



60 DAY EVALUATION
APPLICATION & AGREEMENT
TS3D Software Toolkits

This technology evaluation application and agreement (“Agreement”) is made as of _____ between Tech Soft 3D, with its principal place of business in Berkeley, California (“Tech Soft”) and _____ with its principal place of business in _____ (“Recipient”). Counter-signature and return of this Agreement by Tech Soft to the Recipient indicates that such evaluation application has been approved.

- A. Recipient is interested in licensing one or more of Tech Soft’s software toolkits and intends to evaluate the same; and
- B. Tech Soft desires to provide Recipient certain software and software documentation (collectively hereinafter referred to as the “Software”) for the purpose of such evaluation.

The parties agree as follows:

1 Software

Tech Soft shall provide to Recipient the Software set forth below:

HOOPS *Please select which level of HOOPS best fits your requirements*

Foundation	<input type="checkbox"/>
Advanced	<input type="checkbox"/>

Adobe OEM Solutions *Please select all Adobe modules which are of interest.*

PDF Library SDK	<input type="checkbox"/>
APEX OEM	<input type="checkbox"/>
LiveCycle ES	<input type="checkbox"/>

Parasolid *Please select all Parasolid modules which are of interest.*

Communicator	<input type="checkbox"/>
Editor	<input type="checkbox"/>
Designer	<input type="checkbox"/>
Bodyshop	<input type="checkbox"/>

3D InterOp *Please select all desired formats:*

CATIA v5	<input type="checkbox"/>	CATIA v4	<input type="checkbox"/>
IGES	<input type="checkbox"/>	Inventor	<input type="checkbox"/>
JT	<input type="checkbox"/>	Pro/Engineer	<input type="checkbox"/>
SolidWorks	<input type="checkbox"/>	STEP	<input type="checkbox"/>
Unigraphics	<input type="checkbox"/>	XT/Parasolid	<input type="checkbox"/>
VDA-FS	<input type="checkbox"/>	SAT (ACIS)	<input type="checkbox"/>

2 Use of Software

The Software is to be used solely for the purpose of evaluation by Recipient’s employees for the usage described in Exhibit A. The term of this Evaluation is **60 days** unless recipient extends free evaluation for an additional 60 day period via the extended technical evaluation.

3 Fees

This initial 60 day evaluation is provided free of charge. After 60 days, Recipient may choose to either return the software or extend the evaluation for an additional **60 day** period by agreeing to perform an extended technical evaluation. The fee for this extended technical evaluation is \$5000 and includes all use of the software as well as access to our Technical Consulting Services and Training Services. Recipient also agrees to pay all reasonable travel, meal, and lodging costs incurred by Tech Soft staff for providing Training and/or Technical Consulting Services requested by, and performed at, the Recipients offices during this evaluation.

4 Technical Consulting Services

During the term of this agreement Tech Soft staff will assist in the answering of technical questions, and discuss architectural issues that would affect the suitability of the Software. The intention of this technical consulting by Tech Soft staff is to aid Recipient in making a determination about the Software's general suitability for their application. This agreement is expressly not intended to cover Recipients complete application development. In order to continue receiving technical assistance and support following the term of this Agreement, Recipient must enter into a separate licensing & support agreement with Tech Soft to continue receiving support for application development.

5 Title and Ownership

The Software, including all copies and portions thereof that may be incorporated into Recipient's programs during the Term, is and shall at all times remain the property of Tech Soft and title thereto, as well as all copyrights, trade secrets and other proprietary rights, shall at all times remain with Tech Soft.

6 WARRANTY

THE SOFTWARE IS FURNISHED "AS IS". TECH SOFT DISCLAIMS ALL WARRANTIES, EITHER EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

7 Limitation of Liability

Recipient agrees (i) that no claim shall be made against Tech Soft, UGS, Spatial or Adobe for direct, indirect, consequential, special, incidental or punitive damages, including loss of use, profit, revenue or goodwill, whether based in contract, negligence or otherwise arising out of, resulting from or in any way relating to the use of the Software by Recipient, and (ii) to indemnify and hold Tech Soft harmless from any and all liability or expense, including reasonable attorneys' fees, arising out of this Agreement.

8 Proprietary Information

Recipient acknowledges that the Software is proprietary information and a trade secret of Tech Soft and its respective partners. Recipient agrees that it shall (i) hold the Software in confidence, (ii) not reproduce, provide or otherwise make available the Software to anyone other than employees of Recipient who have a need to know consistent with Recipient's authorized use of the Software, and (iii) take appropriate action by instruction, agreement or otherwise to protect and keep confidential the Software. In the event that Recipient is receiving Software, which incorporates the proprietary information licensed by Tech Soft from Adobe, Inc., the Recipient shall also be subject to and bound by the provisions specified in Exhibit C, attached hereto.



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9 Termination

Recipient agrees that the Software, together with any copies thereof, will be returned to Tech Soft upon expiration of the Term unless this Agreement is earlier terminated by Tech Soft. Tech Soft may terminate this Agreement with or without cause at any time and Recipient agrees to return the Software to Tech Soft within three (3) days of any written notice from Tech Soft of termination of the Agreement. The obligations of confidentiality and non-disclosure shall survive termination of this Agreement.

10 General

Recipient shall pay any shipping, handling, mailing expense/charges and the like arising out of this Agreement and the transactions contemplated herein. This Agreement shall be governed by the laws of the State of California without regard to its so-called "choice of law rules". Recipient may not assign this Agreement without the prior written consent of Tech Soft. All rights of Tech Soft hereunder are cumulative and in addition to any rights it may have in law or in equity. No modification, change or amendment to this Agreement shall be made of any force or effect unless in writing and signed by an authorized representative of each party, except for the terms of any "shrinkwrap" Software License Agreement that are not inconsistent or in conflict with the terms of this Agreement. This Agreement may be accepted by Tech Soft only in Berkeley, California. The parties have executed this Agreement as of the date first above written.

Tech Soft 3D

Recipient

By: _____
Ron Fritz
Business Development

By: _____
Name: _____
Title: _____

Date: _____

Date: _____

Most Tech Soft 3D Toolkits are available via our password protected FTP site. Please provide your e-mail address and instructions/passwords will be mailed to you.

E-mail: _____

Phone: _____

Please provide a shipping address for any materials that may need to be mailed:

Name: _____

Address: _____

Phone: _____

**PLEASE FAX SIGNED APPLICATION TO: +1 503.914.0483
Or sign, scan and email to sales@techsoft3d.com**

Exhibit B
Toolkit Usage Description

In order to help Tech Soft best serve you during your evaluation please provide the following information regarding your planned development:

I Application Description:

A. Please provide a name & brief description of the application(s) you are considering using Tech Soft's toolkits within:

B. Is this a new application being developed, or an enhancement to an existing application?

C. Will this application be sold commercially or used internally within your company?

D: Please list the platforms you intend ship this application on

II Company/Organization:

A. Please provide a web site, which will help us become familiar with your company.

B. Please list the geographic location(s) where the Toolkits will be evaluated:

C. How did you hear about us? (Please check only one – select the most accurate.)

- I am an existing Tech Soft customer interested in new Tech Soft Toolkits
- Internet Search to www.techsoft3d.com
- I have been in contact with a Tech Soft representative
- I have become familiar with Tech Soft via the HOOPS Scene newsletter
- I have worked with Tech Soft components in a previous position
- A Colleague Recommended Tech Soft
- A Tech Soft partner company (_____) recommended
- Other (please describe below)

Exhibit C

If the Software checked in Section 1 contains Adobe software licensed to Tech Soft by Adobe Systems Incorporated, a Delaware Corporation having a place of business at 345 Park Avenue, San Jose, CA 95110-2704 and/or Adobe Systems Software Ireland Limited, a company incorporated in Ireland having a place of business at Unit 3100, Lake Drive, City West Business Campus, Saggart D24, Dublin, Ireland, (both individually in the respective countries and collectively referred to as “Adobe”), with a right of sublicense, the following additional restrictions shall apply to the Adobe products sublicensed in the Software (collectively, the “Adobe Products”):

1. Third Party Beneficiary. Recipient acknowledges and agrees that Adobe is the owner of certain proprietary information and intellectual property rights included in the Adobe Products. Consequently, Adobe is a third party beneficiary entitled to enforce Tech Soft’s rights and Recipient’s obligations hereunder and to seek appropriate legal and equitable remedies, including but not limited to, damages and injunctive relief, for Recipient’s breach of such obligations.

2. License Restrictions

(a) Restrictions on Decompiling. RECIPIENT AGREES NOT TO ALTER, REVERSE ENGINEER, TRANSLATE, DISASSEMBLE, DECOMPILE, OR OTHERWISE ATTEMPT TO DERIVE SOURCE CODE TO THE ADOBE PRODUCTS IN WHOLE OR IN PART. RECIPIENT AGREES NOT TO REMOVE OR ALTER ANY PDF FILES INCLUDED WITH COPIES OF ADOBE PRODUCTS DELIVERED HEREUNDER. Notwithstanding the foregoing, decompiling the Adobe Product is permitted to the extent the laws of Recipient’s jurisdiction give Recipient the right to do so to obtain information necessary to render the Adobe Product interoperable with other software; provided, however, that Recipient must first request such information from Adobe and Adobe may, in its discretion, either provide such information to Recipient or impose reasonable conditions, including a reasonable fee, on such use of the Adobe Product to ensure that Adobe’s and its suppliers’ proprietary rights in the Adobe Product are protected. Recipient agrees not to translate the software into another computer language in whole or in part. Recipient shall not make copies of the Adobe Product, except as expressly provided herein, or make media translations of the Adobe Product including, without limitation, the user documentation, in whole or in part, without Adobe’s prior written approval, as applicable. Recipient shall not permit any Adobe Product to be accessible from any computer bulletin board, or over the Internet, or any other public or privately operated computer network.

3. Proprietary Rights. Recipient acknowledges that the structure and organization of Adobe Products is proprietary to Adobe and that Adobe retains exclusive ownership of Adobe Products, any applicable documentation, and the Adobe trademarks. Recipient will take all reasonable measures to protect Adobe’s proprietary rights in the Adobe Products and the documentation. Except as provided herein, Recipient is not granted any rights to patents, copyrights, trade secrets, trade names, trademarks (whether registered or unregistered), or any other rights, franchises or licenses with respect to Adobe Products.

4. Warranty

(a) DISCLAIMER. EXCEPT FOR THE EXPRESS WARRANTY IN THE ADOBE END USER LICENSE AGREEMENT, RECIPIENT AND TECHSOFT ACKNOWLEDGE AND AGREE THAT TECHSOFT SHALL BE SOLELY RESPONSIBLE TO RECIPIENT AND RECIPIENT’S

CUSTOMERS FOR ALL WARRANTIES, REPRESENTATIONS, SUPPORT, TRAINING, UPDATE AND MAINTENANCE REGARDING ADOBE PRODUCTS, DOCUMENTATION AND RELATED TRADEMARKS, AND THAT ADOBE SHALL HAVE NO SUCH RESPONSIBILITY.

(b) WARRANTY DISCLAIMER. RECIPIENT ACKNOWLEDGES THAT ADOBE MAKES NO WARRANTY TO RECIPIENT, EXPRESS, IMPLIED OR STATUTORY, AS TO ANY MATTER WHATSOEVER, WITH RESPECT TO ADOBE PRODUCTS AND THE DOUCMENTATION. IN PARTICULAR, ADOBE EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT.

(c) Indemnity. Recipient agrees to indemnify and hold Adobe harmless from any claims or damages (inclusive of Adobe's attorney's fees) made against Adobe as a result of negligence, misrepresentation, or error or omission on the part of Recipient or representatives of Recipient.

5. Termination

(a) Rights Upon Termination

(1) Recipient shall return or destroy all copies of Adobe Products and any documentation in its inventory;

6. Consequential Damages Waiver. ADOBE WILL NOT BE LIABLE FOR ANY LOSS OF USE, INTERRUPTION OF BUSINESS, OR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING LOST PROFITS) REGARDLESS OF THE FORM OF ACTION WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT PRODUCT LIABILITY OR OTHERWISE, EVEN IF ADOBE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

7. Miscellaneous

(a) Injunctive Relief. It is expressly agreed that a breach of this Agreement may cause irreparable harm to Adobe and Tech Soft and that a remedy at law may be inadequate. Therefore, in addition to any and all remedies available at law, Adobe and Tech Soft will be entitled to seek an injunction or other equitable remedies in all legal proceedings in the event of any threatened or actual violation of any or all of the above provisions.

(b) Forum. All disputes arising under this Agreement may be brought in Superior Court of the State of California in Santa Clara County or the Federal District Court of San Jose as permitted by law. The Superior Court of Santa Clara County and the Federal District Court of San Jose shall together have non-exclusive jurisdiction over disputes under this Agreement. Recipient consents to personal jurisdiction of the above courts.

(c) Attorney's Fees. In the event any proceeding or lawsuit is brought by Tech Soft, its supplier or Recipient in connection with this Agreement, the prevailing party in such proceeding shall be entitled to receive its costs, expert witness fees and reasonable attorney's fees, including costs and fees on appeal.