicable territory.

Licensee shall comply strictly with all regulations and has the responsibility to obtain any licenses required to export, re-export, or import the Software.

Section 20 - General

20.1 Entire Agreement; Amendment

The Agreement, including the accepted Orders and any Amendments hereto, constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement, and supersedes all previous or contemporaneous agreements, arrangements and understandings, whether oral or written relating to the subject matter hereof, and in particular any Licensee's general purchase conditions.

Each Party acknowledges that, in entering into the Agreement and the documents referred to in it, it does not rely on any statement, representation, assurance or warranty (whether it was made negligently or innocently) of any person (whether a party to the Agreement or not) other than as expressly set out in the Agreement. Each Party agrees that the only rights and remedies available to it arising out of or in connection with any statement, representation, assurance or warranty (whether it was made negligently or innocently) shall be for breach of contract.

Any change to the Agreement is subject to an Amendment (other than pre-printed forms or general conditions) signed by a duly authorized representative of each Party.

20.2 Order of precedence

In the event of conflict or inconstancy among the Agreement and an Order, the following order of precedence shall apply: (i) the Agreement and (ii) the Order.

20.3 Heading

The headings of sections of the Agreement are for convenience and are not to be used in interpreting the Agreement.

20.4 Waiver

The waiver or the failure by either Party to claim a breach by the other Party of any of its obligations under the Agreement shall not be construed as a waiver of such obligation for the future. Any waiver shall only be effective subject to an amendment pursuant to the terms of section 20.1 hereabove.

20.5 Severability

If any provision of the Agreement is held to be illegal, void or unenforceable in whole or in part, as a result of any statutory or regulatory provision or after the decision of a competent court which has become final, the Parties shall consult each other to replace such provision by a mutually agreeable solution in the spirit of the Agreement. All the other provisions of the Agreement shall continue in full force and effect, unless the purpose of the Agreement is consequently affected.

20.6 Force majeure

Neither of the Parties shall be responsible for failure or delay of performance if caused by an act of war, hostility, or sabotage; act of God; electrical, internet, or telecommunication outage that is not caused by the obligated party; government restrictions (including the denial or cancellation of any export or other license); other event outside the reasonable control of the obligated Party. The Parties both will use reasonable efforts to mitigate the effect of a force majeure event. If such event continues for more than forty-five (45) days, either Party may cancel the unperformed License upon written notice. This section does not excuse either Party's obligation to take reasonable steps to follow its normal disaster recovery procedures or Licensee's payment obligation.

20.7 Third-party rights

This Agreement does not confer a benefit on, and is not enforceable by, any person or entity who is not a party to this Agreement, except as explicitly provided herein.

20.8 Notices

Any notice under the Agreement that must be given by a Party in writing is deemed effective when sent either (i) via certified or registered mail, postage prepaid, or (ii) via express mail or nationally recognized courier service to the other Party's address specified in the header of the Agreement, is deemed received three (3) Business Days following the date of posting.

20.9 Language

The Agreement is in the English language only, which language shall be controlling in all respects. All communications and notices made or given pursuant to the Agreement shall be in the English language.

20.10 Counterparts

This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one (1) Agreement.

Section 21 - Governing law and jurisdiction

The Agreement and any dispute relating hereto shall be governed and construed according to the laws of the State of California, United States of America, excluding (i) its conflicts or choice of laws rules, and the federal laws of the United States, and (ii) the United Nations Convention on Contracts for the International Sale of Goods. To the extent permitted by law, the state and federal courts located in San Francisco, California, USA, will be the exclusive jurisdiction for disputes arising out or in connection with the Agreement.

In two (2) originals,
Accepted and agreed to:
Hiptest

By: _____
Title: _____
Date: _____

Accepted and agreed to:
Licensee [INSERT FULL NAME]

By: _____
Title: _____
Date: _____

EXHIBIT 1 – FINANCIAL CONDITIONS

- **Scope of the License:**
 - **Definition of the Software:**
 - **License pack:**

- **Effective Date:**
- **License Term**

- **Administrator User:**

- **Financial conditions**