PRIVATE NON-PRODUCTION TEST AGREEMENT

This Private Non-Production Test Agreement ("Agreement") is entered into between Auditoria, Inc. ("Auditoria") and the customer identified below ("Customer") as of the last date signed below.

1. Definitions.

    a. "Non-Production Test Period" shall be from the date of execution of this Agreement by Auditoria until the earlier to occur of (i) the expiration of test period date identified on the signature page hereto, (ii) date of general launch of the SaaS Service by Auditoria, or (iii) the termination of this Agreement as provided in Section 9 below.

    b. "Confidential Information" shall mean all information disclosed by Auditoria to Customer, including, but not limited to: (i) the SaaS Service and all related documentation, (ii) any information provided by Auditoria marked with a proprietary, confidential or other similar notice or orally disclosed by Auditoria or its partners and (iii) the existence of this Agreement and the evaluation performed under this Agreement and its results. Confidential Information shall not include information which is now, or becomes, through no act or failure to act by Customer, generally known or available; is known by Customer at the time of receiving such information as evidenced by its records; is hereafter furnished to Customer by a third party, as a matter of right and without restriction on disclosure; or is the subject of a written permission to disclose provided by Auditoria.

    c. "Feedback" shall mean any opinions, suggestions or improvements, whether tangible or intangible, provided by Customer to Auditoria in connection with this Agreement.

    d. "Personally Identifiable Information" means information that can be used to identify, locate, or contact an individual or business, including, but not limited to, other information that may be associated with Personally Identifiable Information.

    e. "SaaS Service" shall mean the Non-Production version of proprietary software owned by Auditoria and identified on the signature page hereto. During the Non-Production Test Period, Auditoria may, in its sole discretion, provide updates, fixes and/or patches to the SaaS Service, and the term "SaaS Service" shall mean to include such updates, fixes and/or patches.

2. Purpose of Non-Production Test. During the Best Test Period, Customer will be provided with access to the SaaS Service on a hosted environment provided by Auditoria. Customer will be asked to use the features available through the SaaS Service in order to assess the functionality, usability, performance and overall ownership experience of the SaaS Service. Auditoria intends to use Customer's feedback and data collected from the Non-Production Test to improve and expand Auditoria's features and operational aspects of it's SaaS Service.

3. Privacy and Collection of System and Personal Information.

    a. Auditoria may collect, retain, and use specific identifiable data about Customer and Customer's computers and networks. Some of this information may be Personally Identifiable Information and may include sensitive data stored in files on Customer's computer(s). The data collected by Auditoria is used to provide, deliver, and support the services available through the SaaS Service. For these reasons Customer may not be able to opt out from some of this information collection other than by disabling the SaaS Service.

    b. By using the SaaS Service and accepting the terms of this Agreement, Customer consents and agrees to the collection, transfer, backup, and storage of Customer's Personally Identifiable Information and other data by Auditoria and Auditoria's service providers. Customer agrees that Auditoria's privacy notice, as it exists at any relevant time, applies to Customer.

4. License Grant. Subject to the terms and conditions hereof and during the Non-Production Test Period, Auditoria grants to Customer a personal, non-transferrable, revocable, and non-exclusive license to use the SaaS Service format solely for the purpose of Customer's internal evaluation of the SaaS Service.

5. Feedback.

    a. During the Non-Production Test Period, Customer agrees to provide Auditoria with regular feedback and report on its use of the SaaS Service, including, but not limited to, participating in weekly and monthly meetings (in person, by telephone or other teleconferencing methods to be reasonably determined by Auditoria)(the "Feedback Meetings"). Customer acknowledges that the Feedback Meetings may be recorded by Auditoria, and Customer hereby consents to such recording.

    b. Any Feedback shall (i) remain the sole, exclusive property of Auditoria, and (ii) be deemed non-confidential as to Customer. Auditoria shall have the right to use, disclose or incorporate any such Feedback in its sole discretion in any manner Auditoria chooses in any future version of the SaaS Service or for any other purpose, without compensation to Customer and without Customer's approval. Customer will not give Auditoria any Feedback (A) that Customer has reason to believe is subject to any patent, copyright, or other intellectual property claim or right of any third party; or (B) subject to license terms that seek to require any Auditoria product (or other Auditoria intellectual property) to incorporate any Feedback or to be licensed to or otherwise shared with any third party.

6. Testimonial.

    a. Upon completion of the Non-Production Test Period, Customer agrees to (i) complete any Non-Production evaluation questionnaire in the form provide by Auditoria, if applicable, and (ii) provide a testimonial regarding SaaS Service and Customer's use of the SaaS Service (the

"Testimonial"). Customer hereby consents to (A) the use of any Testimonial by Auditoria in any marketing material, and (B) the use of Customer's name and/or likeness in connection with any Testimonial in any marketing material to identify Customer as the provider of the Testimonial, in each case without compensation to Customer and without Customer's approval.

b. Customer hereby releases Auditoria from any and all claims and demands arising out of or in connection with such use of the Testimonial and Customer's name and/or likeness, including, but not limited to, any obligation to make any payment hereunder and from any other liability incurred in connection with the use of any Testimonial or Customer's name and/or likeness in the manner provided herein

7. Fees. During the Non-Production Test Period, Customer shall not be required to pay any license or subscription fees to Auditoria.

8. No Obligation. Customer acknowledges and agrees that (i) Auditoria shall be under no obligation to provide Customer with any services or access to the SaaS Service and (ii) Auditoria is under no obligation to develop, maintain or market the SaaS Service or to release production or general availability versions. Future versions of the SaaS Service, if any, may not be compatible with the current SaaS Service.

9. Termination. The licenses granted under Section 4 shall terminate on expiration of the Non-Production Test Period. Additionally, either party may terminate this Agreement upon five (5) days prior written notice to the other party at any time. Sections 1, 3, and 5 through 17 shall survive termination of this Agreement. THE SAAS SERVICE MAY CONTAIN CODE THAT WILL DISABLE THE SAAS SERVICE UPON EXPIRATION OF THE NON-PRODUCTION TEST PERIOD.

10. Proprietary Rights. Customer recognizes and agrees that the SaaS Service is the property of Auditoria and that all right, title and interest in the SaaS Service is reserved to and remains with Auditoria. Customer does not acquire any rights, express or implied, in the SaaS Service, other than those specified in this Agreement. Customer agrees not to record, copy, distribute, sell, sublicense or otherwise transfer the SaaS Service or any portion thereof. Customer further agrees not to remove from view any copyright legend, trademark or confidentiality notice appearing on the SaaS Service or SaaS Service output, or adapt, translate, reverse engineer, decompile or otherwise derive the source code for the SaaS Service.

11. Confidential Information. Customer understands that certain information disclosed to it by Auditoria represents the proprietary trade secrets of Auditoria. Customer therefore agrees to keep confidential and not disclose to any third party, and not to use except as specified in this Agreement, any Confidential Information. Confidential information may be disclosed as required by court order, provided that Customer shall promptly notify Auditoria to allow intervention and shall cooperate with

Auditoria to contest or minimize such disclosure. Customer shall protect the Confidential Information received with at least the same degree of care used to protect its own Confidential Information from unauthorized use or disclosure. Customer shall limit access to Confidential Information to those of its employees who need access to such Confidential Information to perform the evaluation required by this Agreement. All Confidential Information (including all copies of such Confidential Information) shall remain the property of Auditoria and shall be returned to Auditoria upon: (i) request of Auditoria, or (ii) the expiration or termination of this Agreement as set forth in Section 9. This Section 11 shall survive the expiration or termination of this Agreement for any reason. Because of the unique and proprietary nature of the SaaS Service, Customer agrees that Auditoria' remedies at law may be inadequate and that Auditoria will be entitled to equitable relief in specific performance in addition to all other remedies provided hereunder or available at law or in equity.

12. Disclaimer of Warranties.

a. CUSTOMER ACKNOWLEDGES THAT THE SAAS SERVICE IS A DEVELOPMENT VERSION ONLY, AND, AS SUCH, THE SAAS SERVICE MAY CONTAIN BUGS, MAY NOT OPERATE AS INTENDED, OR MAY NOT BE COMPATIBLE WITH APPLICATIONS USED BY CUSTOMER. CUSTOMER HEREBY ACCEPTS ALL RISKS ASSOCIATED WITH CUSTOMER'S PARTICIPATION IN THIS NON-PRODUCTION TEST, INCLUDING, BUT NOT LIMITED TO, LOSS OF DATA, DISCLOSURE OF CUSTOMER'S CONFIDENTIAL INFORMATION OR PERSONALLY IDENTIFIABLE INFORMATION, AND/OR LOSS OF ACCESS TO APPLICATIONS USED BY CUSTOMER.

b. AUDITORIA MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, AS TO THE SUITABILITY OR PERFORMANCE OF THE SAAS SERVICE AND SPECIFICALLY DISCLAIMS ANY AND ALL WARRANTIES, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. THE SAAS SERVICE IS PROVIDED "AS IS." AUDITORIA DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE SAAS SERVICE WILL MEET THE REQUIREMENTS OF CUSTOMER, THAT THE OPERATION OF THE SAAS SERVICE WILL BE UNINTERRUPTED OR ERROR FREE, OR THAT THE SAAS SERVICE WILL BE COMPATIBLE WITH CUSTOMER'S THIRD PARTY APPLICATIONS OR SOFTWARE.

13. Limitation of Liability.

a. THE LIABILITY OF AUDITORIA AND ITS LICENSORS TO CUSTOMER OR ANY THIRD PARTY ARISING FROM THE LICENSE OR USE OF THE SAAS SERVICE, OR THE PROVISION OF TECHNICAL SUPPORT INSTALLATION, TRAINING OR OTHER

SERVICES IN CONNECTION THEREWITH, HOWEVER CAUSED, AND ON ANY THEORY OF LIABILITY, INCLUDING CONTRACT, STRICT LIABILITY, NEGLIGENCE OR OTHER TORT, SHALL BE LIMITED TO DIRECT DAMAGES NOT TO EXCEED $500. CUSTOMER ACKNOWLEDGES THAT ITS POTENTIALLY VALUABLE DATA MAY BE LOST OR DAMAGED AND THAT AUDITORIA WILL NOT BE RESPONSIBLE FOR THE SAME OR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING THEREBY. IN NO EVENT WILL AUDITORIA OR ITS LICENSORS BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING DAMAGES FOR LOSS OF PROFITS, REVENUE, DATA OR DATA USE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THESE LIMITATIONS WILL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY REMEDY.

b. Customer acknowledges and agrees that (i) Customer is solely responsible for obtaining and complying with any third party license agreements for the use of any third party applications and/or software, and (ii) Customer is solely responsible for ensuring that Customer has the necessary rights to use the SaaS Service with such third party applications and software.

14. Customer Remedies. Notwithstanding anything to the contrary herein, Company's entire liability and Customer's exclusive remedy hereunder shall be Customer's termination of this Agreement pursuant to Section 9 above.

15. Indemnification. Customer agrees to defend, indemnify and hold harmless Auditoria from any and all claims, liability and expenses, including reasonable attorneys' fees and costs, arising out of Customer's breach of any provision of this Agreement. Auditoria reserves the right, in its sole discretion and at its own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by Customer. Customer will cooperate as fully as reasonably required in the defense of any claim.

16. Government Restricted Rights. The SaaS Service and accompanying documentation are deemed to be "commercial computer software" and "commercial computer software documentation," respectively. Any use, modification, reproduction release, performance, display or disclosure of the SaaS Service and accompanying documentation by the U.S. Government shall be governed solely by the terms of this Agreement and shall be prohibited except to the extent expressly permitted by the terms of this Agreement.

17. General. The relationship of the parties hereto is one of contract only, and in no event shall the parties be construed as partners, joint venturers, agents or principals of each other. Customer may not assign or otherwise transfer, by operation of law or otherwise, any of its rights under this Agreement without Auditoria' prior written consent. This Agreement is the complete and exclusive agreement between the parties with respect to the subject matter hereof, superseding and replacing any and all prior agreements, communications, and understandings (both written and oral) regarding such subject matter. The rights, duties, and obligations of the parties and the validity, interpretation, performance and legal effect of this Agreement shall be governed and determined by the laws of the State of California, without regard to its conflicts of laws principles. Any legal action or proceeding related to this Agreement shall be instituted in a state or federal court in Santa Clara County, California. Auditoria and Customer agree to submit to the jurisdiction of, and agree that venue is proper in, these courts in any such legal action or proceeding. Customer will not export the SaaS Service or any direct product thereof, directly or indirectly, in violation of U.S. export control laws and other applicable export and import laws or use the SaaS Service for any purpose prohibited by these laws. If any provision of this Agreement is ruled invalid, such invalidity shall not affect the validity of the remaining portions of this Agreement. No amendment to this Agreement will be binding unless evidenced by a writing signed by the party against whom it is sought to be enforced. No waiver by either Auditoria or Customer of any breach or default under this Agreement shall be deemed to be a waiver of any of any other breach or default under this Agreement. This Agreement may be executed in counterpart, each of which shall be deemed to be an original and each of which together shall constitute a single instrument. All notices required or permitted under this Agreement shall be provided in writing by confirmed facsimile or by first class mail, postage-prepaid, to the respective parties at the addresses first set forth below. This Agreement is not an offer and will not be effective until executed by Auditoria.

[SIGNATURE PAGE FOLLOWS]