ADOPTER AGREEMENT FOR THE
WEB SERVICES-INTEROPERABILITY ORGANIZATION

This Adopter Agreement For The Web Services-Interoperability Organization ("WS-I") ("Agreement") is entered into by and between WS-I and the adopting party set forth below and its Affiliates ("Adopter").

Adopter			

City	State	Country	Zip

Contact Name	Telephone	Fax

The parties hereto hereby agree as follows.

RECITALS

Whereas, WS-I is developing material that will facilitate interoperability of web services across multiple platforms, development languages, and applications and accelerate the adoption and deployment of web services;

Whereas, the Adopter wishes to enter into an agreement pursuant to which it will give and receive certain licenses with respect to such materials; and

Whereas, WS-I and the Adopter desire to have the following conditions apply to this Agreement;

Now, therefore, in consideration of the mutual promises and conditions contained herein, WS-I and the Adopter agree as follows:

Agreement

1. **DEFINITIONS**

    a. "<u>Adopters</u>" means this Adopter and any other parties that have executed an Adopter Agreement for the WS-I Organization in substantially the same form as this Agreement.

    b. "<u>Affiliate</u>" means any entity that is directly or indirectly controlled by, under common control with or that controls the subject party. For purposes of this definition control means direct or indirect ownership of or the right to exercise (a) greater than fifty percent (50%) of the outstanding shares or securities entitled to vote for the election of directors or similar managing authority of the

subject entity; or (b) greater than fifty percent (50%) of the ownership interest representing the right to make the decisions for the subject entity.

c. "Final Specifications" are the documents of WS-I published by WS-I and described as Final Specifications.

d. "Licensed Claims" are those claims of a patent or patent application, throughout the world, excluding design patents and design registrations, owned, controlled or that can be sublicensed in compliance with the requirements of this Agreement by a party or its Affiliates now or at any future time and which would necessarily be infringed by implementation of the Final Specification. A claim is necessarily infringed hereunder only when it is not possible to avoid infringing it because there is no plausible non-infringing alternative for implementing the required portions of the Final Specification. Notwithstanding the foregoing, Licensed Claims shall not include any claims other than as set forth above even if contained in the same patent as Licensed Claims; or that read solely on any implementations of any portion of the Final Specification that are not required by the Final Specification. Moreover, Licensed Claims shall not include (i) any enabling technologies that may be necessary to make or use any Licensed Product but are not themselves expressly set forth in the Final Specification (e.g., semiconductor manufacturing technology, compiler technology, object oriented technology, basic operating system technology, and the like); or (ii) the implementation of other published standards developed elsewhere and merely referred to in the body of the Final Specification; or (iii) any Licensed Product and any combinations thereof the purpose or function of which is not required for compliance with the Final Specification. For purposes of this definition, the Final Specification shall be deemed to include only architectural and interconnection requirements essential for interoperability, within the Scope Of The Organization, and shall not include any implementation examples unless such implementation examples are expressly identified as being required for compliance with the Final Specification.

e. "Licensed Products" means only those specific portions of products (hardware, software or combinations thereof) that implement and are compliant with all relevant portions of the Final Specification.

f. "Licensed Technology" means the copyrights and Licensed Claims applicable to any version of the Final Specifications.

g. "Name" means "Web Services-Interoperability Organization" or "WS-I".

h. "Scope Of The Organization" means the creation, promotion, or support of Generic Protocols for Interoperable exchange of messages between services. As used in this definition, "Generic Protocols" means protocols that are independent of any specific action indicated by the message beyond actions necessary for the secure, reliable, or efficient delivery of messages; "Interoperable" means suitable for and capable of being implemented in a neutral manner on multiple operating systems and in multiple programming languages.

2. PATENT AND COPYRIGHT LICENSES WITH RESPECT TO THE WS-I SPECIFICATIONS

a. <u>Copyright License</u>. WS-I hereby grants to Adopter an irrevocable, worldwide, perpetual, royalty-free, nontransferable, nonexclusive, nonsublicenseable license under its copyrights in any Final Specifications to reproduce and distribute (in any and all print, electronic or other means of reproduction, storage or transmission) Final Specifications.

b. <u>Limited Patent License</u>. It is the policy of WS-I to require all Members of WS-I to covenant to grant to Adopters a nonexclusive, non-transferable, non-sublicensable, worldwide, perpetual license on fair, reasonable and non-discriminatory terms under their Licensed Claims to make, have made, use, reproduce, market, import, offer to sell and sell, and to otherwise distribute Licensed Products, provided that such license shall not extend to features of a product which are not required to comply with the Final Specifications. Adopter hereby covenants to grant to WS-I, its Members, and all other Adopters a nonexclusive, non-transferable, non-sublicensable, worldwide, perpetual license on fair, reasonable and non-discriminatory terms under its Licensed Claims to make, have made, use, reproduce, market, import, offer to sell and sell, and to otherwise distribute Licensed Products, provided that such license shall not extend to features of a product which are not required to comply with the Final Specifications.

c. <u>No Other Rights</u>. Except as expressly set forth above, this Agreement shall not be construed as granting any rights or interests in or to (i) Licensed Claims or Licensed Technology, (ii) any improvements thereto, (iii) any particular design, mode or method, or (iv) the proprietary rights of any party to this Agreement or any third party.

3. USE OF THE WS-I ORGANIZATION NAME

a. <u>Prohibition on Registration of the Name</u>. Adopter shall not register or attempt to register the Name or any name, trademark, or service mark confusingly similar to the Name, or register any second level domain name that uses the Name in a way likely to create confusion regarding the ownership of the second level domain name, anywhere in the world. If Adopter holds a second level domain name that uses the Name as described above, Adopter will (1) redirect it to the official WS-I website and (2) assign it to WS-I upon request of WS-I.

b. <u>Prohibition on Assertion of Rights in the Name</u>. Adopter agrees not to assert any rights in the Name against WS-I, any Member of WS-I, any other adopters which have signed an adopter's agreement substantially similar to this Agreement, or their Affiliates or to object to the use of the Name by such parties.

c. <u>Required Use of the Name</u>. Adopter agrees that when it refers to Final Specifications, it will use the Name or use some other means to accurately describe WS-I as the origin of the Specifications. Except as provided in the previous sentence, Adopter shall not be obligated to use the Name on any

product, advertising, or other materials in any manner. Adopter uses the Name at its own risk.

d. <u>Limitations on the Use of the Name</u>. Adopter agrees that it will use the Name only for the limited purpose of promoting the WS-I organization and the use of Final Specifications, and for labeling, promoting, and marketing products that comply with a Final Specification. Adopter shall not use the Name or any name, trademark, or service mark confusingly similar to the Name to promote, or refer to, other initiatives or technologies.

4. GENERAL

a. <u>Effective Date</u>. This Agreement shall become effective when executed by the Adopter and WS-I.

b. <u>No Other Licenses</u>. Except for the rights expressly provided by this Agreement, WS-I, its Members and the Adopter neither grant nor receive, by implication, or estoppel, or otherwise, any rights under any patents or other intellectual property rights.

c. <u>No Warranty</u>. The parties acknowledge that all information provided as part of the Specification is provided "AS IS" WITH NO WARRANTIES WHATSOEVER, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, AND EACH OF THE PARTIES EXPRESSLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY, NONINFRINGEMENT, FITNESS FOR ANY PARTICULAR PURPOSE, OR ANY WARRANTY OTHERWISE ARISING OUT OF ANY PROPOSAL, SPECIFICATION, OR SAMPLE.

d. <u>Limitation of Liability</u>. IN NO EVENT WILL WS-I, ANY OF ITS MEMBERS OR THE ADOPTER BE LIABLE TO EACH OTHER OR ANY OTHER PARTY FOR THE COST OF PROCURING SUBSTITUTE GOODS OR SERVICES, LOST PROFITS, LOSS OF USE, LOSS OF DATA OR ANY INCIDENTAL, CONSEQUENTIAL, DIRECT, INDIRECT, PUNITIVE, OR SPECIAL DAMAGES, WHETHER UNDER CONTRACT, TORT, WARRANTY OR OTHERWISE, ARISING IN ANY WAY OUT OF THIS OR ANY OTHER RELATED AGREEMENT, WHETHER OR NOT SUCH PARTY HAD ADVANCE NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.

e. <u>Governing Law</u>. This Agreement shall be construed and controlled by the laws of the State of New York without reference to conflict of laws principles.

f. <u>Jurisdiction</u>. The parties agree that all disputes arising in any way out of this Agreement shall be heard exclusively in, and the parties irrevocably consent to jurisdiction and venue in, the state and Federal courts of the State of New York. The proceedings shall be conducted in the English language. The parties hereby waive any right to trial by jury.

g.   Notices. Unless otherwise advised in writing by the Secretary, all notices from the Adopter hereunder shall be sent to the Secretary, at the address indicated below. Unless otherwise advised in writing by the Adopter, all notices to the Adopter shall be sent to the address for such Adopter indicated below. For purposes of this Section, notice can include notice by written mail, electronic mail or by facsimile.

Notices to WS-I   Notices to Adopter

c/o PROSKAUER ROSE LLP   _____
    1585 Broadway   _____
    New York, New York 10036-8299   _____
Attn: Jeffrey D. Neuburger, Esq.   _____
                                                             _____

Subject: WS-I

Such notices shall be deemed served when sent. Any party may give written notice of a change of address and, after notice of such change has been received, any notice or request shall thereafter be given to such party at such changed address.

h.   Affiliates. The Adopter (excluding its Affiliates) hereby represents and warrants that it has power to cause all patents owned or controlled by it and all of its Affiliates to be licensed as set forth in this Agreement and that it and its Affiliates have ownership rights in all patents and patent applications covering inventions made by their employees in the course of their employment. No rights will flow under this Agreement to any Affiliate of Adopter which is not granting rights under this Agreement.

i.   Complete Agreement; No Waiver. This Agreement sets forth the entire understanding of the parties and supersedes all prior agreements and understandings relating hereto. No modifications or additions to or deletions from this Agreement shall be binding unless accepted in writing by authorized representatives of each party, and the waiver of any breach or default will not constitute a waiver of any other right hereunder or any subsequent breach or default.

j.   No Rule of Strict Construction. Regardless of which party may have drafted this Agreement, no rule of strict construction shall be applied against any party. If any provision of this Agreement is determined by a court to be unenforceable, the parties shall deem the provision to be modified to the extent necessary to allow it to be enforced to the extent permitted by law, or if it cannot be modified, the provision will be severed and deleted from this Agreement, and the remainder of the Agreement will continue in effect.

k.   Counterparts.   This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but collectively shall constitute one and the same instrument.

l. Compliance with Laws. Anything contained in this Agreement to the contrary notwithstanding, the obligations of the parties hereto shall be subject to all laws, present and future, of any government having jurisdiction over the parties hereto, and to orders, regulations, directions or requests of any such government.

m. Antitrust Compliance. The parties are committed to fostering open competition in the development of web-based products and services. The parties acknowledge that the Adopter may compete with WS-I's Members and other Adopters in various lines of business and that it is therefore imperative that they and their representatives act in a manner that does not violate any applicable antitrust laws and regulations. The Adopter may have similar agreements with others. The Adopter may design, develop, manufacture, acquire or market competitive specifications, products and services, and conduct its business in whatever way it chooses. The Adopter is not obligated to announce or market any products or services. Without limiting the generality of the foregoing, the Adopter agrees not to engage in discussions that would violate the antitrust laws and agrees to abide by the antitrust guidelines adopted by WS-I. Accordingly, the Adopter hereby assumes responsibility to provide appropriate legal counsel to its representatives regarding the importance of limiting their discussions to subjects that relate to the purposes of WS-I, whether or not such discussions take place during formal meetings, informal gatherings, or otherwise.

n. Headings. The parties acknowledge that the headings to the sections hereof are for reference purposes only and shall not be used in the interpretation of this Agreement.

o. Assignment. The Adopter may not assign its rights or obligations under this Agreement without the prior written consent of WS-I. For purposes of this Agreement, an assignment shall be deemed to include a transfer or sale of all or substantially all of the business of the Adopter, or a merger, consolidation or other transaction that results in a change in control of the Adopter. Any purported assignment in violation of this Section shall be void.

p. Force Majeure. No party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder on account of strikes, shortages, riots, insurrection, fires, flood, storm, explosions, acts of God, war, governmental action, labor conditions, earthquakes or any other cause which is beyond the reasonable control of such party.

q. General Construction. As used in this Agreement, the plural form and singular form each shall be deemed to include the other in all cases where such form would apply. "Includes" and "including" are not limiting, and "or" is not exclusive.

r. Independent Contractors. The relationship of the parties established by this Agreement is that of independent contractors. Nothing in this Agreement shall be construed as requiring the Adopter to use or implement Final Specifications, or limit the Adopter from competing in any way, including engaging in

activities, independently or with others, that may be deemed competitive with Final Specifications. This Agreement does not give either party the power to direct and control the day to day activities of the other, constitute the parties as partners, joint venturers, co-owners, principal-agent, or otherwise participants in a joint or common undertaking, or, except as expressly provided herein, allow either party to create or assume any obligation on behalf of the other for any purpose whatsoever.

s. Import and Export Controls. In connection with this Agreement, the parties shall comply with all applicable laws, including export, re-export and foreign policy controls and restrictions that may be imposed by any government.

t. Name Change. WS-I may change the name of the WS-I Specification or the name by which this Agreement is identified. However, no such name change shall have any effect on the rights and obligations of the parties under this Agreement.

WS-I:

Web Services-Interoperability Organization

By: _____

Name: _____

Title: _____

Date: _____

Notice Information:

Address: PROSKAUER ROSE LLP
1585 Broadway
New York, New York 10036-8299
Attention: Jeffrey D. Neuburger, Esq.

Telephone: _____

Fax: _____

e-mail: _____

Adopter:

Company: _____

By: _____

Name: _____

Title: _____

Date: _____

Notice Information:

Address: _____

_____

Attention: _____

Telephone: _____

Fax: _____

e-mail: _____

-