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  - (b) Recipient acknowledges that the Software received hereunder may be an alpha or beta pre-release version, and as such is not intended for production use.
  - (c) Recipient agrees to provide reasonable feedback to RN, in a manner prescribed by RN, including but not limited to usability, bug reports and test results, with respect to Software testing. All bug reports, test results, and other feedback provided to RN by Recipient shall be the property of RN and may be used by RN for any purpose. RN provides no assurance that any specific errors or discrepancies in the Software will be corrected. Communications from Recipient to RN shall not be in violation of the proprietary rights of any third party, and shall be made without any obligation of confidence on RN's part.
  - (d) Recipient may disclose the Software only to its employees who have a need to know in order to accomplish the purposes identified in Section 1(a), and such employees' use of the Software shall take place solely at Recipient's site. Recipient will have executed appropriate written agreements with its employees sufficient to enable it to comply with the terms of this Agreement.
  - (e) Recipient agrees that, for a period of up to six (6) months after commercial release of the Software, it will maintain a list of all employees who have had access hereunder to the Software or related information and will provide such list to RN upon RN's request.
  - (f) In the event RN, in its sole discretion, elects to provide the Software to more than one individual employed by Recipient (if Recipient is not a single individual), each such Recipient shall be entitled to exercise the rights granted in this Agreement, provided each such recipient agrees to be bound by the terms and conditions herein.

2. **TERM OF AGREEMENT.** The term of this Agreement shall commence on the date signed by Recipient and shall continue until terminated by RN in writing at any time, with or without cause. The license granted in Section 1 with respect to any Software will terminate without notice upon the earlier of (i) commercial release of the Software or (ii) one year after the last date Recipient receives the Software or any Update thereto, unless terminated earlier by RN. Upon the termination of this Agreement and/or the license granted in Section 1 with respect to any Software (or upon request by RN), Recipient shall promptly return to RN, or certify destruction of, all full or partial copies of the applicable Software provided by RN. The following Sections shall survive termination or expiration of this Agreement (either in its entirety or with respect to any Software): Sections 1(b), 1(d), 4, 6, 7, and 8.
3. **PRODUCT MAINTENANCE/UPDATES.** RN is not obligated to provide maintenance, technical support or updates to Recipient for Software provided to Recipient pursuant to this Agreement. However, RN may, in its sole discretion, provide further pre-release versions, technical support, updates and/or supplements of any Software and/or related information (“Updates”) to Recipient hereunder, in which case such Updates shall also be deemed to be included in the Software and therefore governed by this Agreement, unless other terms of use are provided by RN with such Updates. In no event shall RN be obligated to provide Recipient a copy of the commercial release version of any Software in connection with Recipient’s participation in the testing program. RN is not obligated to make any Software commercially available.
4. **CONFIDENTIALITY.** The Software, including any output therefrom, or the Software’s existence, features, and related information, are proprietary and confidential information to RN and its suppliers. Recipient agrees not to disclose or provide the Software, documentation, or any related information (including the Software features or the results of use or testing) to any third party, including, but not limited to, the press, online newsgroups or online chat rooms and the like, for a period of two years following receipt of the Software or commercial release of the Software, whichever occurs first. However, Recipient may disclose confidential information in accordance with judicial or other governmental order, provided Recipient shall give RN reasonable written notice prior to such disclosure and shall comply with any applicable protective order or equivalent. Further, Recipient shall not be liable to RN for disclosure of information which Recipient can prove (a) is already known to Recipient without an obligation to maintain the same as confidential; (b) becomes publicly known through no wrongful act of Recipient; (c) is rightfully received from a third party without breach of an obligation of confidentiality owed to RN; or (d) is independently developed by Recipient.
5. **INTELLECTUAL PROPERTY RIGHTS.** All title and intellectual property rights in and to the Software (including but not limited to any images, photographs, animations, video, audio, music, text and “applets” incorporated into the Software), and any copies of the Software that Recipient is expressly permitted to make herein, are owned by RN or its suppliers. All title and intellectual property rights in and to the content which may be accessed through use of any Software are the property of the respective content owner and may be protected by applicable copyright or other intellectual property laws and treaties. This Agreement grants Recipient no rights to use such content. If any Software contains documentation which is provided only in electronic form, Recipient may print one copy of such electronic documentation. Recipient may not copy the printed materials accompanying the Software. All rights not expressly granted are reserved by RN.
6. **NO WARRANTY.** Recipient acknowledges that the Software is provided on an “AS IS” basis. RN MAKES NO WARRANTIES HEREUNDER, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
7. **LIMITATION OF LIABILITY.** UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY WHETHER IN TORT, CONTRACT OR OTHERWISE SHALL RN OR ITS SUPPLIERS BE LIABLE TO RECIPIENT OR ANY OTHER PERSON OR ENTITY FOR ANY

INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF GOODWILL, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION OR ANY AND ALL OTHER COMMERCIAL DAMAGES OR LOSSES CAUSED BY THE SOFTWARE, THE CONFIDENTIAL INFORMATION, OR BY RN'S PERFORMANCE OF THIS AGREEMENT, EVEN IF RN SHALL HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES OR FOR ANY CLAIM BY ANY OTHER PARTY. FURTHER, IN NO EVENT SHALL RN'S LIABILITY UNDER ANY PROVISION OF THIS AGREEMENT EXCEED THE GREATER OF THE LICENSE FEE ACTUALLY PAID TO RN FOR THE SOFTWARE OR FIVE DOLLARS (\$5.00). BECAUSE SOME STATES/JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO RECIPIENT.

8. **GOVERNING LAW/JURISDICTION/ATTORNEYS' FEES.** This Agreement shall be construed and controlled by the laws of the State of Washington, and Recipient consents to exclusive jurisdiction and venue in the federal courts sitting in King County, Washington, unless no federal jurisdiction exists, in which case Recipient consents to exclusive jurisdiction and venue in the Superior Court of King County, Washington. Recipient waives all defenses of lack of personal jurisdiction and forum non conveniens. Process may be served on either party in the manner authorized by applicable law or court rule. If either party employs attorneys to enforce any rights arising out of or relating to this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees, costs and other expenses.
9. **EXPORT RESTRICTIONS.** Recipient acknowledges that the Software is of U.S. origin. Recipient agrees to comply with all applicable international and national laws that apply to the Software, including the U.S. Export Administration Regulations, as well as end-user, end-use and destination restrictions issued by U.S. and other governments.
10. **ENTIRE AGREEMENT.** This Agreement constitutes the complete and exclusive agreement between RN and Recipient with respect to the subject matter hereof, and supersedes all prior or contemporaneous oral or written communications, proposals, representations, understandings, or agreements not specifically incorporated herein. This Agreement may not be amended except in a writing duly signed by an authorized representative of RN and Recipient.
11. **NO ASSIGNMENT.** This Agreement is personal to Recipient. Recipient shall not assign or otherwise transfer any rights or obligations under this Agreement.
12. **NOTICE.** All notices relating to this Agreement, including notices of change of address, shall be in writing and shall be deemed effective upon personal delivery (including courier service), overnight mail delivery, or five (5) days after deposit, postage prepaid, in registered or certified mail, properly addressed as set forth below:

RealNetworks, Inc.  
Attn: Program Manager, Helix Development Support Group  
2601 Elliott Ave., Suite 1000  
Seattle, WA 98121  
U.S.A.

With a copy to: Legal Department

13. **PARTIES BOUND.** If "Company Name" or a company address is filled in below, then the individual signing this Agreement represents that he/she has authority to execute this agreement on behalf of such company and agrees that the Software (and any copies thereof) shall remain on the company premises, unless otherwise agreed by RN.

IN WITNESS WHEREOF, Recipient has caused this Agreement to be executed by an authorized representative.

**PLEASE PRINT CLEARLY; give completed document to your authorized signatory to sign and return to RN. If you are receiving this Agreement as an individual at you home address, please mark N/A for Company Name.**

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*Company Name (N/A or Company Name REQUIRED)*

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*Company Authorized Representative's Signature (REQUIRED)*

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*Print Authorized Signature and Title (REQUIRED)*

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*Physical Address (No P.O. Boxes). (REQUIRED)*

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*City, State, Zip (REQUIRED)*

*Country (REQUIRED)*

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*Phone Number (REQUIRED)*

*Fax Number*

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*Authorized Signatory Email Address (REQUIRED)*

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*Date Signed (REQUIRED)*

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*Primary Company Contact Name if different from Authorized Signatory (REQUIRED)*

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*Primary Company Contact Email Address (REQUIRED)*

When returning this Agreement, make sure to send *all* pages, not just the signature page. Incomplete or modified Master Private Pre-Release Software License Agreements will *not* be accepted.