Beta Test Agreement

This Beta Test Agreement ("Agreement") governs the disclosure of information by RowStream ("Company") to the "Recipient" and Recipient's use of Company's beta application offering.

1.   Subject to the terms and conditions of this Agreement, Company grants Recipient a nonexclusive, nontransferable license to use the Company's application ("Application") for a period designated by the Company for the purpose of testing and evaluating the Application.

2.   The Recipient agrees that it will at all times hold in strict confidence and not disclose Confidential Information (as defined below) to any third party except as approved in writing by the Company and will use the Confidential Information for no purpose other than evaluating the Application. "Confidential Information" means all non-public materials and information provided or made available by Company to Recipient, including products and services, information regarding technology, know-how, processes, software programs, research, development, financial information, and information the Company provides regarding third parties.

3.   The Recipient's obligations under this Agreement with respect to any portion of the Confidential Information shall terminate when the Recipient can document that: (a) it was in the public domain at the time it was communicated to the Recipient; (b) it entered the public domain subsequent to the time it was communicated to the Recipient through no fault of the Recipient; (c) it was in the Recipient's possession free of any obligation of confidence at the time it was communicated to the Recipient; or (d) it was rightfully communicated to the Recipient free of any obligation of confidence subsequent to the time it was communicated to the Recipient. After Recipient's evaluation of the Application is complete, or upon request of the Company, the Recipient shall promptly return to the Company all documents, notes and other tangible materials and return or certify the destruction of all electronic documents, notes, software, data, and other materials in electronic form representing the Confidential Information and all copies thereof.

4.   The Recipient agrees that nothing contained in this Agreement shall be construed as granting any ownership rights to any Confidential Information disclosed pursuant to this Agreement, or to any invention or any patent, copyright, trademark, or other intellectual property right. The Recipient shall not make, have made, use or sell for any purpose any product or other item using, incorporating, or derived from any Confidential Information or the Application. The Recipient will not modify, reverse engineer, decompile, create other works from, or disassemble any software programs contained in the Confidential Information or the Application.

5.   The Company alone (and its licensors, where applicable) shall own all right, title, and interest, including all related intellectual property rights, in and to the Company's Technology, Content, and Application, and any suggestions, ideas, enhancement requests, feedback, recommendations, or other information provided by Recipient or any other party relating to the Application. This Agreement is not a sale and does not convey to you any rights of ownership in or related to the Application, the Company's Technology, or the intellectual property rights owned by the Company. The Company name, the Company logo, and the product names associated with the Application are trademarks of the Company or third parties, and no right or license is granted to use them.

6.   This Application is a beta release offering and is not at the level of performance of a commercially available product offering. The Application may not operate correctly and may be substantially modified prior to first commercial release, or at Company's option may not be released commercially in the future. THE APPLICATION AND DOCUMENTATION ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, AND COMPANY AND ITS LICENSORS DISCLAIM ALL WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT OF THIRD-PARTY RIGHTS, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. NO ORAL OR WRITTEN ADVICE OR CONSULTATION GIVEN BY COMPANY, ITS AGENTS, OR EMPLOYEES WILL IN ANY WAY GIVE RISE TO A WARRANTY. THE ENTIRE RISK ARISING OUT OF THE USE OR PERFORMANCE OF THE APPLICATION REMAINS WITH RECIPIENT.

7.   COMPANY AND ITS LICENSORS SHALL NOT BE LIABLE FOR LOSS OF USE, LOST PROFIT, COST OF COVER, LOSS OF DATA, BUSINESS INTERRUPTION, OR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, SPECIAL, OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATED TO THE APPLICATION OR THIS AGREEMENT, HOWEVER CAUSED AND REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) STRICT LIABILITY, OR OTHERWISE, EVEN IF SUCH PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8.   The Recipient's obligations under this Agreement shall survive any termination of this agreement. The Recipient hereby agrees that breach of this Agreement will cause Company irreparable damage for which recovery of damages would be inadequate, and that the Company shall

therefore be entitled to obtain timely injunctive relief under this Agreement, as well as such further relief as may be granted by a court of competent jurisdiction. The Recipient will not assign or transfer any rights or obligations under this Agreement without the prior written consent of the Company.