

SOFTWARE LICENSE AGREEMENT
UC-SDRL Research Software

This Agreement is made and entered into this _____ day of _____ (the Effective Date), by and between the **UNIVERSITY OF CINCINNATI**, having an office at the Hoxworth Building, 3130 Highland Avenue, University of Cincinnati, Cincinnati, Ohio 45219-2374 (herein UC) and _____ having an office at _____
(herein LICENSEE).

WHEREAS, UC is the owner of certain right, title and interest in the computer program entitled UC-SDRL Research Software (herein the Program) and has the right to grant licenses to use the Program, and wishes to have this Program utilized in the public interest; and

WHEREAS, UC developed the Program with assistance, in part, from the Boeing Company; and

WHEREAS, LICENSEE wishes to obtain a nonexclusive and fully paid-up license to use the Program upon the terms and conditions hereinafter set forth; and

WHEREAS, UC intends this Agreement to confer a license for end-use only, with UC retaining to its own use all ownership rights in the Program, including, but not limited to, patent rights, copyrights and licensing rights therein, and further intends that no license, expressed or implied, for other than herein set out shall be transferred hereby; and

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants, terms and conditions herein contained. the parties agree as follows:

1. LICENSE

- 1.1. UC hereby grants to LICENSEE nonexclusive rights to use the Program for LICENSEE's internal purposes only, without any rights whatsoever to distribute (herein called "RIGHTS GRANTED"). LICENSEE shall restrict the use of the Program to LICENSEE's own personnel for use only on the computer(s) described in Appendix A.

- 1.2. In the context of this Agreement, "use" shall include the copying of any portion of the instructions or data in the Program, and any material associated therewith, from storage units or media into the CPU's or other central processing units referred to in Appendix A for processing.
- 1.3. LICENSEE agrees that the Program shall not be used as the basis of a commercial software or hardware product and that the same shall not be rewritten in another computer language or otherwise adapted to circumvent the need for obtaining a license from UC for use of the Program other than as specified by this Agreement.

2. DISTRIBUTION FEE

In consideration of the RIGHTS GRANTED herein, LICENSEE agrees to pay to UC upon execution of this Agreement a one-time fee as specified in Appendix B. which shall reimburse UC's costs in copying and distributing the Program to LICENSEE, and which shall be the sole sum payable by LICENSEE hereunder. If requested by UC, LICENSEE shall also provide the appropriate blank tapes or disks necessary for reproducing the Program.

3. DELIVERY OF MATERIALS

- 3.1. Upon execution of the Agreement, and payment by LICENSEE of the Distribution Fee in accordance with Paragraph 2 hereof, UC shall deliver to LICENSEE one (1) copy of the Program, and accompanying documentation if any.
- 3.2. LICENSEE acknowledges that title to the Program (including Copyright) shall remain with UC and that any copies of the Program or portions thereof made by LICENSEE in accordance with the RIGHTS GRANTED hereunder shall include a UC copyright notice thereon. The notice shall be affixed to all copies or portions thereof in such manner and location as to give reasonable notice of UC's claim of copyright and shall be in conformity with all applicable regulations on affixation prescribed by the United States Register of Copyright. LICENSEE shall at all times hereafter protect the Program, and all related technical information, data, and materials supplied by UC, from transfer measures at least as strong as those used by LICENSEE in protecting its own proprietary software.
- 3.2. LICENSEE accepts the above materials on an "as is" basis. Accordingly, UC shall not be required to load the Program onto LICENSEE's machines, test for proper operation, perform any debugging, make any corrections, provide maintenance, provide any updates, or assist in the understanding or use of the Program. The Program is a research program, and UC does not represent that it is free of errors or bugs or suitable for any particular tasks. No guarantee is made that the Program is adequately or completely described in, or behaves in accordance with, the documentation, if any.

4. WARRANTIES

LICENSEE AGREES THAT THE RIGHTS GRANTED HEREUNDER ARE MADE AVAILABLE WITHOUT WARRANTY OF ANY KIND EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND FURTHER INCLUDING NO WARRANTY AS TO CONFORMITY WITH WHATEVER USER MANUALS OR OTHER LITERATURE MAY BE ISSUED FROM TIME TO TIME.

5. LIMITATION OF LIABILITY

LICENSEE shall at all times during the term of this Agreement and thereafter, indemnify, defend and hold harmless UC, its trustees, directors, officers, employees, agents and affiliates, against all claims, proceedings, demands, and liabilities of any kind whatsoever, including legal expenses and reasonable attorneys' fees, arising out of, connected with, resulting from or sustained as a result of executing or performing all or any part of this Agreement or of use of the Program by LICENSEE. In no event shall UC be liable for special, direct, indirect or consequential damages, losses, costs, charges, claims, demands, fees or expenses of any nature or kind.

6. NON-USE OF NAMES

LICENSEE shall not use the name of University of Cincinnati nor the names of any of its employees nor any adaptation thereof in any advertising, promotional or sales literature without prior written consent obtained from UC in each case, **except that** LICENSEE shall give appropriate credits in professional journals and publications.

7. TERMINATION

Upon any material breach of this Agreement by LICENSEE, UC shall have the right to terminate this Agreement by giving thirty (30) days written notice thereof to LICENSEE. Such termination shall become effective unless LICENSEE shall have cured any such breach prior to the expiration of said thirty (30) day period. Upon termination, LICENSEE shall provide UC with written assurance that the original and all copies of the Program, including partial copies in modifications, have been destroyed, **except that**, upon prior written authorization from UC, LICENSEE may retain a copy for archive purposes.

8. NOTICES

Any notice required or permitted under this Agreement shall be sufficiently made or given on the date of mailing if in writing and sent to such party by registered or certified mail, postage prepaid or an overnight courier with signature required, addressed to it at its address below, or as it shall designate by written notice given to the other party.

In the case of UC:

Director of Intellectual Property
University of Cincinnati
PO Box 670829
Hoxworth Building, Third Floor
3130 Highland Avenue
Cincinnati, OH 45219-2374

In the case of LICENSEE:

9. MISCELLANEOUS

- 9.1. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.
- 9.2. This Agreement constitutes the full and complete understanding between UC and LICENSEE with respect to this Agreement, and the provisions hereof replace and supersede any and every other Agreement between them respecting the Program, or any service rendered hereunder, and supersede any provisions on the face and reverse side of any Purchase Order or any attachment thereto inconsistent with the provisions hereof.
- 9.3. Any modification of this Agreement to be effective must be in writing signed by both parties.
- 9.4. If one or more of the provisions of this Agreement shall be held to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

9.5. No waiver by either party of any rights hereunder shall be valid unless it shall be in writing signed by that party. The omission by either party to insist upon strict performance of any provision of the Agreement shall not be construed as a waiver of such provision.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals and duly executed this Agreement.

UNIVERSITY OF CINCINNATI

LICENSEE

BY: _____

BY: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

APPENDIX A

UC-SDRL Research Software is restricted for use on the following computer equipment (at least one computer must be identified in Appendix A at the time of the license application):

Serial Number (xxxx-xxxx)

Single User License

Computer Number 1: _____

Multiple User, Site and Educational License

Computer Number 1: _____

Computer Number 2: _____

Computer Number 3: _____

Computer Number 4: _____

Computer Number 5: _____

Computer Number 6: _____

Computer Number 7: _____

Computer Number 8: _____

Computer Number 9: _____

Computer Number 10: _____

Computer Number 11: _____

Computer Number 12: _____

Computer Number 13: _____

Computer Number 14: _____

The disk serial number for drive C can be obtained by going to the DOS prompt (Command Prompt Window) and issuing the following command: vol c:

APPENDIX B

Single User License

Distribution/Maintenance Fee: \$1,250 for the first year.

Educational User License

Distribution/Maintenance Fee: \$1,250 for the first year.

Multiple User or Site License

Distribution/Maintenance Fee: \$3,750 for the first year

Fee Waived

Distribution/Maintenance Fee is Waived: Reason for Waiver _____

Director, UC-SDRL

Fee is payable and software is delivered once license has been signed by both parties.

Payable to: UNIVERSITY OF CINCINNATI

Mailed to: Structural Dynamics Research Lab (UC-SDRL)
Attention: UC-SDRL Research Software Manager
PO Box 210072
Cincinnati, OH 45221-0072