



Defense Systems  
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## BRAWLER TERMS AND CONDITIONS

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## MEMORANDUM OF AGREEMENT FOR THE RELEASE OF GOVERNMENT-OWNED OR DEVELOPED SOFTWARE

1. Distribution of BRAWLER is performed by DSIAC on behalf of AF/A9FM.
2. The requestor acknowledges that BRAWLER is not to be used for any purpose other than the contract or CRADA number specified in the model.
3. The requestor agrees that they will not release or transfer BRAWLER to anyone without prior written approval from the DSIAC.
4. The requestor agrees to return BRAWLER to DSIAC upon completion of the work specified in the model request. The requestor may be eligible to retain BRAWLER if there is additional U.S. Government work, including IRAD, or another U.S. Government contract for which BRAWLER is required. Contact the DSIAC for additional guidance.
5. The requestor agrees that they may only use BRAWLER within 3 years of a completed, signed, and valid MOA and within an approved contract's period of performance.
6. The requestor agrees that BRAWLER, or any modified version thereof, shall not be published for profit or in any other manner offered for sale to the U.S. Government and shall not be sold or provided to any other activity or firm. If BRAWLER is modified using U.S. Government funds, the U.S. Government maintains unlimited rights to the modifications, regardless of if BRAWLER is the basis of, or incidental to, a contract. BRAWLER, and modified versions thereof, may be used in the performance of a contract with the U.S. Government but no development charges may be assessed as part of its use.
7. The requestor acknowledges that the U.S. Government is neither liable nor responsible for maintenance, updates, or correction of any defects in BRAWLER. Suspected software defects, improvement suggestions, or other change requests should be provided to the DSIAC or recorded directly in the DSIAC Software Change Request (SCR) database for submission to the respective BRAWLER Model Manager and Configuration Control Board (CCB).
8. The requestor acknowledges that the distribution of BRAWLER may include sensitive technology and information that is classified **SECRET//NOFORN** and that any such information released to the requestor, in whole or in part, shall be controlled and safeguarded in accordance with the appropriate NISPOM security regulations.
9. The requestor acknowledges that the information received is intended for domestic use only. **The requested information shall not be used for or made available to foreign governments nor used in any contract with a foreign government without the written approval of the appropriate U.S. Government agencies.** Contact the DSIAC for further guidance.



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## SOFTWARE USER AND MEMBERSHIP AGREEMENT FOR THE BRAWLER™ SOFTWARE AND ASSOCIATED USER GROUP (BRUSER™)

The requester of this model has requested that the Headquarters, United States Air Force Studies, Analyses and Assessments Division (hereinafter “HAF/A9”), (a) release computer software (hereinafter “PROGRAMS”) described as BRAWLER™, to THE REQUESTER, and (b) include THE REQUESTER as a member of the BRAWLER™ Users’ Group (BRUSER™). The following terms and conditions apply to said release and membership.

1. **LICENSE.** HAF/A9 grants THE REQUESTER a limited, nonexclusive, revocable, and nontransferable license to use the source code, executable code, and associated documentation for the PROGRAMS solely in pursuit of the objectives and according to the terms and conditions outlined herein. THE REQUESTER is also granted the right to make copies of and limited modifications to the PROGRAMS solely for the use of THE REQUESTER and according to these terms. THE REQUESTER agrees to receive the PROGRAMS in confidence. THE REQUESTER further agrees to inform all employees of THE REQUESTER with access to the PROGRAMS of the terms and conditions contained herein, and THE REQUESTER shall require that such employees be bound by the same. THE REQUESTER represents that he/she has authority to so bind such employees.
2. **DISTRIBUTION.** THE REQUESTER shall limit access to the PROGRAMS to only those personnel as may be required to exercise THE REQUESTER’s inspection, use, modification, testing, and evaluation of said PROGRAMS in accordance with this Agreement and shall inform such personnel that the PROGRAMS are the property of the U.S. AIR FORCE. THE REQUESTER agrees that it will not provide or disclose the PROGRAMS (or any documentation or data related thereto) to any other person, corporation, or entity who is not an employee or other third party not associated with these aims. Any third-party use shall be pursuant to a contract and limited to what is required by the terms of said contract. THE REQUESTER agrees to notify HAF/A9 of any software release to any third party at least 30 days prior to that release. Any releases by THE REQUESTER of the PROGRAMS, related documentation, or data derived from use of the PROGRAMS to third parties shall include the terms and conditions specified in this Agreement and shall be contingent on said third party’s acceptance of the same.
3. **BRUSER™ GOVERNANCE.** Acceptance of this Agreement initiates membership of THE REQUESTER in the BRUSER™ and signals THE REQUESTER’s agreement to advance the BRUSER™ objectives and abide by the BRUSER™ management policy. (a) Objectives. The BRUSER™ objectives include: (i) to facilitate the controlled development of the PROGRAMS, update relevant documentation, and provide configuration management support for all BRUSER members; (ii) to establish priorities for future development of PROGRAMS; (iii) to provide a forum for sharing information related to PROGRAMS where best practices can be captured and field-implemented improvements can be returned to the central repository for the benefit of all users; and (iv) to incorporate source code modifications from the perspective of multiple users to enhance PROGRAMS, increase user acceptance, and grow the user-base. (b) Management Policy. The BRUSER™ will be chaired by HAF/A9 and will meet at least once a year. HAF/A9 will coordinate all meetings with BRUSER™ members. HAF/A9 will use meetings to discuss any authorized or proposed modifications to the PROGRAMS. BRUSER™ members may propose additional modifications to the PROGRAMS, but such recommendations will not be binding on



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HAF/A9. (c) Membership. THE REQUESTER's membership may be terminated by HAF/A9 if THE REQUESTER fails to comply with any term or condition of this Agreement. HAF/A9 may also terminate the BRUSER™, or a portion thereof, by providing written notice to affected members at any time. Termination by THE REQUESTER or by HAF/A9 may only be made by providing written notice to the other party.

4. MODIFICATIONS. When making modifications, alterations, and/or enhancement to the PROGRAMS, THE REQUESTER agrees to distinguish between Authorized Modifications and Unauthorized Modifications. (a) Authorized Modifications. Authorized modifications shall be identified, categorized, and handled in accordance with the configuration control procedures provided below. (b) Unauthorized Modifications. Any modification, alteration, and/or enhancement to the PROGRAMS by THE REQUESTER not considered an authorized modification shall be considered an Unauthorized Modification. THE REQUESTER agrees to abide by the following restrictions when working with Unauthorized Modifications: (1) THE REQUESTER shall not correlate any results associated with the Unauthorized Modifications with any results associated with the configuration-controlled version of the PROGRAMS; and (2) THE REQUESTER shall explicitly mark any results associated with the Unauthorized Modifications as the product of an unauthorized, non-configuration-controlled version of the PROGRAMS. All such markings are intended to preserve the integrity of the PROGRAMS and to provide a common model for other users to compare and evaluate against.
5. CONFIGURATION CONTROL PROCEDURES. (a) HAF/A9 shall retain and be solely responsible for configuration control of the PROGRAMS and will review all proposed modifications for incorporation into the PROGRAMS as part of its configuration control responsibilities. (b) As part of the configuration control procedures, HAF/A9 shall provide a BRAWLER™ Model Manager for managing the operation and development of the PROGRAMS. (c) HAF/A9 may incorporate or reject, in whole or in part, any proposed modification to the PROGRAMS coordinated through the BRUSER™. All proposed modifications incorporated into the PROGRAMS, in whole or in part, shall be considered Authorized Modifications when approved by HAF/A9 and made part of a future release. (c) THE REQUESTER may propose modifications to the PROGRAMS by coordinating such proposals through the BRUSER™ provided that THE REQUESTER warrants and represents that all such modifications do not violate any existing agreements, regulations, statutes, rules, or rights of any third party, and further that THE REQUESTER has sufficient rights to grant the rights conveyed by this Agreement. All modifications proposed to HAF/A9 for consideration as an authorized modification shall be delivered to HAF/A9 with no less than "unlimited rights" as defined at 48 C.F.R. § 252.227-7013 (2014). No modification, alteration, or enhancement incorporating any portion of software termed "Open-Source Software" shall be proposed as an authorized modification without the prior written approval of HAF/A9.
6. MODEL MANAGER. The BRAWLER™ Model Manager can be contacted at HAF/A9FM, 1570 Air Force Pentagon, Washington, DC 20330-1570. Telephone 571-256-2120 or DSN 260-2120 or via e-mail at [dale.r.johnson3.civ@mail.mil](mailto:dale.r.johnson3.civ@mail.mil).
7. RESALE. The PROGRAMS shall remain the property of the U.S. AIR FORCE. The PROGRAMS, and/or any modified, altered, or enhanced version or portion thereof, whether or not authorized, shall not, in any manner, be offered for sale to the U.S. Government. The PROGRAMS have been provided to THE REQUESTER as a member of the BRUSER™, and all modifications, alterations, and/or enhancements to the PROGRAMS shall be governed by this AGREEMENT.





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The PROGRAMS may be used in other contracts with the U.S. Government, but no charge may be made for their use or for any modifications or enhancements that result. If the PROGRAMS are modified, altered, and/or enhanced using U.S. Government funds, the Government shall be provided the complete source code of the modified, altered, and/or enhanced version along with the rights specified herein for proposed modifications. THE REQUESTER shall not sell, lease, or otherwise provide the PROGRAMS as a commercial product, as a subroutine or component of a commercial product, or in any commercial and/or proprietary venture without the prior written approval of HAF/A9. The conditions imposed by this Agreement shall apply to any product developed by THE REQUESTER that incorporates any portion of the PROGRAMS. This AGREEMENT shall not be construed as granting to THE REQUESTER any right to sublicense the PROGRAMS, nor any license to or any other rights in any invention, data, or copyright arising therefrom.

8. SERVICES AND SUPPORT. HAF/A9 shall not be required to load the PROGRAMS onto THE REQUESTER's machines; test for proper operation; perform any debugging; make any corrections; provide maintenance; provide any updates, enhanced capabilities, or new features; or assist in the understanding or use of the PROGRAMS at any time other than as expressly stated in this section: (a) U.S. Government Agencies. While signing this document does not obligate U.S. Government agencies, as users of the BRAWLER™ software, U.S. Government agencies are expected to contribute funding toward the BRAWLER™ support contract for reimbursement pursuant to 31 U.S.C. § 1536. Funding will reimburse HAF/A9 for services and support provided to the agency as a member of the BRUSER™ to include one (1) annual BRAWLER™ training slot. All funding received shall be considered obligated against the BRUSER™ support contract and should excess funds exist, the BRUSER™ will designate additional tasks to advance development of the PROGRAMS. The annual funding requirement may be modified based on anticipated costs and the number of BRUSER™ members. To obtain BRAWLER™ services beyond the baseline BRUSER™ level, U.S. Government agencies should make individual contractual arrangements with HAF/A9's BRAWLER™ support contractor (currently, Mr. Mark Brown of ManTech/SRS Technologies, Inc. (703) 358-4743); (b) U.S. Contractors and non-government users. Non-government users can obtain BRAWLER™ without charge but will not have access to training or technical support for the software. Non-government users of the software can obtain support for the software directly from HAF/A9's BRAWLER™ support contractor (currently, Mr. Mark Brown of ManTech/SRS Technologies, Inc. (703) 358-4743), through individual contractual arrangements, or thru other vendors.
9. REPRESENTATIONS. THE REQUESTER accepts the PROGRAMS, as well as any associated authorized modifications on an "as is" basis, and assumes all risk associated with the use, modification, alteration, and/or enhancement of the PROGRAMS. HAF/A9 does not warrant any portion of the PROGRAMS will meet THE REQUESTER's requirements or will operate without interruption or error. HAF/A9 makes no representations regarding the PROGRAMS and extends no warranties of any kind, whether express, implied, or statutory, including but not limited to any warranty that the PROGRAMS will conform to specifications, any warranty that the PROGRAMS will satisfy any requirements, any warranty of merchantability or fitness for a particular purpose, any warranty that the documentation will conform to the PROGRAMS, and any warranty that the PROGRAMS will operate without interruption or be error-free, whether or not the error is discoverable, and assumes no responsibility whatsoever with respect to the use or other disposition by THE REQUESTER of products incorporating or made by the use of the PROGRAMS or information, if any, furnished under this AGREEMENT. Nothing in this



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AGREEMENT shall be construed as a representation made or warranty given by HAF/A9 that the practice of the rights granted herein shall not infringe the copyright or patent rights of any third party. In no event shall HAF/A9 be liable for any damages—including but not limited to direct, indirect, special, or consequential damages—arising out of, resulting from, or in any way connected with, the use of the PROGRAMS, whether or not (i) based on warranty, contract, tort, or otherwise; (ii) the alleged injury was economic, in the form of lost profits, or sustained by persons or property; (iii) based on a third party claim; (iv) sustained from, or arose out of, the results or use of the PROGRAMS; or (v) HAF/A9 is advised, or otherwise has reason to know, of the possibility of the foregoing.

10. **TRADEMARKS.** During the term of this AGREEMENT, THE REQUESTER may use the marks BRAWLER™ and BRUSER™ solely in conjunction with the use and handling of the PROGRAMS and any Authorized Modifications but not with any Unauthorized Modifications. If THE REQUESTER, in the course of using said marks, acquires any goodwill or reputation in association with the same, all such goodwill or reputation shall automatically vest in the U.S. Air Force, as represented by HAF/A9, and THE REQUESTER agrees to take all such actions necessary to affect such vesting. THE REQUESTER shall not contest the validity of the marks BRAWLER™ and BRUSER™ or the U.S. Air Force's exclusive ownership of them and agrees not to adopt, use, or register them or any word or mark confusingly similar to them in any jurisdiction.
11. **LIMITATION ON LIABILITY.** In no event shall HAF/A9, the U.S. AIR FORCE, or the U.S. Government be held liable for any damages due to lost data or loss of productivity resulting from the use or inability to use the PROGRAMS. In addition, THE REQUESTER shall hold the U.S. Government, its officers, and its employees, harmless against all claims, proceedings, liabilities, demands, damages, expenses, or losses, including legal expenses and attorneys' fees, arising from (a) the use by THE REQUESTER of the PROGRAMS, associated documentation, or any information derived therefrom or (b) any use, sale, lease, or other disposition by THE REQUESTER of products made or influenced by the use of such PROGRAMS. THE REQUESTER's sole and exclusive remedy for any and all claims arising from, or in connection with, the PROGRAMS, associated documentation, or any information derived therefrom and against the Department of Defense (or any component, department, or division thereof) shall be replacement of defective tapes, optical disks, or other media upon which the PROGRAMS, documentation, or information are provided.
12. **TERM.** HAF/A9 may terminate this AGREEMENT by providing written notice to THE REQUESTER at any time. This Agreement will otherwise remain in effect commencing on its effective date and continuing for a period of 12 months. Upon expiration of the 12-month period, this Agreement will remain in effect indefinitely until terminated by either party following proper written notice. Upon termination, THE REQUESTER agrees to return or destroy all copies of the PROGRAMS, associated documentation, and all information pertaining thereto as directed by HAF/A9.
13. **EXPORT.** Nothing granted herein provides any export license to THE REQUESTER. THE REQUESTER is not authorized to export the PROGRAMS outside of the United States or, if THE REQUESTER is a non-domestic user, outside of THE REQUESTER's territorial boundaries. THE REQUESTER is hereby put on notice that any further export of any product, documentation, or other information associated with the PROGRAMS may require some form of license from the



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U.S. Government. THE REQUESTER shall consult with HAF/A9 if export is contemplated and/or desired now or in the future.

14. EXCLUSIVITY. This Agreement does not, in any manner, constitute an exclusive release of the PROGRAMS to THE REQUESTER. HAF/A9's distribution of the PROGRAMS to other entities is, in no way or manner, limited.
15. SUCCESSORS AND ASSIGNS. This AGREEMENT shall be binding on the parties, their successors, assigns, and legal representatives. THE REQUESTER shall not assign, sublet, or transfer its interest in this AGREEMENT without the written consent of HAF/A9.
16. WAIVER. This AGREEMENT may not be modified or amended except in a writing signed by an authorized representative of each party. The failure of either party to enforce any provision of this AGREEMENT shall not be deemed a waiver of the provisions or of the right of such party thereafter to enforce that or any other provision.
17. DISPUTES. All disputes concerning or arising out of this AGREEMENT shall be mutually discussed and resolved. Any disputes not so resolved shall be referred to the signatories of this AGREEMENT for joint resolution. Prior to raising an unresolved dispute, the parties will use their best efforts to resolve the dispute at the lowest practicable level. All efforts at resolving disputes shall be documented. Any dispute remaining unresolved for more than 30 days shall be elevated to the next practicable level and through the parties' respective chains of command for attempted resolution.
18. NOTICES. All notices sent hereunder shall be in writing and deemed effective when (a) delivered in person to the individual or to a representative of the party for whom it was intended, (b) deposited using certified mail, with return receipt requested and postage prepaid, in the U.S. mail (or other nationally recognized overnight carrier) and addressed to the respective party. All notices required by this Agreement shall be directed to the attention of the persons identified in the signature blocks of this AGREEMENT or their duly authorized representatives.
19. ENTIRE AGREEMENT. This AGREEMENT constitutes the entire understanding and agreement between the parties hereto relating to release, use, and/or modification of the PROGRAMS and may not be superseded, modified, or amended except by further written agreement duly executed by the parties. This AGREEMENT shall be construed, and the legal relations between the parties hereto shall be determined, in accordance with United States federal law regardless of where any legal action might be brought. If any provision of this AGREEMENT is deemed invalid or unenforceable, it shall not affect the validity or enforceability of the remainder of the terms of this AGREEMENT. The effective date of this AGREEMENT shall be the last Date of Execution as set forth below.
20. COUNTERPARTS. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A facsimile copy of an executed counterpart shall be valid and have the same force and effect as an original.