SOFTWARE LICENSE AGREEMENT

UC-SDRL Research Software

This Agreement is, by and between the UNIVERSITY OF CINCINNATI, a state institution of higher education organized under Section 3361 of the Ohio Revised Code, having an office at P.O. Box 0829, University of Cincinnati, Cincinnati, Ohio 45221-0829 (herein “UC”) and you.

WHEREAS, UC is the owner of certain right, title and interest in the computer program(s) entitled UC-SDRL RESEARCH SOFTWARE (the “Program”), specifically including X-Modal, and has the right to grant licenses to use the Program, and wishes to have this Program utilized in the public interest; and

WHEREAS, you wish to obtain a nonexclusive and fully paid-up license to use the Program and certain updates upon the terms and conditions hereinafter set forth; and

WHEREAS, UC intends this Agreement to confer a license for end use only, with UC retaining to its own use all ownership rights in the Program, including, but not limited to, patent rights, copyrights and licensing rights therein, and further intends that no license, expressed or implied, for other than herein set out shall be transferred hereby; and

WHEREAS, YOU AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT BY INSTALLING, COPYING, OR OTHERWISE USING THE PROGRAM. IF YOU DO NOT AGREE, DO NOT INSTALL, COPY, OR USE THE PROGRAM; and

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants, terms and conditions herein contained, the parties agree as follows:

1. LICENSE

1.1. UC hereby grants to you a nonexclusive right to use the Program for your internal purposes only, without any rights whatsoever to distribute (herein called “RIGHTS GRANTED”). You
shall restrict the use of the Program to your own personal use only on a single computer and operating system. A separate license must be obtained for each computer and operating system on which the Program is installed. The RIGHTS GRANTED include the right to receive updates made available to you by UC for a year after payment of all fees, including any distribution, maintenance, or license fees.

1.2. In the context of this Agreement, “use” shall include the copying of any portion of the instructions or data in the Program, and any material associated therewith, from storage units or media into a CPU's or other central processing units of the computer on which the Program is installed.

1.3. You agree that the Program shall not be used as the basis of a commercial software or hardware product or otherwise transferred to a third party and that the Program shall not be rewritten in another computer language or otherwise adapted to circumvent the need for obtaining a license from UC for use of the Program other than as specified by this Agreement, including any portion of the Program which has not been provided as source code. Furthermore the Licensee is specifically prohibited from circumventing the Program’s security mechanism or otherwise transferring or releasing internal modifications that do not include the Program’s security mechanisms.

2. DELIVERY OF MATERIALS

2.1. You acknowledge that title to the Program (including Copyright) shall remain with UC and that any copies of the Program or portions thereof made by you in accordance with the RIGHTS GRANTED hereunder shall include a UC copyright notice thereon. The notice shall be affixed to all copies or portions thereof in such manner and location as to give reasonable notice of UC’s claim of copyright and shall be in conformity with all applicable regulations on affixation prescribed by the United States Register of Copyright. You shall at all times hereafter protect the Program, and all related technical information, data, and materials supplied by UC, from transfer measures at least as strong as those used by you in protecting its own proprietary software.

2.2. You accept the Program on an “as is” basis. Accordingly, UC shall not be required to load the Program onto your machines, test for proper operation, perform any debugging, make any corrections, provide maintenance, provide any updates, or assist in the understanding or use of the Program. The Program is a research program, and UC does not represent that it is free of errors or bugs or suitable for any particular tasks. No guarantee is made that the Program is adequately or completely described in, or behaves in accordance with, the documentation, if any.
3. WARRANTIES

YOU AGREE THAT THE RIGHTS GRANTED HEREUNDER ARE MADE AVAILABLE WITHOUT WARRANTY OF ANY KIND EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, NO WARRANTY AS TO CONFORMITY WITH WHATEVER USER MANUALS OR OTHER LITERATURE MAY BE ISSUED FROM TIME TO TIME, AND NO WARRANTY THAT THE USE OF THE PROGRAM WILL NOT INFRINGE ANY PATENT, COPYRIGHT OR TRADEMARK OR OTHER RIGHTS.

4. LIMITATION OF LIABILITY

You shall at all times during the term of this Agreement and thereafter, indemnify, defend and hold harmless UC, its trustees, directors, officers, employees, agents and affiliates, against all claims, proceedings, demands, and liabilities of any kind whatsoever, including legal expenses and reasonable attorneys' fees, arising out of, connected with, resulting from or sustained as a result of executing or performing all or any part of this Agreement or of use of the Program by you. In no event shall UC be liable for special, direct, indirect or consequential damages, losses, costs, charges, claims, demands, fees or expenses of any nature or kind.

5. NON-USE OF NAMES

You shall not use the name of University of Cincinnati nor the names of any of its employees nor any adaptation thereof in any advertising, promotional or sales literature without prior written consent obtained from UC in each case, except that you shall give appropriate credit in professional journals and publications to UC and its Structural Dynamics Research Lab.

6. TERMINATION

Upon any material breach of this Agreement by you, UC shall have the right to terminate this Agreement by giving thirty (30) days written notice thereof to you. Such termination shall become effective unless you shall have cured any such breach prior to the expiration of said thirty (30) day period. Upon termination, you shall provide UC with written assurance that the original and all copies of the Program, including partial copies in modifications, have been destroyed, except that, upon prior written authorization from UC, you may retain a copy for archive purposes.
7. **NOTICES**

Any notice required or permitted under this Agreement shall be sufficiently made or given on the date of mailing if in writing and sent to such party by registered or certified mail, postage prepaid or an overnight courier with signature required, addressed to it at its address below, or as it shall designate by written notice given to the other party.

In the case of UC:

Director of Intellectual Property  
University of Cincinnati  
P.O. Box 210829  
Cincinnati, OH 45221-0829

8. **MISCELLANEOUS**

8.1. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.

8.2. This Agreement constitutes the full and complete understanding between UC and you with respect to this Agreement, and the provisions hereof replace and supersede any and every other Agreement between them respecting the Program, or any service rendered hereunder, and supersede any provisions on the face and reverse side of any Purchase Order or any attachment thereto inconsistent with the provisions hereof.

8.3. Any modification of this Agreement to be effective must be in writing signed by both parties.

8.4. If one or more of the provisions of this Agreement shall be held to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

8.5. No waiver by either party of any rights hereunder shall be valid unless it shall be in writing signed by that party. The omission by either party to insist upon strict performance of any provision of the Agreement shall not be construed as a waiver of such provision.
☐ Single User License

Distribution or Maintenance Fee: $1,250.

Once the License is accepted, the user will be contacted via the email address provided by the user during the license registration process to determine whether software is needed. Payment of the Distribution/Maintenance Fee will be arranged at that time. The annual period of the Distribution/Maintenance Fee will begin when the software is received by the user.
UC-SDRL RESEARCH SOFTWARE is restricted for use on specific computer equipment owned by the Licensee. The number of computers is defined by the type of License (Single in this case). The Licensee agrees to provide information about the organization and the computer(s) that will be utilized.

The required information will be collected via a single Microsoft Excel formatted file provided to the Licensee once the License is accepted. Once the information is provided via the Excel file and returned by the Licensee, a license activation (security) file will be provided that will allow the Licensee to run the software. Changes to this license activation (security) file can be made quarterly during the Term if changes to the computers or users are required. If there is no active Distribution or Maintenance Fee, no changes to the security file are permitted until the Term is renewed or extended.

The information that is collected via this process includes, but is not necessarily limited to, the following:

- Company Name and Address
- User (Technical Contact) Name, Address, Phone Number and Email.
- Purchasing Contact (if different than User) Name, Address, Phone Number and Email.
- Licensing Contact (if different than User) Name, Address, Phone Number and Email.
- List of Licensed Computer(s)
  - Computer Type (make/model):
  - Operating System:
  - Hardwire (internal) Ethernet MAC Address (xx-xx-xx-xx-xx-xx):
  - Wireless Ethernet MAC Address (xx-xx-xx-xx-xx) if present:

The information collected by this process will be used primarily for the purpose of developing a license activation (security) file that will allow the software to run properly on the designated computer(s). The information will also be used as necessary to contact and interact with the users. At any time during the Term, the Licensee can update the file to change the information as needed.

The MAC address can be retrieved using the 'ipconfig' or ipconfig /all command from the Command Prompt window also. The MAC Address of hard wired Ethernet connection (12 digit hex number returned by the “ipconfig /all” command in a Command Prompt window is what we use to lock the software to a specific computer. You need the physical address for the 'Ethernet adapter Local Area Connection', i.e. xx-xx-xx-xx-xx-xx)