



## **ONE VOICE DATABASE AGREEMENT**

### **Recitals**

**WHEREAS**, The Kingdom of Hawai'i (hereinafter referred to as "KINGDOM"), under the sovereignty and discretion of His Majesty, Edmund Keli'i Paki-Silva Jr., desires to invite all First Nation Peoples to participate in two international databases of First Nation Peoples information consisting of:

**Public Database**—a publicly accessed data base to further understanding of First Nation Peoples. Also to assist the Rockfield College of Sciences and Technology in offering accredited higher education courses on Indigenous Knowledge, the purpose of which is to allow any individual to experience the culture, traditions and methods of First Nations to achieve a Way of Knowing and Dream Time in order to create a better world through mutual understanding, and

**Private Database**—a private, secure database to preserve and protect the ancient knowledge passed down from generation to generation of Indigenous and Aboriginal Peoples. This database would be accessible to authorized individuals who have the same motive but have a responsibility to keep their information secret as part of their sacred obligations. That said, such individuals recognize that much has been lost to pass on to the next generation and this must be prevented from occurring again, and

**WHEREAS**, the Individual or Nation (hereinafter referred to as "CONTRIBUTOR") below desires to participate in the One Voice Database Program through the Kingdom of Hawai'i.

Together, the KINGDOM and the CONTRIBUTOR will sometimes hereinafter be referred to collectively as "PARTIES".

### **Terms and Conditions**

#### **Section 1: One Voice Data License Agreement—Sharing—Version 1.0**

Data is provided to the KINGDOM under this Agreement by the CONTRIBUTOR as an individual or the First Nation as CONTRIBUTOR, if appropriate. The CONTRIBUTOR exercise of any of the rights and permissions granted below constitutes acceptance and agreement to be bound by the Terms and Conditions of this Agreement.

The benefits that the CONTRIBUTOR receives from making data available shall be deemed sufficient consideration for the formation of this Agreement. Accordingly, CONTRIBUTORS agree as follows:



1) Definitions

- a) "Add" means to supplement Data with CONTRIBUTOR's own.
- b) "Data" means the information (including copyrightable information, such as images or text), collectively or individually, whether created or gathered by a CONTRIBUTOR or a FIRST NATION to which rights are granted under this Agreement.
- c) "Enhanced Data" means the result of all Data received and the effect of a greater perspective presented by the total Data, as well as the quality of the total culture and traditions understood from that greater perspective. This is a result of the existing Data and the CONTRIBUTOR Data in combination with each other.
- d) "Contributor" means any CONTRIBUTOR or FIRST NATION that adds Data under this Agreement.
- e) "First Nation" means any Indigenous or Aboriginal nation.
- f) "Entity" means any natural person or organization that exists under the laws of the jurisdiction in which it is organized.
- g) "Modify" means to delete, erase, correct or to rearrange Data. Modification is to be avoided except in rare instances as the purpose of the Database is to preserve culture and traditions as they exist.
- h) "Speculation" means the conclusions drawn or thoughts for areas of missing data, insights or inspiration as to the overall purposes and use of Data.
- i) "Publish" means to make all or a subset of Data (including Enhanced Data) available in any manner which enables its Use, including by providing a copy on physical media or remote access.
- j) "Sacred" means data which has been indicated to be preserved as private, multi-generational information which has been passed from generation to generation in order to preserve truths to the People.
- k) "Private" means data which is not to be shared with the general public but is reserved for authorized use only.
- l) "Authorized" means through mutual agreement, Sacred Data is used only by those agreed upon by Contributors to have access such as individuals in other tribes or nations which have also received data for multi-generational use and when working in collaboration with each other, or for storage and maintenance such as provided by The KINGDOM, or as analyzed by The KINGDOM to compare to the entire Database, as approved by CONTRIBUTOR.
- m) "Access" means to allow the general public to access the general public Database or for authorized use of the Private Database to obtain data.
- n) "Sui Generis Database Rights" means rights, other than copyright, resulting from Directive 96/9/EC of the European Parliament of the Council of 11 March 1996 on the legal protection of databases, as amended and/or succeeded, as well as other equivalent rights anywhere in the world.
- o) "Use" means using the Data (including accessing, copying, studying, reviewing, adapting, analyzing, evaluating or a combination).



- p) “Participant” means any individual or Entity accessing the Database. This refers to general public use of the Public Database and to authorized use of the Private Database.

## **Section 2: Right and License to Use and to Publish**

- 1) Subject to the conditions set forth in Section 3 of this Agreement, CONTRIBUTOR hereby grants to The KINGDOM a world-wide, non-exclusive, irrevocable (except as provided in Section 5) right to: (a) Use Data; and (b) Publish Data contained in the general Public Database.
- 2) Subject to the conditions set forth in Section 3 of this Agreement, CONTRIBUTOR hereby grants to The KINGDOM a world-wide, non-exclusive, irrevocable (except as provided in Section 5) right to provide restricted, authorized access for the Private Database to (a) Use Data. Any publication of data which refers to Sacred Data in the Private Database shall require written authorization of the CONTRIBUTOR or FIRST NATION CONTRIBUTOR.
- 3) Subject to the conditions set forth in Section 3 of this Agreement, CONTRIBUTOR hereby grants to The KINGDOM permission to allow Rockfield College of Sciences and Technology based in Zurich, Switzerland, access to the Data for the purpose of conducting accredited higher level education training for Indigenous Knowledge, led by First Nation kupunas and shamans as approved by The KINGDOM for the purpose of furthering harmony between First Nations and the world.
- 4) To the extent that the Data or the coordination, selection or arrangement of Data is protected or protectable under copyright, Sui Generis Database Rights, or other law, CONTRIBUTOR further agrees that such Data or coordination, selection or arrangement is hereby licensed to The KINGDOM and to anyone else who receives Data under this Agreement for Use and Publications, subject to the conditions set forth in Section 3 of this Agreement.
- 5) Except for these rights and licenses expressly granted, no other intellectual property rights are granted or should be implied.

## **Section 3: Conditions on Rights Granted**

- 1) If CONTRIBUTOR or The KINGDOM publish data or receive data or enhance data:
  - a) The data (including Enhanced Data) must be published under this Agreement in accordance with this Section 3; and
  - b) Publication of any Sacred Data from the Private Database must show appropriate written authorizations from CONTRIBUTORS as given to The KINGDOM, and as kept on file at KINGDOM offices, and
  - c) The Private Database must contain prominent notice that it is private and not to be shared without written permission from The KINGDOM and as recorded as permission from CONTRIBUTOR for specific use.



- d) The KINGDOM and CONTRIBUTOR agree that Enhanced Data shall not be considered a work of joint authorship by virtue of its relationship to Data in the Private Database and shall not require either any obligation or accounting to or the consent of any CONTRIBUTOR other than the original CONTRIBUTOR and as authorized in writing for a specified use.
- 2) Any publication of data from the Public Database or from the Private Database (with proper permissions in written form) must preserve all credit or attribution to the CONTRIBUTOR and The KINGDOM. Such retained credit or attribution includes legal notices or metadata, identification of the CONTRIBUTOR; or hyperlinks to Data to the extent that it is practical to do so.
- 3) CONTRIBUTOR shall not modify this Agreement or impose any further restrictions on the exercise of the rights granted under this Agreement, including by adding any restriction on commercial or non-commercial Use of Data (including Enhanced Data) or by limiting permitted use of Data to any particular platform, technology or field of endeavor. Notices that purport to modify this Agreement shall be of no effect.

#### **Section 4: KINGDOM Representations**

- 1) The KINGDOM represents that they have exercised reasonable care, to assure that: (a) the Data it Publishes was obtained from others with the right to Publish the Data under this Agreement/ and (b) Publication of such Data does not violate any privacy or confidentiality obligation undertaken by The KINGDOM.

#### **Section 5: Termination**

- 1) All CONTRIBUTOR rights under this Agreement will terminate, and CONTRIBUTOR right to Access, Use or Publish the Data will be revoked or modified if CONTRIBUTOR materially fails to comply with the Terms and Conditions of this Agreement and CONTRIBUTOR does not cure such failure in a reasonable period of time after becoming aware of such noncompliance. If CONTRIBUTOR rights under this Agreement terminate, CONTRIBUTOR agrees to cease Access, Use and Publication of Data. However, CONTRIBUTOR obligations and any rights and permissions granted by CONTRIBUTOR under this Agreement relating to Data the was contributed or Published prior to such termination will continue and survive.
- 2) If CONTRIBUTOR institutes litigation against The KINGDOM or anyone else who contributes or accesses the Data (including a cross-claim in a lawsuit) based on the Data, other than a claim asserting breach of this Agreement, then any rights previously granted to CONTRIBUTOR to Access, Use and Publish Data under this Agreement will terminate as of the date such litigation is filed.



## **Section 6: Disclaimer of Warranties and Limitation of Liability**

- 1) EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE DATA (INCLUDING ENHANCED DATA) IS PROVIDED ON AN "AS IS" BASIS, WITHOUT WARRANTIES OR CONDITIONS OF ANY KIND, EITHER EXPRESS OR IMPLIED INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OR CONDITIONS OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
- 2) NEITHER CONTRIBUTOR NOR ANY CONTRIBUTORS SHALL HAVE ANY LIABILITY FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION LOST PROFITS), HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, STRICT LIABILITY, OR TORT (INCLUDING NEGLIGENCE OR OTHERWISE) ARISING IN ANY WAY OUT OF THE USE OR DISTRIBUTION OF THE DATA OR THE EXERCISE OF ANY RIGHTS GRANTED HEREUNDER, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## **Section 7: Miscellaneous**

- 1) CONTRIBUTOR agrees that they are solely responsible to comply with all applicable laws with regard to Use or Publication of Data, including any applicable privacy, data protection, security and export laws. CONTRIBUTOR agrees to take reasonable steps to fulfill responsibilities to comply with applicable laws regard to Use or Publication of Data Received hereunder.
- 2) CONTRIBUTOR collectively and individually, waive and/or agree not to assert, to the extent permitted by law, any moral rights CONTRIBUTOR holds in Data.
- 3) This Agreement confers no rights or remedies upon any person or entity other than the Parties and their respective heirs, executors, successors and assigns.
- 4) The CONTRIBUTOR reserves no right or expectation of privacy, data protection or confidentiality in any Data that they Publish under this Agreement. If CONTRIBUTOR chooses to Publish Data under this Agreement, CONTRIBUTOR does so with no reservation or expectation of any rights of privacy or confidentiality in that Data with the exception of Sacred Data contained in the Private Database, protected as outlined herein under Section 3.
- 5) The KINGDOM is the steward of this Agreement ("Steward"). No one other than The KINGDOM has the right to modify or publish new versions of this Agreement. Should there be subsequent versions of this Agreement, they will be given a distinguishing version number. CONTRIBUTOR may Use and Publish Data Received or Accessed hereunder under the terms of the version of the Agreement under which CONTRIBUTOR originally Received the Data, or under the terms of any subsequent version published by the Steward.



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- 6) Confirmation of acceptance of this Agreement by selecting “I Agree” on the [thekingdomofhawaii.org](http://thekingdomofhawaii.org) website shall constitute full and legal responsibility as contained in this Agreement and shall be attached as an electronic signature for legal purposes.