

(To be executed only by a designated winner of the challenge)

**TextWise LLC  
Revenue Sharing Agreement**

This Revenue Sharing Agreement (this “Agreement”), dated as of \_\_\_ day of \_\_\_\_\_ 2008 (the “Effective Date”), is entered into between TextWise, LLC (“TextWise”) having an address at 274 North Goodman Street, Rochester, New York 14607 and \_\_\_\_\_ (“Entrant”), a[n] [corporation] [individual] having an address at \_\_\_\_\_ (each a “party” and collectively the “parties”).

R E C I T A L S

WHEREAS, TextWise has sponsored the SemanticHacker \$1M Innovators’ Challenge for the purpose of encouraging the development of applications using TextWise’s Semantic Signatures<sup>®</sup> and TSV technologies; and

WHEREAS, Entrant’s application has been selected by Sponsor to participate in a revenue sharing program and in consideration for assignment of Entrant’s entire rights, title and interest in and to such application, TextWise will share a percentage of revenue derived from Entrant’s application on the terms and the conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual representations, warranties, covenants and agreements, and upon the terms set forth herein, the parties hereby agree as follows:

A G R E E M E N T

**1. Definitions.**

For the purposes of this Agreement, the parties hereby acknowledge and agree that the following terms and phrases shall have these meanings:

“Application” means the application submitted by Entrant to the SemanticHacker \$1M Innovators’ Challenge as set forth in Exhibit A, including without limitation all source and object code thereto; as well as any documentation, notes, records, files or tangible items of any sort relating to the Application.

“Intellectual Property Rights” means all patents, patent rights, copyrights, moral rights, publicity rights, trademark, trade dress and service mark rights, goodwill, trade secret rights and other intellectual property rights as may now exist or hereafter come into existence and all applications, registrations, renewals, extensions related thereto, under the laws of any state, country, territory or other jurisdiction.

“Net Revenues” means the actual amounts received by TextWise for the sale or license of Application, less the following to the extent not previously deducted: (i) customary trade, quantity or cash discounts; (ii) refunds, replacements and credits for returns; (iii) any taxes or

other governmental charges levied on the production, sale, transportation, delivery, or use of a Application; provided however that Net Revenues will not include the price of any ancillary or other software product bundled or sold with the Application.

## **2. Assignment; Delivery**

2.1 Assignment. Entrant hereby irrevocably assigns, sells, transfers and conveys to TextWise on a worldwide basis all right, title and interest throughout the world in or to the Application and the technology and intellectual property described in Exhibit A, including, without limitation, any tangible manifestations thereto, and any Intellectual Property Rights, moral rights, contract or licensing rights, or other analogous rights throughout the world (collectively, the “TextWise Property”). Entrant acknowledges that Entrant retains no right to use the TextWise Property and agrees not to challenge the validity of TextWise’s ownership of the TextWise Property.

2.2 Delivery. Entrant agrees to deliver to TextWise any and all additional tangible manifestation of the Application not previously provided, including, without limitation, any source or object code, documentation, notes, records, files or tangible items of any sort relating to the Application upon the Effective Date.

2.3 Additional Acts. Upon the request of TextWise and at TextWise’s reasonable expense, Entrant will promptly: (a) execute documents and perform such other acts as TextWise may deem reasonable to procure, maintain, perfect, and enforce the TextWise Property on a world wide basis; and (b) render reasonable assistance to TextWise in applying for and obtaining in TextWise’s name and for its benefit, intellectual property protection for the TextWise Property, including, without limitation, patents, copyrights, trademarks, trade secrets, and all other intellectual property rights throughout the world. If TextWise is unable after reasonable effort to secure Entrant’s signature on any document needed in connection with this Section, Entrant hereby irrevocably designates and appoints TextWise as its agent and attorney in fact, which appointment is coupled with an interest, to act for and in Entrant’s behalf to execute, verify and file any such documents and to do all other lawfully permitted acts to further the purposes of this Section with the same legal force and effect as if executed by Entrant.

## **3. Consideration; Taxes**

3.1 Consideration. As consideration of the foregoing assignment and cooperation, TextWise hereby agrees to pay Entrant the following: (a) one hundred thousand dollars (US \$100,000) after delivery of the Application pursuant to Section 2.2; and (b) fifty percent (50%) of Net Revenues of Applications payable on a quarterly basis during the first year following the release of the application to the market; provided that the maximum amounts payable to Entrant under this Section 3.1 (a) and (b) shall be one million dollars (US \$1,000,000).

3.2 No Minimum or Multiple Payments. There shall be no minimum payments due to Entrant and there shall be no multiple payments to Entrant on the same Application under this Agreement or any other agreement between the parties.

3.3 Taxes. All payments made by TextWise to Entrant under this Agreement shall be the total amount and will be inclusive of all taxes (including, without limitation, sales and value added taxes) tariff, duty or assessment levied or imposed by the government of any jurisdiction in respect of any licenses or rights granted hereunder. Entrant acknowledges and agrees that TextWise has made no representations to him regarding the tax consequences of any amounts received by him pursuant to this Agreement and that the fees paid under this Agreement may be considered taxable income and subject to disclosure to the appropriate taxing authorities. Entrant agrees to pay federal or state taxes which are required by law to be paid with respect to the payments under this Agreement. Entrant further agrees to indemnify and hold TextWise harmless from any claims, demands, deficiencies, levies, assessments, executions, judgments or recoveries by any governmental entity against TextWise for any amounts claimed due on account of this Agreement or pursuant to claims made under any federal or state tax laws, and any costs, expenses or damages sustained by TextWise by reason of any such claims, including any amounts paid by TextWise as taxes, attorneys' fees, deficiencies, levies, assessments, fines, penalties, interest or otherwise.

#### **4. Representations and Warranties; Limitations of Liability.**

4.1 Representations and Warranties. Entrant represents, warrants and covenants to TextWise that: (a) there are no liens, mortgages, commitments, obligations and encumbrances of any kind or any nature whatsoever against the Application; (b) Entrant is the sole owner of the Application and has full power to perform its obligations as set forth in this Agreement; (c) Entrant has not licensed or assigned the Application to any third party; (d) Entrant has acquired from all authors, creators and inventors all right, title and interest in the Application; (e) the Application does not infringe the Intellectual Property Rights or other proprietary rights of any third party; and (f) the Application contains no virus, worm, built-in or use-driven destruction mechanism, injurious or damaging algorithm, time bomb, trojan horse or other software or hardware that can disable, damage, erase or adversely affect the Application or its operation or intended purpose disable, damage or adversely affect Application, or destroy disable, damage, erase or adversely affect any of TextWise's data, systems, processes, business methods, hardware or other software; (g) Entrant has maintained the TextWise Property in confidence and has not disclosed the TextWise Property to any third party; (h) following the execution of this Agreement, no person or entity other than TextWise retains any right, title or interest in or to any TextWise Property or retains any tangible manifestations of any TextWise Property in its possession or control; and (i) this Agreement does not conflict with, constitute a breach of, or in any way violate any arrangement, understanding or agreement by which Entrant is bound. Entrant shall defend, indemnify and hold harmless TextWise against any judgment, loss, damage, claim or expense arising out of any breach by Entrant of any representation or warranty set forth herein.

4.2 Limitation of Liability. IN NO EVENT SHALL TEXTWISE BE LIABLE TO ENTRANT FOR SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL LOSS OR DAMAGES OF ANY NATURE WHATSOEVER CONNECTED WITH OR RESULTING FROM THE PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO DAMAGES OR CLAIMS IN THE NATURE OF LOST REVENUE, INCOME OR PROFITS

OR LOSS OF USE, OR LOST BUSINESS OPPORTUNITY, IRRESPECTIVE OF WHETHER SUCH DAMAGES ARE REASONABLY FORESEEABLE AND REGARDLESS OF WHETHER TEXTWISE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR NOT. For purposes of clarification, TextWise shall have no liability for the success or failure of its development, sales, marketing, licensing, distribution or other exploitation of the Application and Entrant hereby agrees and acknowledges that Entrant may not receive any additional monies from TextWise except for the initial \$100,000 payment.

- Entrant hereby acknowledges Section 4.2

**5. Confidentiality.** The TextWise Property is the confidential and proprietary information of TextWise. Entrant has maintained the TextWise Property in confidence and has not disclosed, or granted any rights in or to the TextWise Property, to any third party. Entrant will not disclose the TextWise Property to any third party without the prior written permission of Textwise, and will protect the TextWise Property from unauthorized use, access, or disclosure in the same manner as Entrant protects its own confidential or proprietary information of a similar nature, but with no less than reasonable care. Entrant's obligations in this Section will not apply to any TextWise Property that is or, through no fault of Entrant, becomes generally available to the public. In addition, Entrant will be allowed to disclose the TextWise Property to the extent that the disclosure is necessary for Entrant to enforce its rights under this Agreement in connection with a legal proceeding, or otherwise required by the order or a court or governmental entity, provided that Entrant notifies TextWise in writing in advance of the disclosure and cooperates with TextWise in seeking to limit the scope of such required disclosure.

**6. Term.** This Agreement will become effective as of the Effective Date and, unless sooner terminated as otherwise provided herein, or as otherwise mutually agreed, shall remain effective for a period of twelve (12) months from the date that the Application is made publicly available by TextWise; provided that Sections 1, 2, 4, 5, 6 and 7 shall survive any termination or expiration of this Agreement.

**7. Miscellaneous.**

7.1 Entire Agreement; Amendments. This Agreement constitutes the entire agreement among the parties with respect to the subject matter hereof and supersede all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof. This Agreement may be amended or waived only with the written consent of both Entrant and TextWise.

7.2 Severability. In the event that any provision of this Agreement or the application thereof, becomes or is declared by a court of competent jurisdiction to be illegal, void or unenforceable, the remainder of this Agreement will continue in full force and effect and the application of such provision to other persons or circumstances will be interpreted so as reasonably to effect the intent of the parties hereto. The parties further agree to replace such void or unenforceable provision of this Agreement with a valid and enforceable provision that will achieve, to the extent possible, the economic, business and other purposes of such void or unenforceable provision.

7.3 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, regardless of the laws that might otherwise govern under applicable principles of conflicts of law thereof.

7.4 Notices. Any notice required or permitted by this Agreement shall be in writing and shall be deemed effective upon delivery, when delivered personally or by overnight courier or sent by facsimile, or 48 hours after being deposited in the U.S. mail, as certified or registered mail, with postage prepaid, and addressed to the party to be notified at such party's address or facsimile number as set forth on the signature page, or as subsequently modified by written notice.

7.5 No Waiver. No failure or delay on the part of any party hereto in the exercise of any right hereunder will impair such right or be construed to be a waiver of, or acquiescence in, any breach of any representation, warranty or agreement herein, nor will any single or partial exercise of any such right preclude other or further exercise thereof or of any other right.

7.6 Arbitration. Any dispute, claim or controversy of any kind arising in connection with, or relating to, this Agreement, shall be resolved exclusively by binding arbitration in accordance with the Judicial Arbitration and Mediation Services/Endispute ("JAMS") in Rochester, New York or such other location serviced by JAMS which is mutually acceptable to the parties, in accordance with JAMS commercial rules of arbitration.

7.7 Counterparts. This Agreement may be executed in one or more counterparts, and by facsimile, all of which together shall constitute one and the same agreement.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the date first set forth above.

**TEXTWISE LLC**

**ENTRANT**

By: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Social Security or Tax ID #

**Exhibit A**

