



**Lawrence Livermore National Laboratory
Industrial Partnerships & Commercialization**

May 4, 1999

J. Stephen Adamczyk
Edison Design Group
4 Norman Road
Upper Montclair, NJ 07043

Dear Mr. Price:

Enclosed you will find the fully executed original of your Confidential Disclosure Agreement – Non-Commercial Use. We have kept one for our files.

If you have any questions regarding this agreement, please contact me at (925) 422-1511.

Sincerely,

Linda Lerner
Administrative Specialist
Intellectual Property

cc: David Brown, L-561
Bonnie Quick, L-561
Dan Quinlan, L-560
Kevin O'Brien, L-795

EDISON DESIGN GROUP, INC.
CONFIDENTIAL DISCLOSURE AGREEMENT -- NON-COMMERCIAL USE

THIS AGREEMENT ("Agreement") is made and entered into as of April 28, 1999, by and between EDISON DESIGN GROUP, INC., having a principal place of business at 4 Norman Road, Upper Montclair, New Jersey 07043 ("EDG") and THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, under its Contract No. W-7405-ENG-48 with the U.S. Department of Energy, as operators of the Lawrence Livermore National Laboratory ("DISCLOSEE") having a principal place of business at 7000 East Avenue, Livermore, California 94550.

WHEREAS EDG has developed the following software: EDG C++ Front End ("EDG Software");

WHEREAS DISCLOSEE desires to have access to the EDG Software for the following limited purposes: use with SAGE II within ROSE Optimizing Preprocessor (part of Overture project) ("DISCLOSEE Purpose");

WHEREAS EDG is willing to provide DISCLOSEE with source code and related internal documentation for the EDG Software ("EDG Source Code"), which is confidential and proprietary information of EDG, for the limited purpose of the DISCLOSEE Purpose, and under the terms and conditions set forth herein;

WHEREAS EDG may supply to DISCLOSEE certain confidential and proprietary information other than the EDG Source Code for the limited purpose of the DISCLOSEE Purpose and under the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, the parties hereto agree as follows:

1. Definitions. "CONFIDENTIAL INFORMATION" as used herein shall mean software, documentation, and associated information disclosed or made available by EDG to DISCLOSEE, whether disclosed in writing or orally. The CONFIDENTIAL INFORMATION specifically includes the EDG Source Code. The CONFIDENTIAL INFORMATION specifically excludes any binary or object code versions of the EDG Software. CONFIDENTIAL INFORMATION shall not be considered confidential if (a) it was in the possession of DISCLOSEE prior to the disclosure without being covered by another confidentiality obligation, (b) it was available to the public prior to the disclosure, (c) it is subsequently acquired by DISCLOSEE from a third party whose source to the information neither directly nor indirectly is EDG and the information from this independent source is not covered by another confidentiality obligation, (d) it subsequently becomes available to the public through no default of DISCLOSEE, or (e) it is independently developed by DISCLOSEE without breaching this Agreement.

1.1. CONFIDENTIAL INFORMATION disclosed by EDG or DISCLOSEE will be in writing and clearly marked "CONFIDENTIAL INFORMATION" or its equivalent. If such CONFIDENTIAL INFORMATION is initially disclosed orally or by demonstration, it will be identified as CONFIDENTIAL INFORMATION or its equivalent at the time of disclosure. The disclosing

party will, within thirty (30) days thereafter: (a) reduce such CONFIDENTIAL INFORMATION to writing or other tangible form, referencing the date and type of CONFIDENTIAL INFORMATION disclosed, and mark it as CONFIDENTIAL INFORMATION or its equivalent; and (b) deliver a copy to the receiving party. All protections and restrictions as to use and disclosure will apply during such thirty (30) day period.

2. Acknowledgments. EDG represents that it has sole rights to the CONFIDENTIAL INFORMATION and that it has the right to disclose to DISCLOSEE the CONFIDENTIAL INFORMATION. DISCLOSEE acknowledges and agrees that the CONFIDENTIAL INFORMATION is the sole property of, proprietary to, and a valuable trade secret of EDG.

3. Obligations of DISCLOSEE. In consideration of the disclosure to DISCLOSEE of the CONFIDENTIAL INFORMATION, DISCLOSEE agrees to treat the CONFIDENTIAL INFORMATION in confidence and to undertake the following additional obligations with respect thereto:

3.1. to use the CONFIDENTIAL INFORMATION for the DISCLOSEE Purpose, provided that such use does not conflict with the other obligations of DISCLOSEE under this Agreement, and provided that all such use is non-commercial;

3.2. not to copy, in whole or in part, CONFIDENTIAL INFORMATION, except as reasonably needed during DISCLOSEE's use of the CONFIDENTIAL INFORMATION;

3.3. not to disclose the CONFIDENTIAL INFORMATION to third parties (except as indicated in Subparagraph 3.4 of this Agreement);

3.4. to limit dissemination of the CONFIDENTIAL INFORMATION ("Dissemination") to those individuals or entities ("Subdisclosees") who have a need to know to perform the limited tasks set forth in Subparagraph 3.1 of this Agreement. Prior to any Dissemination, (a) each such Subdisclosee shall be informed of the terms of this Agreement, (b) each such Subdisclosee shall agree to abide by the terms of this Agreement; and

3.5. to return the CONFIDENTIAL INFORMATION, including all copies and records thereof, to EDG promptly upon EDG's request, a decision by DISCLOSEE to terminate performance of the DISCLOSEE Purpose, or termination of any negotiated agreement between the parties, whichever occurs first; however, all such CONFIDENTIAL INFORMATION that cannot reasonably be returned to EDG shall be destroyed by DISCLOSEE in a manner acceptable to EDG; EDG shall not unreasonably withhold such acceptance.

4. No Warranties. EDG provides the CONFIDENTIAL INFORMATION "AS IS" and without warranties of any kind, including without limitation warranties as to performance or merchantability. THE CONFIDENTIAL INFORMATION IS PROVIDED WITHOUT ANY EXPRESS OR IMPLIED WARRANTIES WHATSOEVER. NO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE ARE OFFERED.

5. No Liability. EDG shall have no liability of any kind regarding the CONFIDENTIAL INFORMATION, the use or misuse of the CONFIDENTIAL INFORMATION, or the nonperfor-

mance or delay in performance of any terms and conditions of this Agreement, including without limitation any special, indirect, or consequential damages.

6. Ownership of Software or Other Product Developed From EDG Software. DISCLOSEE shall retain all right, title, and ownership interest in and to all modifications, updates, or enhancements made to the EDG Software by DISCLOSEE.

7. Survival. The restrictions and obligations of Paragraph 3 of this Agreement shall survive any expiration, termination, or cancellation of this Agreement and shall continue to DISCLOSEE, its successors, heirs, and assigns.

8. Negation of Licenses. No rights or licenses, expressed or implied, are hereby granted to DISCLOSEE under any patents, copyrights, trademarks, or trade secrets of EDG as a result of or related to this Agreement.

9. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of New Jersey, U.S.A.

10. Sole Agreement; Changes. This Agreement is the sole agreement between the parties regarding the CONFIDENTIAL INFORMATION. All changes to this Agreement must be written and signed by all parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as set forth below.

EDISON DESIGN GROUP, INC.

By: J. Stephen Adzunczyk

Name: J. Stephen Adzunczyk

Title: President

Date: April 28, 1999

Regents of the University of Calif.
DISCLOSEE: Lawrence Livermore National Lab

By: Janet G. Tulk

Name: Janet G. Tulk

Title: Laboratory Counsel

Date: May 3, 1999