FREEFLY SYSTEMS MIMIC BETA AGREEMENT

IMPORTANT – READ CAREFULLY:

THE MIMIC BETA IS PROVIDED ONLY UNDER THE FOLLOWING LICENSE WITH FREEFLY SYSTEMS INC. ("COMPANY"). PLEASE READ THE FOLLOWING LICENSE CAREFULLY. THIS IS AN AGREEMENT BETWEEN YOU ("RECIPIENT") AND THE COMPANY.

The MIMIC Beta ("Product") also includes any patches, updates and supplements to this original Product if provided to the Recipient by and at the Company's sole discretion. By installing, downloading, accessing or otherwise using the Product, Recipient agrees to be bound by the terms of this Agreement. If the Recipient does not agree to the terms of this Agreement, Recipient shall not install, download, or otherwise use the Product.

1. Subject to the terms and conditions of this Agreement, Company grants Recipient a nonexclusive, nontransferable license to use the Product for the purpose of testing and evaluating the Product.
2. Recipient acknowledges that, in the course of using the Product and performing its duties under this Agreement, it may obtain information relating to the Product and to the Company which is of a confidential and proprietary nature ("Proprietary Information"). Such Proprietary Information may include, but is not limited to, trade secrets, know-how, invention techniques, processes, programs, schematics, software source documents, data, customer lists, financial information and sales and marketing plans or information which Recipient knows or has reason to know is confidential, proprietary or trade secret information of the Company. Recipient shall at all times, both during the term of this Agreement and for a period of at least three (3) years after its termination, keep in trust and confidence all such Proprietary Information, and shall not use such Proprietary Information other than as expressly authorized by the Company under this Agreement, nor shall Recipient disclose any such Proprietary Information to third parties without the Company's written consent. The obligations of confidentiality shall not apply to information which (i) has entered the public domain except where such entry is the result of Recipient's breach of this Agreement; (ii) prior to disclosure hereunder was already in Recipient's possession, or (iii) subsequent to disclosure hereunder is obtained by Recipient on a non-confidential basis from a third party who has the right to disclose such information to Recipient.
3. The Recipient agrees that nothing contained in this Agreement shall be construed as granting any ownership rights to any Proprietary Information disclosed pursuant to this Agreement, including without limitation, any and all improvements, enhancements, modifications and derivative works thereof, or to any invention or any patent, copyright, trademark, or other

intellectual property right. The Recipient shall not make, have made, use or sell for any purpose any product or other item using, incorporating or derived from any Proprietary Information or the Product. The Recipient will not modify, reverse engineer, decompile, create other works from, or disassemble any software programs contained in the Proprietary Information or the Product.

4. The purpose of this Agreement is the testing and evaluation of the Product. In furtherance of this purpose, Recipient may provide feedback to the Company concerning the functionality and performance of the Product from time to time, including, without limitation, identifying potential errors, improvements, modifications, bug fixes, or enhancements ("Feedback"), and Company will have no confidentiality obligations, as described in this Section 2, with respect to such Feedback. Feedback and other information which is provided by Recipient to the Company in connection with the Product or this Agreement may be used by the Company to improve or enhance its products and, accordingly, Recipient grants the Company a non-exclusive, perpetual, irrevocable, royalty-free, worldwide right and license to use, reproduce, disclose, sublicense, distribute, modify, and otherwise exploit such Feedback and information without restriction.
5. **The Product is a beta release offering and is not at the level of performance of a commercially available product offering. The Product may not operate correctly and may be substantially modified prior to first commercial release, or at Company's option may not be released commercially in the future. THE PRODUCT (INCLUDING THE SOFTWARE AND DOCUMENTATION) IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, AND COMPANY AND ITS LICENSORS DISCLAIM ALL WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE, OR ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE. NO ORAL OR WRITTEN ADVICE OR CONSULTATION GIVEN BY COMPANY, ITS AGENTS OR EMPLOYEES WILL IN ANY WAY GIVE RISE TO A WARRANTY. THE ENTIRE RISK ARISING OUT OF THE USE OR PERFORMANCE OF THE PRODUCT REMAINS WITH RECIPIENT.**
6. COMPANY AND ITS LICENSORS SHALL NOT BE LIABLE FOR LOSS OF USE, LOST PROFIT, COST OF COVER, LOSS OF DATA, BUSINESS INTERRUPTION, OR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, SPECIAL, OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATED TO THE PRODUCT OR THIS AGREEMENT, HOWEVER CAUSED AND REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT

(INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, EVEN IF SUCH PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL COMPANY'S AGGREGATE CUMULATIVE LIABILITY FOR ANY CLAIMS ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE AMOUNT RECIPIENT ACTUALLY PAID COMPANY UNDER THIS AGREEMENT.

7. The Recipient's obligations under this Agreement shall survive any termination of this Agreement. The Recipient hereby agrees that breach of this Agreement will cause Company irreparable damage for which recovery of damages would be inadequate, and that the Company shall therefore be entitled to obtain timely injunctive relief under this Agreement, as well as such further relief as may be granted by a court of competent jurisdiction. The Recipient will not assign or transfer any rights or obligations under this Agreement without the prior written consent of the Company.
8. This Agreement contains the entire understanding and agreement of the parties relating to the subject matter hereof.
9. The validity, interpretation, and performance of this Agreement shall be controlled by and construed under the laws of the State of Washington, United States of America, as of performed wholly within the state and without giving effect to the principles of conflict of law. The parties specifically disclaim the UN Convention on Contracts for the International Sale of Goods.