HPE HPC SYSTEM ACCESS RESOURCES AGREEMENT

This HPC System Access Resources Agreement ("Agreement") is effective as of the date access information is provided to the designated user (the "Effective Date") by and between Hewlett Packard Enterprise Company ("HPE"), a Delaware U.S.A. corporation having a place of business at 1701 East Mossy Oaks Rd, Spring, TX, 77389, U.S.A. ("HPE"), and the individual listed in the online HPC System Access Resources Request form ("User").

1. **Scope, Grant**.

    a. This Agreement applies to User's use of the HPE software and/or hardware, as well as related documentation ("Documentation"), collectively ("HPE Products") deployed in an HPE-hosted and controlled facility ("HPE Lab").

    b. HPE grants to User a royalty-free, non-exclusive, non-transferable and revocable license, without a right to sublicense, exercisable only during the period of the evaluation ("Evaluation Period") to access and use the HPE Products in the HPE Lab for the purpose of porting, validation, testing, performance evaluation, training, and related activities approved by HPE on the HPE Products.

2. **Scheduling**. User acknowledges that access to the HPE Products in the HPE Lab will be in a shared environment with other Users as well as HPE employees and contractors also having access to the HPE Products in the HPE Lab at the same time. Access to the HPE Products in the HPE Lab may be interrupted at any time at HPE's sole discretion to allow for system administration or other tasks.

3. **Access Security Requirements**.

    a. User will comply with HPE requirements related to the access of an HPE facility, including but not limited to protection of HPE Confidential Information as well as the Confidential Information of any third party to which User may inadvertently be exposed. User will be required to comply with HPE's IT security access requirements set forth in this Agreement. HPE may terminate User's access to the HPE Lab at any time in HPE's sole discretion, including a breach of the terms of this Agreement.

    b. User agrees that User is solely responsible for User's account. User further agrees that User shall not permit others to use User's account. Disclosure of User's password to any other party is strictly prohibited, is considered a material breach of this Agreement, and may lead to the immediate cancellation of this Agreement and User's access rights.

    c. User warrants that its software applications that will be loaded onto or interact with the HPE Products will not (i) contain lock out devices or have any virus, disabling device, time bomb, trojan horse, back door or any other harmful component(s), (ii) replicate, transmit or activate itself without control of a person operating the computing equipment on which it resides, (iii) alter, damage or erase any data or other computer programs without control of a person operating the computing equipment on which it resides or (iv) contain any code, key, node lock, time-out or other function whether implemented by electronic, mechanical or other means which restricts or may restrict use or access to programs or data based on residency on a specific hardware configuration, frequency or duration of use, or other limiting criteria.

4. **Evaluation, Restrictions**.

    a. User is responsible for loading its software applications on the HPE Products in the HPE Lab and for any work that it may perform for the development, porting and/or synchronization of its applications with the HPE Products. User shall maintain the necessary rights required to operate its software on the HPE Products. HPE may ask User to verify that it has the appropriate licenses to operate the User's software in the HPE Lab environment. User shall not use the HPE Products to (a) produce, market, or support its own products; (b) sell, rent, lease, loan, provide, distribute, or otherwise transfer all or any portion of the HPE Products; (c) reverse engineer, reverse assemble, or otherwise attempt to gain access to the source code of all or any portion of the HPE Products, (d) display or disclose the HPE Products to any person other than User; (e) remove, alter, cover, or obfuscate any copyright notices or other proprietary rights notices placed or embedded on or in the HPE Products; (f) conduct User's actual business operations; or (g) cause or permit any third party to do any of the foregoing. If a third party product includes third party click-wrap or shrink-wrap licensing terms, then those terms shall apply to

the third party products. This Agreement governs the use of the HPE Products and takes precedence over any HPE or third party license terms included with the HPE Products.

b. HPE will install the operating system, operating system patches deemed necessary by HPE, programming environments and tools deemed necessary by HPE, and any other mutually agreed upon software. HPE may provide additional assistance to User at HPE's discretion. Subject to HPE's standard archive, backup and/or data retention policies, HPE will not copy or backup any files that User loads on the HPE Products in the HPE Lab.

c. The HPE Products may contain prototype hardware and/or software. User is aware that such prototype hardware and/or software may contain errors or bugs. The HPE Products may be modified at any time and without notice to User.

d. User's use of the HPE Products under this Agreement will last for a period of six months ("Evaluation Period"). User will notify HPE if its evaluation is complete before the end of the Evaluation Period. Unless otherwise agreed, User will remove its software and all data files from the HPE Products in the HPE Lab before the end of the Evaluation Period. The Evaluation Period may be extended by HPE at HPE's sole discretion.

e. Upon User's notification of work completion, access termination by HPE, or the end of the Evaluation Period, HPE will take steps to functionally delete User's software and files from the HPE Products. User is responsible for removing any of its software, files and data that it wishes to save prior to HPE scrubbing the HPE Products. HPE shall have no obligation or liability to User for deleting any software, files and data on the HPE Products after the Evaluation Period, termination of this Agreement or access to the HPE Products and/or HPE Lab. User shall be liable for any loss or damage to any HPE Products and/or HPE Lab caused by User or its employees or agents.

5. **Modifications, Feedback, Errors**.

a. Unless otherwise specified in an amendment, User is not authorized to create modifications to, including, but not limited to, derivative works of the HPE Products (herein after referred to as "Modifications").

b. User grants to HPE and its subsidiaries a perpetual, non-exclusive, irrevocable, worldwide, royalty-free license, including the right to sublicense, under User's intellectual property rights, to implement, disclose, use, make, have made, sell, offer for sale, import, copy, modify, create derivative works of, perform, distribute, disclose and otherwise commercialize, without restriction, any Modification, Feedback (defined in Section 5.c), and any Derived Technology. "Derived Technology" means inventions, works of authorship, or other technology specifically created as a consequence of User's access to the HPE Products under this Agreement.

c. User may provide feedback to HPE regarding the HPE Products, which may include, but is not limited to, comments, suggestions for new features or improvements, errors, performance benchmarking, and tests or comparisons with any third party products ("Feedback"). "Errors" shall mean an incorrect or ambiguous statement in a document, or a condition in the HPE Products that causes a malfunction or a failure to function in accordance with the Documentation. User shall not disclose Feedback or Errors to any third parties without the prior written consent of HPE.

6. **Benchmark Data**. HPE shall own all information related to the performance and configuration of the HPE Products, which may include, but is not limited to, comments, suggestions for new features or improvements, errors, performance benchmarking, test results, tests or comparisons with any third party products, or other data obtained or generated pursuant to access to the HPE Products ("Benchmark Data"). "Errors" shall mean an incorrect or ambiguous statement in a document, or a condition in the HPE Products that causes a malfunction or a failure to function in accordance with the Documentation. All Benchmark Data shall be HPE's Confidential Information. HPE and its vendors shall have the right to use and disclose the Benchmark Data in connection with engineering work to improve and optimize any HPE Products regardless of whether they are installed in the HPE Lab. HPE shall also have the right to publish Benchmark Data for marketing purposes but without reference or identification of the User, User's software or any other User Confidential Information (defined below) except as otherwise permitted by User. User may not publish any Benchmark Data without HPE's prior written permission.

7. **Confidential Information**.

a. HPE's Confidential Information shall consist of any information related to unreleased HPE Products including Benchmark Data, Feedback, and Modifications. User's Confidential Information shall consist of the User's software and related material installed on HPE's Products or otherwise provided to HPE.

b. Confidential Information shall also include any data from any other entity that is not a party to this Agreement that is running evaluations on the HPE Products in the HPE Lab. HPE shall not use or disclose the User's Confidential Information to any third party except as otherwise permitted with regard to Benchmark Data as specified in <u>Section 6</u>. HPE shall not cause or permit the decompilation, disassembly or reverse engineering of the User's software or disclosure, copying, display, loan, publication, transfer of possession (whether by sale, exchange, gift, operation of law or otherwise) or other dissemination of the User's software, or of any information provided to HPE by User in connection with the User's software, in whole or in part, to any third party without the prior written consent of User except as otherwise permitted with regard to Benchmark Data as specified in <u>Section 5</u>.

c. User may only use HPE's Confidential Information for its own evaluation purposes related to the potential procurement of HPE Products or for the purpose of porting, validation, testing, performance evaluation, training, and related activities approved by HPE. User will immediately notify HPE if it is exposed to or otherwise comes into possession of the Confidential Information of any other third party, including other HPE affiliates and partners, while evaluating the HPE Products under the terms of this Agreement.

d. Each party will have the obligation to protect the Confidential Information of the other for a period of three (3) years. Benchmark Data shall remain confidential for a period of three (3) years from the Effective Date or until it is made public by HPE in accordance with <u>Section 5</u>. A party receiving Confidential Information shall protect it against unauthorized use, dissemination or publication by using the same degree of care as that party uses to protect its own information but no less than a reasonable standard of care. Confidential Information does not include and the terms of this section do not apply to any information that (i) was in either party's possession before receipt from the other party, (ii) is or becomes a matter of public knowledge through no fault of a receiving party, (iii) is received by a party without a duty of confidentiality, (iv) is independently developed by the receiving party, (v) is disclosed under operation of law, or (vi) is disclosed by a receiving party with the other party's prior written approval. Upon termination of this Agreement for any reason, each party will cease use of and destroy or delete the Confidential Information of the other party, except that the parties may continue to use the Benchmark Data as permitted in <u>Section 5</u> after termination.

8. **Disclaimers**.

    a. **Warranties**. THE HPE PRODUCTS ARE PROVIDED "AS IS", WITHOUT ANY WARRANTY WHATSOEVER. ALL WARRANTIES, EITHER WRITTEN OR ORAL, EXPRESS OR IMPLIED ARE DISCLAIMED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF NON-INFRINGMENT AND THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. HPE DOES NOT WARRANT THAT (I) THE HPE PRODUCTS HAVE COMPLETED HPE'S QUALITY ASSURANCE PROGRAM, OR ARE IN FINAL FORM AND FREE OF ERRORS, OMISSIONS OR DEFECTS, (II) OPERATION OF THE HPE PRODUCTS WILL BE UNINTERRUPTED OR ERROR FREE, OR (III) THAT HPE PRODUCTS WILL OPERATE IN HARDWARE AND SOFTWARE COMBINATIONS OTHER THAN AS AUTHORIZED BY HPE. HPE MAKES NO GUARANTEES WITH REGARD TO BENCHMARK DATA.

    b. **Limitation of Liability**. EXCEPT FOR A BREACH OF A PARTY'S OBLIGATIONS OF CONFIDENTIALITY OR HPE'S INTELLECTUAL PROPERTY RIGHTS, NEITHER PARTY SHALL BE LIABLE TO THE OTHER UNDER THIS AGREEMENT FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR SPECIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOST DATA, OR DOWNTIME COSTS), WHETHER BASED IN WARRANTY, CONTRACT, TORT OR OTHER LEGAL THEORY, AND WHETHER OR NOT SUCH PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9. **Rights**. Except for the limited rights set forth in <u>Sections 1</u> and <u>5</u>, neither party acquires any intellectual property rights or licenses, including by implication, under this Agreement. All right, title and interest in and to the HPE Products are and will remain the exclusive property of HPE, except in the case of third party products, which shall remain with the applicable third party. Neither party is under any obligation to use, purchase, sell, license, transfer or otherwise dispose of any technology, services or products.

10. **Term and Termination**. This Agreement shall commence on the Effective Date and shall continue until

expiration of the later of the Evaluation Period or completion of the evaluation or testing as agreed to by the parties but no later than sixty (60) days after expiration of the Evaluation Period, unless earlier terminated by either party. In the event that User breaches this Agreement, HPE may terminate this Agreement immediately upon written notice to User. Either party may terminate this Agreement for convenience upon thirty (30) days' notice to the other party. Upon termination of this Agreement, all evaluation activities specified in a Lab Access Form will also terminate. Sections 1, 5, 6, 7 and 8 shall survive termination of this Agreement.

11. **General Provisions**.

    a. Each will comply with their respective responsibilities as exporters and importers under laws and regulations applicable to the export, import or other transfer of the software, services and technology provided by HPE under the Agreement, including the export, import and sanctions laws of the United States and other applicable jurisdictions. If User exports, imports or otherwise transfers software, technology and/or deliverables provided under these terms, User will be responsible for complying with these and any other applicable export, import and sanctions laws and regulations and for obtaining any required authorizations. User acknowledges that HPE cannot provide, directly or indirectly, any software, services or technology to: (i) embargoed or sanctioned countries or territories (currently Cuba, Iran, North Korea, Syria, the Crimea region of Ukraine, Ukraine Luhansk People's Republic (LNR) and the Ukraine Donetsk People's Republic (DNR)) or to nationals and parties from those countries; or (ii) any parties subject to trade control sanctions or blocking measures, including those designated on any of the lists of denied or restricted parties included in the United States Departments of State, Commerce and Treasury Consolidated Screening List (available at http://export.gov/ecr/eg_main_023148.asp) or the European Union (EU) (available at http://eeas.europa.eu/cfsp/sanctions/consol-list/index_en.htm). User warrants that no User locations or recipients of HPE software, services and technology are subject to any such restrictions. HPE may suspend performance of obligations under this Agreement if: (1) Licensee violates any applicable export, import or sanctions law or regulation; or (2) to the extent necessary to assure the Parties' compliance under U.S. or other applicable export, import or sanctions laws or regulations. If performance of this Agreement requires HPE to access User data, User will advise HPE in writing, at least ten (10) days' prior to performance of any work requiring HPE access to User data, if any User data is controlled for export under applicable laws and User's notice must include the Export Control Classification Number(s) [ECCN] of the User data and/or United States Munitions List Classification of the data. Under no circumstances will any statements or certifications be provided in support of restrictive trade practices and/or boycotts that arise out of racial, religious or cultural hostilities.

    b. Notices to the User sent in connection with this Agreement shall be sent to the attention of the individual who submitted the online application form at HPE's HPC System Access Resources website using the contact information in the submitted form. Notices to HPE shall be sent to the address set forth above.

    c. Failure to exercise any rights under this Agreement shall not constitute a waiver or forfeiture of such rights. If any provision herein is determined to be illegal or unenforceable, the validity or enforceability of the remainder of the provisions will remain in full force and effect.

    d. The validity, construction, and performance of this Agreement will be governed by the substantive laws of the State of California without regard to the conflicts of law provisions thereof.

    e. User shall not assign or otherwise transfer any rights or obligations set forth herein, without HPE's prior written consent and any attempted assignment or transfer by User shall be null and void.

    f. All changes to this Agreement must be made in writing and executed by authorized representatives of both parties.

    g. This Agreement may be executed in counterparts, which together will be taken as one Agreement.

    h. This Agreement and the exhibits contain the entire understanding and agreement of the parties relating to the subject matter hereof. Any representation, promise, or condition not explicitly set forth in this Agreement shall not be binding on either party.

12. **Connections and Networks**.

    a. Connection to the HPE Lab is for authorized users only. Persons authorized by HPE may use this HPE Lab network access for the reasons outlined in this Agreement. Misuse or misappropriation of HPE's

network or IT assets is prohibited. The network includes computers, hubs, switches, and their configurations. HPE will pursue legal remedies to the full extent of the law against any person or group who misappropriates or misuses any aspect of HPE's network.

b. HPE reserves the right to monitor and audit all systems or devices connected to HPE's network and inspect, without further notice, all electronic communications, data, and information stored or transmitted on HPE's network when necessary and appropriate. HPE also reserves the right to add necessary files to and modify the configuration of any connect system or device to ensure both the security and integrity of HPE's network.

c. By accepting the foregoing terms, you acknowledge and consent to proper use of HPE's computing and network resources, or any other network access regulations that HPE may issue at any time.

Acceptance of the terms of this Agreement may be indicated by completing the online application form at HPE's HPC System Access Resources website.