

## ANSI/HFES 100-2007 SITE LICENSE AGREEMENT

This Agreement is made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2008 by and between \_\_\_\_\_ (hereafter referred to as "Licensee"), located at \_\_\_\_\_ and the Human Factors and Ergonomics Society (hereafter referred to as "HFES"), located at 1124 Montana Avenue, Suite B, Santa Monica, California.

### WHEREAS,

- HFES asserts the copyright to the ANSI/HFES 100-2007 Human Factors Engineering of Computer Workstations (hereafter referred to as the "Licensed Content"); and
- Licensee desires to obtain a Network Site License to disseminate an electronic version of the Licensed Content and to utilize it in electronic form on multiple computers for internal use at \_\_\_\_ (\_\_) locations, as identified in the Appendix (hereinafter the "Licensee/HFES Site License"); and
- HFES is willing to grant such a Site License for the Licensed Content to Licensee and Licensee is willing to accept the Licensee/HFES Site License, on the terms and conditions hereinafter set forth; and

NOW, THEREFORE, in consideration of these premises and the mutual obligations hereinafter set forth, the HFES and Licensee agree as follows:

### 1. **Definitions:**

- (a) "Multisite" shall mean the facilities under the control of Licensee at two (2) location(s), specifically identified in the Appendix, attached here to.
- (b) "To use" (per clause 2) the Licensed Content shall mean Licensee may distribute the electronic version of the Licensed Content over its intranet having multiple computers.

### 2. **License:**

HFES agrees to grant and Licensee agrees to accept a nontransferable, nonexclusive and limited license, with no right to sublicense, to use the Licensed Content subject to the terms and restrictions set forth in this Agreement. Licensee's rights hereunder are those of a licensed user only and are limited set forth in subparagraphs (a) and (b) immediately below. For avoidance of doubt, the permitted use and copying provisions below replace all otherwise applicable limitations and privileges under the U.S. Copyright law, including without limitation, the fair use doctrine:

#### (a) **Copyright and Permitted Use**

The Licensed Content is copyrighted, and except as set forth herein, all rights therein are reserved to HFES. Licensee shall not alter the content (including paragraph numbering) of Licensed Content. The Licensed Content is to be used in an electronic format by Licensee for the use by its employees (termed internal use) with access limited to a maximum of three (3) simultaneous users. Licensee shall not allow access to the Licensed Content by any third party. Licensee is

responsible for incorporating appropriate security to assure that no more than three (3) simultaneous users can access the Licensed Content at any one time.

(b) **Copying:**

Authorized users of Licensee may reproduce the electronic version the Licensed Content, as needed, on paper for temporary use by such users as long as all such paper copies retain the HFES's copyright notice, no such copies are distributed to third parties and such copies are destroyed as soon as the need for it has ended or upon termination of the agreement, whichever comes first. The print copies may not be filed to form part of any hard copy reference collection.

3. **License Fee:**

Licensee agrees to pay HFES a total of \$\_\_\_\_\_, which permits use by no more than \_\_\_\_\_ users. The initial license fee is due and payable upon execution of this Agreement. Should the number of users exceed \_\_\_\_\_, Licensee will notify HFES of the number of users and, within fifteen (15) days, remit to HFES the difference between the sum already paid and the newly applicable license fee for \_\_\_\_\_ users, according to the fees in Schedule 1 attached here to.

4. **Termination:**

(a) This Agreement may be terminated by the parties only as follows:

- i) by written mutual agreement of Licensee and HFES;
- ii) the insolvency of or the petition by or on behalf of either Licensee or HFES for bankruptcy or reorganization under bankruptcy laws or any assignment for the benefit of creditors; and
- iii) by Licensee or HFES, in the event of a material breach of this Agreement by the other party, if such breach is not cured within thirty (30) days after written notice of such breach

(b) Upon termination of this Agreement, Licensee agrees to cease all use and agrees to destroy all electronic copies thereof that may be in its possession. Upon HFES's request, Licensee shall provide to HFES an officer's certificate of destruction.

5. **Copyright Protection:**

Licensee shall use its best efforts to assure that its employees do not engage in the unauthorized duplication, reproduction, or copying of the Licensed Content. Licensee shall ensure that the copyright notice is visible on the Licensed Content and that its employees are advised of the terms and conditions of use under this Agreement.

6. **Indemnity:**

Licensee shall indemnify HFES, its officers, directors, members, and employees, and otherwise hold them harmless, against any claim, action or proceeding brought against HFES by any person resulting from or due to any action or inaction by Licensee in using the Licensed Content.

7. **Governing Law:**

This Agreement shall be governed by and construed according to the laws of the State of California (exclusive of all conflicts of law rules and principles).

8. **Dispute Resolution:**

Except as provided in the last two sentences of this paragraph, if a dispute shall arise under this Agreement, the Licensee and HFES hereby confer exclusive jurisdiction to hear and resolve any such dispute on the American Arbitration Association in the City of Los Angeles, California. Such arbitration shall be binding on the parties thereto. The parties expressly waive the right to litigate any such dispute in any other location or forum. Either party shall have the right to seek provisional remedies, including but not limited to injunctive relief, in any court having jurisdiction. In addition, HFES and Licensee shall each have the right to assert a cross-claim or third party claim against the other if a lawsuit is commenced against HFES and/or Licensee by a third party, notwithstanding the exclusive arbitration provision. Judgment on any arbitration award shall be entered by any court with competent jurisdiction.

9. **General:**

- (a) HFES and Licensee acknowledge that they have read this Agreement, understand it, and agrees to be bound by its terms, and further agree that this is the complete and exclusive statement of the Agreement between them, which supersedes and merges all prior proposals, understandings, and all other agreements, oral and written, between HFES and Licensee relating to this Agreement. Licensee acknowledges that it is not relying on any warranty or representation not expressly set forth herein in entering into this Agreement. This Agreement may not be modified or altered except by written instrument duly executed by both HFES and Licensee.
- (b) The terms and conditions of this Agreement are severable. If any term or condition of this Agreement is deemed to be illegal or unenforceable under any rule of law, all other terms and conditions shall remain in force. Further, the term or condition which is held to be illegal or unenforceable shall remain in effect as far as possible and in accordance with the intention of the parties.
- (c) Licensee may not transfer, assign, sublicense, or subcontract, without the prior written consent of HFES, its rights, duties or obligations under this Agreement to any person or entity, in whole or in part. Transfers, assignments, sublicenses, and subcontracts in violation hereof shall be voidable at HFES's option.

10. **Notices:**

Any and all notices required to be given hereunder shall be in writing, sent by registered or certified mail, return receipt requested, addressed to the parties at their respective addresses specified below and are effective when mailed. Alternatively, either a facsimile transmittal, an e-mail transmittal, an overnight messenger or courier or an "express mail" transmittal, with a confirmation shall be acceptable. Either HFES or Licensee by like notice may specify a different address:

For HFES:  
Human Factors and Ergonomics Society  
P.O. Box 1369

Santa Monica, CA 90406-1369 USA  
Attn: Lynn Strother, CAE, Executive Director  
lynn@hfes.org  
310/394-1811, Fax 310/394-2410

For Licensee:

LICENSEE

Organization name: \_\_\_\_\_

Address: \_\_\_\_\_

City/state/zip: \_\_\_\_\_

Country (if not USA): \_\_\_\_\_

Attn: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

11. **Force Majeure.**

Neither HFES nor Licensee shall be responsible for any delay or failure in performance resulting from acts entirely beyond its control.

12. **Liability.**

Notwithstanding anything to the contrary in this agreement, in no event whatsoever shall HFES or Licensee or their affiliates be liable for any indirect, special, incidental, punitive or consequential damages, including but not limited to loss of profits, lost time or good will, even if they have been advised of the possibility of such damages, whether in contract, tort (including negligence), strict liability or otherwise

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed on its behalf by its duly authorized representative hereinafter identified.

**LICENSEE**

By: \_\_\_\_\_ Date: \_\_\_\_\_

**HUMAN FACTORS AND ERGONOMICS SOCIETY, INC.**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Lynn Strother, Executive Director

**PLEASE RETURN TWO COPIES OF THIS SIGNED AND DATED LICENSE TO:  
HFES Communications Department  
P.O. Box 1369  
Santa Monica, CA 90406-1369**

**APPENDIX TO LICENSEE/HFES SITE LICENSE AGREEMENT**

Authorized site:

Facility name: \_\_\_\_\_

Facility address: \_\_\_\_\_

Number of site users: \_\_\_\_\_

Facility contact person (if other than named in Agreement):

Name: \_\_\_\_\_

Phone: \_\_\_\_\_

E-mail address: \_\_\_\_\_

**SCHEDULE 1: HFES SITE LICENSE FEE SCHEDULE**

<b>Number of Individual Users</b>	<b>License Fee</b>
1 to 5	\$340
6 to 10	\$638
11 to 20	\$1,190
21 to 50	\$2,763
51+ (to 100)	\$3,400