

## **IPR AGREEMENT FOR WEB SERVICES-INTEROPERABILITY ORGANIZATION**

**THIS IPR AGREEMENT FOR WEB SERVICES-INTEROPERABILITY ORGANIZATION ("AGREEMENT")**, effective as of February 27, 2002 ("Effective Date"), is entered into by and among Accenture ("Accenture") with offices at 161 North Clark Street, Chicago, IL 60601; BEA Systems, Inc. ("BEA Systems") with offices at 2315 North First Street, San Jose, CA 95131; Fujitsu Limited ("Fujitsu") with offices at 3055 Orchard Drive, San Jose, CA 95134; Hewlett-Packard Company ("Hewlett-Packard") with offices at 19111 Pruneridge Avenue, Cupertino, CA 95014; Intel Corporation ("Intel") with offices at 2111 N.E. 25<sup>th</sup> Avenue, Hillsboro OR 97124; International Business Machines Corporation ("IBM") with offices at Route 100, Somers NY 10589; Microsoft Corporation ("Microsoft") with offices at One Microsoft Way, Redmond, WA 98052; Oracle Corporation ("Oracle") with offices at 500 Oracle Parkway, Redwood Shores, CA 94065; and SAP AG ("SAP") with offices at 69190 Walldorf, GERMANY; and Web Services-Interoperability Organization ("WS-I"), c/o Brown Raysman Millstein Felder & Steiner LLP, 900 Third Avenue, New York, NY 10022; and each of the other companies that has executed a Signature Page to this Agreement.

### **RECITALS**

- A. Accenture, BEA Systems, Fujitsu, Hewlett-Packard, Intel, IBM, Microsoft, Oracle, and SAP and their Affiliates (collectively, the "Initial Founders") have entered into the Founding Members Agreement for the Web Services-Interoperability Organization (the "Founders Agreement"). (The Initial Founders, as well as any other entities that may be designated as Founding Members in accordance with the Bylaws of WS-I, are hereinafter referred to collectively as the "Founding Members".) The Founders Agreement requires all Founding Members to sign this Agreement.
- B. The Founding Members wish to set forth their agreement regarding IPR (as hereinafter defined) with respect to the Web Services-Interoperability Organization ("WS-I").
- C. WS-I shall be open to other parties who wish to join as Contributing or Associate Members. The Founding Members intend that the terms of this IPR Agreement be the terms and conditions under which WS-I and all members of WS-I are bound (collectively, the Contributing Members and their Affiliates, the Associate Members and their Affiliates, and the Founding Members and their Affiliates are referred to as the "Parties").

### **AGREEMENT**

**NOW THEREFORE**, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree to the following:

## **1. Definitions**

In addition to the terms defined elsewhere in this Agreement, the following terms, when used herein, shall have the following meanings:

- a. "Adopter" means any entity that has executed a copy of the Adopter Agreement in the form attached as Exhibit D ("Adopter Agreement") and delivered it to the Secretary.
- b. "Affiliate" 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. "Associate Member" means any entity that has entered into and has in effect the standard agreement setting forth an Associate Member's rights and obligations in connection with WS-I ("Membership Agreement").
- d. "Contributing Member" means any entity other than a Founding Member that has entered into and has in effect the standard agreement setting forth a Contributing Member's rights and obligations in connection with WS-I ("Membership Agreement").
- e. "Contribution" is material, including Draft Material, Material text, and modifications to other Contributions, in a tangible form of expression (including in electronic media) which is provided by a Party in the process of developing Material for the purpose of incorporating such material into a Material and which is ultimately incorporated into Final Material.
- f. "Draft Material" are any Draft Test Material, Draft Sample Application, or Draft Specification.
- g. "Draft Sample Applications" are versions of the Sample Applications that are not Final Sample Applications.
- h. "Draft Specifications" are versions of the Specifications that are not Final Specifications.
- i. "Draft Test Material" are versions of the Test Material that are not Final Test Material.

- j. "Final Material" are any Final Test Material, Final Sample Application, or Final Specification.
- k. "Final Sample Applications" are any version of the Sample Applications, or portion thereof, that have been finalized and adopted in accordance with the WS-I Operating Procedures.
- l. "Final Specifications" are any version of the Specifications, or portion thereof, that have been finalized and adopted in accordance with the WS-I Operating Procedures.
- m. "Final Test Material" are any version of the Test Material, or portion thereof, that have been finalized and adopted in accordance with the WS-I Operating Procedures.
- n. "IPR" are intellectual property rights, including without limitation, copyrights, trade secrets, trademarks and patent claims.
- o. "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 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.
- p. "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.

- q. "Licensed Technology" means the copyrights and Licensed Claims applicable to any version of the Final Specifications.
- r. "Licensed Test Material Claims" are those claims of a patent or patent application, throughout the world, excluding design patents and design registrations, owned, controlled or subject to sublicensing in compliance with the requirements of this Agreement by a Party now or at any future time and which are infringed by the relevant Final Test Material as it is distributed by WS-I without combination with any other software. Notwithstanding the foregoing, Licensed Test Material Claims shall not include any claims other than as set forth above even if contained in the same patent as Licensed Test Material Claims.
- s. "Material" are any Test Material, Sample Application, or Specification.
- t. "Operating Procedures" means the procedures set out in the Bylaws of WS-I, as it may be amended in accordance with its terms.
- u. "Party" means a Founding Member and its Affiliates, a Contributing Member and its Affiliates, or an Associate Member and its Affiliates..
- v. "Sample Application" means source or object code and related documentation designated by the Board, or by the Working Group subject to procedures adopted by the Board, as a Sample Application that is being developed (in the case of Draft Sample Applications) or has been adopted (in the case of Final Sample Applications) within the procedures of WS-I and within the Scope Of The Organization.
- w. "Sample Application License Agreement" means the license agreement for Sample Applications included in Exhibit C.
- x. "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.
- y. "Specification" means a document that is being developed (in the case of Draft Specifications) or has been adopted (in the case of Final Specifications) within the procedures of WS-I which, within the Scope Of The Organization, (1) is the technical description of the protocols for the exchange of messages or (2) is the technical description of the steps required to implement existing standards alone or in combination with Specifications or existing standards in such a way as to promote interoperability.

- z. "Test Material" means examples, programs, procedures, or other material that is being developed (in the case of Draft Test Material) or has been adopted (in the case of Final Test Material), the purpose of which is to determine whether a web service satisfies selected requirements of a Specification, within the Scope Of The Organization.
- aa. "Test License Agreement" means the license agreement for Test Material included in Exhibit B.

## **2. Licenses, Ownership and Attribution for Material.**

### a. Ownership Of Copyrights.

- (1) Final Specifications. The Parties agree that the WS-I shall own, notwithstanding the retention by each Party of its ownership interest in its Contributions in accordance with section 2a(4) below, the copyright in any Final Specifications.
- (2) Final Test Material and Final Sample Applications. With respect to any Final Test Material and Final Sample Applications that are collective works, the Parties agree that the WS-I shall own, notwithstanding the retention by each Party of its ownership interest in its Contributions in accordance with section 2a(4) below, the copyright in the collective work.
- (3) Further Assurances. The Parties agree that, where required by the Board, they will sign such documents as reasonably necessary to effectuate the intent of Sections 2a(1) and 2a(2).
- (4) Ownership of Contributions. Each Party shall retain ownership (including, but not limited to, the right to publish or distribute without any obligation of confidentiality, notwithstanding any terms of this Agreement to the contrary) of its IPR in its respective Contributions to WS-I, any modifications that it makes to the Material that are not part of the work of WS-I, and its implementations of the technologies described in the Specifications. Notwithstanding the above, no Party may claim that any Final Specification is subject to trade secret protection or any obligation of confidentiality.

### b. Copyright Licenses.

- (1) Licenses For Purposes Of Developing Materials. Each Party hereby grants to each other Party an irrevocable, worldwide, perpetual, royalty-free, nontransferable, nonexclusive, nonsublicenseable license under its copyrights in its Contributions to reproduce, modify, and distribute (in any and all print, electronic or other means of reproduction, storage or transmission) its Contributions and derivative works thereof for the purpose of developing Materials. Notwithstanding the above, no Party may distribute any Draft Material to third parties except as expressly permitted by Section 6b hereof.

- (2) Final Specifications. WS-I hereby grants to each Party 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.
  - (3) Final Test Material. WS-I hereby grants to each Party, and each Party hereby grants to each other Party and WS-I, an irrevocable, worldwide, perpetual, royalty-free, nontransferable, nonexclusive nonsublicenseable license under their copyrights, if any, in any Final Test Materials to (i) modify a Final Test Material solely for the purpose of integrating such Final Test Material into a Party's products and in such a way as to not affect the integrity of the Final Test Material, in conformance with the criteria, if any, determined by the Board, or by the Working Group subject to procedures adopted by the Board, (ii) reproduce and distribute, directly or indirectly, under the terms of the Test License Agreement unmodified Final Test Material, and (iii) reproduce and distribute, directly or indirectly, under the terms of the Test License Agreement Final Test Material that had been modified in accordance with clause (i) above.
  - (4) Final Sample Applications. WS-I hereby grants to each Party and each Party hereby grants to each other Party and WS-I, an irrevocable, worldwide, perpetual, royalty-free, nontransferable, nonexclusive, nonsublicenseable license under their copyrights, if any, in any Final Sample Applications to (i) modify a Final Sample Application, (ii) reproduce modified or unmodified Final Sample Applications, and (iii) distribute, directly or indirectly, modified or unmodified Final Sample Applications under the terms of the Sample Applications License Agreement.
  - (5) WS-I may grant third parties the rights set forth in Exhibit A-1 (for standards organizations) and Exhibit A-2 (for other third parties), as applicable, with respect to Final Specifications.
- c. Copyright Enforcement. WS-I and any Party (the "Enforcing Entity") shall each have the right, but not the obligation, to enforce its copyright interest in Material against an infringer. WS-I and each Party, as applicable, shall take such actions as it deems appropriate, consistent with the terms of this Agreement, to reasonably cooperate with the Enforcing Entity in its efforts to enforce such copyright interest. For the avoidance of doubt, neither WS-I nor any Party shall be required to participate as a Plaintiff in an action to enforce the copyright in any Material.
  - d. Limited Patent License. Except where a Party has a separate, signed agreement under which the Licensed Claims are licensed to such Party on more favorable terms and conditions than set forth in this Section 2d (in which case such separate signed agreement shall supersede this Limited Patent License):

- (1) effective upon finalization of a Specification, each Party hereby covenants to grant to each other Party and 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;
  - (2) effective upon finalization of Test Material, each Party hereby covenants to grant to each other Party a nonexclusive, non-transferable, non-sublicensable, worldwide, perpetual license on fair, reasonable and non-discriminatory terms under its Licensed Test Material Claims to modify and distribute, directly or indirectly, the Final Test Material pursuant to the terms in section 2b(3) above, provided that such license shall only extend to portions of a product that are modified or unmodified versions of the Final Test Materials.
- e. Test License Agreement; Covenant Not To Sue. Each Party covenants that it will not assert patents against any person for the licensed use of Final Test Material if such party acquired such Final Test Material from WS-I in accordance with WS-I procedures and complies with all of the terms and conditions of the Test License Agreement.
  - f. No Other Rights. 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. For clarification purposes, no patent rights or immunities are provided for Sample Applications.
  - g. Ownership of Inventions. Parties jointly creating inventions will jointly own, without any obligation to account, any patent rights to such inventions. All the foregoing ownership rights are subject to any underlying licenses granted in this Agreement. For jointly owned inventions, pre-approved expenses incurred in obtaining and maintaining jointly owned patents shall be jointly shared. If one or more of the Parties elects not to share in such expenses, the remaining jointly inventing Parties shall have full control over the prosecution and maintenance of such patents.
  - h. Attribution. The Parties shall include the following copyright notice on all copies of Materials or other documents created by WS-I, or such other additional attribution as the Parties may determine:

© Copyright [Insert year] by [Insert names of copyright owner(s)]. All rights reserved.

### **3. Disclosure.**

- a. **Obligation.** Each Party shall disclose to the other Parties, in writing, the existence of any Licensed Claims of any of its patents or published patent applications (or claims that would become Licensed Claims upon finalization of a Draft Specification, as such document then exists) that are personally known to the individuals directly participating on behalf of such Party with respect to the Specification (collectively, "Disclosed Claims"), provided that it is understood and agreed that such individuals do not represent that they personally know of all potentially pertinent claims of patents and patent applications owned or claimed by the Party they represent or any third parties.
- b. **Limitations.** The obligation set forth in Section 3a above does not, however, imply any obligations on the Parties (collectively or individually) to perform or conduct patent searches. Further, nothing in this Agreement nor the act of a Party submitting, supporting, or approving a proposal for a Specification shall be construed or otherwise interpreted as any kind of express or implied representation that such Party does or does not hold any patents or patent applications which contain claims that cover such Specifications.
- c. **Information.** Any disclosure of Disclosed Claims shall include the patent or published patent application publication number, the associated country, identification of the Licensed Claims and a reference to the applicable Specification, and, as reasonably practicable, the relevant portions thereof.
- d. **Disclosures.** Disclosures should be made in writing and submitted to the WS-I legal counsel who shall make them immediately available to the Board.

### **4. Representations and Disclaimer.**

- a. **Representation.** Except as otherwise disclosed in writing by such Party at the time it makes a Contribution, each Party represents and warrants at the time of any such Contribution by it that, to the best knowledge of the employee actually making the Contribution, (i) making the Contribution subject to the terms of this Agreement does not violate the copyright or trade secret interests of another, and (ii) nothing contained in the Contribution is subject to any third party software license agreement that is inconsistent with this Agreement or that could impose an additional obligation on any party using the Material as contemplated by WS-I (e.g., an open source license with on-going obligations to distribute source code or license additional IPR on a royalty-free basis).
- b. **Disclaimer of Warranties.** WS-I and the Parties disclaim all other warranties, express or implied, including, but not limited to, (1) except as set forth in Section 4(a), any warranty of title or that any Contribution does not infringe the IPR of any other person or entity, (2) any warranty that any claims of any patents or patent applications included in the Licensed Claims are valid or enforceable, (3) any implied warranties of merchantability and fitness for a particular purpose, or (4) that the rights and licenses granted hereunder comprise all the rights and licenses necessary or desirable to practice, develop,

make or sell Licensed Products or to use the Test Material or Sample Applications.

## **5. Termination And Withdrawal.**

- a. Term. The term of this Agreement shall begin on the Effective Date and, except as provided in the bylaws of WS-I, shall continue indefinitely subject to each Party's right to withdraw pursuant to Section 5b.
- b. Withdrawal. A Party automatically withdraws from this Agreement by withdrawing from the Membership Agreement or having the Membership Agreement terminated in accordance with its terms.
- c. Effect of Expiration, Termination and Withdrawal. Termination of a Party's participation in this Agreement shall not affect the existence or enforceability of the terms of this Agreement as to the remaining Parties, except that any termination which leaves just one Party terminates this Agreement in its entirety. In the event of expiration or termination of a Party's participation in this Agreement or of this Agreement in its entirety, Sections 2, 4, 5, 6, 7, 8 and 9 shall survive; provided, however, that a terminated Party's rights and obligations under Sections 2a, 2b, 2d and 2e shall only apply to the Material that on the notice date, (i) was in existence, with respect to Section 2a and 2b(1), or (ii) was a Final Material, with respect to the remainder of Section 2b and Sections 2d and 2e; further provided, however, a Party's obligations under all of Section 2 shall survive with respect to any Contributions made by such party even if not incorporated into Material as of the notice date. When used in this section, the "notice date" is the date on which the Party has provided notice of its intent to withdraw, if the Party's participation in this Agreement is terminating because the Party has withdrawn, or if the Party's participation in this Agreement is terminating for any other reason, the effective date of such termination.
- d. Obligation to License. Unless a Party withdraws from this Agreement, the obligation to license the IPR under this Agreement applies regardless of whether the Party approved or disapproved the development or finalization of the Material.

## **6. Publicity/Disclosure.**

- a. Draft Material. The Parties do not intend to exchange confidential information. Notwithstanding the foregoing, the Parties intend that Draft Material and Contributions shall not be distributed or made available to any third party, except as authorized by WS-I procedures or as expressly provided in this Agreement.
- b. Disclosure. A Party may disclose Draft Material (a) in accordance with the procedures of WS-I; (b) as otherwise may be required by law or legal process; (c) during the course of litigation; or (d) in confidence to its legal counsel, accountants, banks and financing sources and their advisors.

- c. Residuals and Independent Development. The terms of this Section 6 shall not be construed to limit any Party's right to independently develop or acquire products. Further, each Party shall be free to use and disclose for any purpose the residuals resulting from access to or work with Draft Material. The Parties shall have no obligation to limit or restrict the assignment of persons or to pay royalties for any work resulting from the use of residuals.
- d. Product Implementation. Notwithstanding the foregoing, and regardless of any restrictive legend on a Draft Specification, each Party is free to implement or incorporate the contents of any Draft Specification in any of its products, and the marketing, sale or distribution of such products shall not be a violation of the obligations herein.
- e. No Licenses. Nothing in this Section 6 shall be deemed to grant any Party a license under another Party's copyrights or patents.

## **7. Limitation of Liability.**

IN NO EVENT WILL WS-I BE LIABLE TO ANY PARTY OR ANY THIRD PARTY, OR WILL ANY PARTY BE LIABLE TO WS-I, ANY OTHER PARTY OR TO ANY THIRD 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 WS-I OR SUCH PARTY, AS APPLICABLE, HAD ADVANCE NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.

## **8. Infringement.**

- a. Notification of Infringement. Each Party shall use reasonable efforts to notify the WS-I counsel of any suits or credible threats of litigation related to any Material which may come to its attention, which counsel will immediately convey such information to the Board.
- b. Enforcement of Rights. WS-I and each Party, at its sole expense, shall each have the right to determine the appropriate course of action to enforce its rights in its Licensed Technology or otherwise abate the infringement thereof, to take (or refrain from taking) appropriate action to enforce its Licensed Technology, to control any litigation or other enforcement action and to enter into, or permit, the settlement of any such litigation or other enforcement action with respect to its Licensed Technology.

## 9. General.

- a. No Other Licenses. Except for the rights expressly provided herein, neither WS-I nor any Party grants or receives, by implication, or estoppel, or otherwise, any rights under any patents or other intellectual property rights.
- b. No Other Warranty. WS-I and all parties acknowledge that except as set forth in Section 4(a), all information provided as part of the process for developing Material, including the Material itself, is provided "AS IS" WITH NO WARRANTIES WHATSOEVER, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, AND WS-I AND THE PARTIES EACH EXPRESSLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY, NONINFRINGEMENT, FITNESS FOR ANY PARTICULAR PURPOSE, OR ANY WARRANTY OTHERWISE ARISING OUT OF ANY PROPOSAL, SPECIFICATION, OR SAMPLE.
- c. Governing Law. This Agreement shall be construed and controlled by the laws of the State of New York without reference to conflict of laws principles.
- d. Jurisdiction. WS-I and the Parties agree that all disputes arising in any way out of this Agreement shall be heard exclusively in, and WS-I and all 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. WS-I and the Parties hereby waive any right to trial by jury.
- e. Notices. All notices hereunder shall be electronic or written and sent to WS-I and the Parties at the addresses indicated below or on their signature page or at such other address as WS-I or a Party may later specify by written notice. For purposes of this Section, notice can include notice by written mail, electronic mail or by facsimile.

WS-I or 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 WS-I or such Party, as applicable, at such changed address.

- f. Affiliates. Each Party (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 a Party which is not granting rights under this Agreement.
- g. Complete Agreement; No Waiver. This Agreement, in conjunction with the Founders Agreement with respect to each Founding Member and the Membership Agreements, sets forth the entire understanding of WS-I and the Parties and supersedes all prior agreements and understandings relating hereto, unless otherwise stated in this Agreement. This Agreement may be amended by unanimous agreement of the Founding Members. Before any such amendment takes effect notice shall be provided to all Members. The waiver of any breach or default will not constitute a waiver of any other right hereunder or any subsequent breach or default.

- h. No Rule of Strict Construction. Regardless of which Party may have drafted this Agreement, no rule of strict construction shall be applied against WS-I or any Party. If any provision of this Agreement is determined by a court to be unenforceable, WS-I and 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.
- i. 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. Notwithstanding anything to the contrary contained herein, if WS-I enters into any additional Membership Agreements, any prospective Member shall become a party to this Agreement by executing a copy of the signature page and delivering it to the Secretary of WS-I.
- j. Compliance with Laws. Anything contained in this Agreement to the contrary notwithstanding, the obligations of WS-I and the Parties shall be subject to all laws, present and future, of any government having jurisdiction over WS-I and the Parties, and to orders, regulations, directions or requests of any such government. It is the intention of WS-I and the Parties that this Agreement and all referenced documents shall comply with all applicable laws and regulations.
- k. Antitrust Compliance. WS-I and the Parties are committed to fostering open competition in the development of web-based products and services. WS-I and the Parties acknowledge that the Parties may compete with one another 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. Each Party may have similar agreements with others. Each Party may design, develop, manufacture, acquire or market competitive specifications, products and services, and conduct its business in whatever way it chooses. No Party is obligated to announce or market any products or services. Without limiting the generality of the foregoing, the Parties agree not to engage in discussions that would violate the antitrust laws and agree to abide by the antitrust guidelines adopted by WS-I. Accordingly, each Party 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.
- l. Headings. WS-I and 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.
- m. Assignment. No Party shall 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 a Party, or a merger, consolidation or other transaction that results in a change in control of the Party. Any purported assignment in violation of this Section shall be void.

- n. Force Majeure. Neither WS-I nor any 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 its reasonable control.
- o. 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.
- p. Independent Contractors. The relationship of WS-I and the Parties established by this Agreement is that of independent contractors. This Agreement does not give WS-I or any Party the power to direct and control the day to day activities of another, constitute WS-I or any of the Parties as partners, joint venturers, co-owners, principal-agent, or otherwise participants in a joint or common undertaking, or allow WS-I or any Party to create or assume any obligation on behalf of another for any purpose whatsoever.
- q. Import and Export Controls. In connection with this Agreement, WS-I and 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.
- r. Order of Precedence. Notwithstanding anything else to the contrary in this Agreement, the Membership Agreements or the Founders Agreement and notwithstanding the order of their execution, in the case of a conflict between the terms of this Agreement and the terms of the Founders Agreement or the Membership Agreements, the terms of this Agreement shall control.

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**IPR AGREEMENT FOR  
WEB SERVICES-INTEROPERABILITY ORGANIZATION**

**Signature Page  
(signed copy must be provided by each Party)**

Name of Party: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Telephone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

The signature below by a duly authorized representative of the Party signifies acceptance of and agreement to the terms and conditions of this IPR Agreement for the Web Services-Interoperability Organization:

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Exhibit A-1 (for Standards Organizations)**

Permission to copy, display, perform, modify and distribute the " \_\_\_\_\_ " Specification, and to authorize others to do the foregoing, in any medium without fee or royalty is hereby granted for the purpose of developing and evaluating the " \_\_\_\_\_ " Specification.

**DISCLAIMERS:**

Except for the limited copyright license granted above, the material contained herein is not a license, either expressly or impliedly, to any intellectual property owned or controlled by any of the authors or developers of this material or WS-I. The material contained herein is provided on an "AS IS" basis and to the maximum extent permitted by applicable law, this material is provided *AS IS AND WITH ALL FAULTS*, and the authors and developers of this material and WS-I hereby disclaim all other warranties and conditions, either express, implied or statutory, including, but not limited to, any (if any) implied warranties, duties or conditions of merchantability, of fitness for a particular purpose, of accuracy or completeness of responses, of results, of workmanlike effort, of lack of viruses, and of lack of negligence. ALSO, THERE IS NO WARRANTY OR CONDITION OF TITLE, QUIET ENJOYMENT, QUIET POSSESSION, CORRESPONDENCE TO DESCRIPTION OR NON-INFRINGEMENT WITH REGARD TO THIS MATERIAL.

IN NO EVENT WILL ANY AUTHOR OR DEVELOPER OF THIS MATERIAL OR WS-I BE LIABLE TO 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, OR SPECIAL DAMAGES WHETHER UNDER CONTRACT, TORT, WARRANTY, OR OTHERWISE, ARISING IN ANY WAY OUT OF THIS OR ANY OTHER AGREEMENT RELATING TO THIS MATERIAL, WHETHER OR NOT SUCH PARTY HAD ADVANCE NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.

You may remove these disclaimers from your modified versions of the " \_\_\_\_\_ " Specification provided that you effectively disclaim all warranties and liabilities on behalf of all copyright holders in the copies of any such modified versions you distribute.

The name and trademarks of the Authors may NOT be used in any manner, including advertising or publicity pertaining to the " \_\_\_\_\_ " Specification or its contents without specific, written prior permission. Title to copyright in the " \_\_\_\_\_ " Specification will at all times remain with the Authors.

No other rights are granted by implication, estoppel or otherwise.

Acknowledged:

BY: \_\_\_\_\_ DATE: \_\_\_\_\_

TITLE: \_\_\_\_\_

**Exhibit A-2 (for Third Parties other than Standards Organizations)**

Permission to copy and display the " \_\_\_\_\_ " Specification, in any medium without fee or royalty is hereby granted, provided that you include the following on ALL copies of the " \_\_\_\_\_ " Specification, or portions thereof, that you make:

1. A link or URL to the " \_\_\_\_\_ " Specification at this location: \_\_\_\_\_.
2. The copyright notice as shown in the " \_\_\_\_\_ " Specification.

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IN NO EVENT WILL ANY AUTHOR OR DEVELOPER OF THIS MATERIAL OR WS-I BE LIABLE TO 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, OR SPECIAL DAMAGES WHETHER UNDER CONTRACT, TORT, WARRANTY, OR OTHERWISE, ARISING IN ANY WAY OUT OF THIS OR ANY OTHER AGREEMENT RELATING TO THIS MATERIAL, WHETHER OR NOT SUCH PARTY HAD ADVANCE NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.

The name and trademarks of the Authors may NOT be used in any manner, including advertising or publicity pertaining to the " \_\_\_\_\_ " Specification or its contents without specific, written prior permission. Title to copyright in the " \_\_\_\_\_ " Specification will at all times remain with the Authors.

No other rights are granted by implication, estoppel or otherwise.

**Exhibit B**  
**Test License Agreement**

By downloading or using this software or accompanying documentation you agree to the following terms and conditions.

License Grant. You are hereby granted a personal, non-transferable and non-sublicenseable, nonexclusive, world-wide, royalty free license to use the WS-I Test Material (including software and documentation) solely for the purpose of testing compliance with the relevant portions of specifications or standards. You may not modify or create derivative works of any of the Test Material except as is necessary to fulfill the purpose described above. You may not distribute copies of the Test Material to other parties for any purpose, including for the purpose of allowing such other party to use the Test Material. Nor may you modify or incorporate the Test Material into any other software.

No Warranties. The Test Material contained herein is provided on an "AS IS" basis and to the maximum extent permitted by applicable law, this material is provided *AS IS AND WITH ALL FAULTS*, and the authors and developers of this material and WS-I hereby disclaim all other warranties and conditions, either express, implied or statutory, including, but not limited to, any (if any) implied warranties, duties or conditions of merchantability, of fitness for a particular purpose, of accuracy or completeness of responses, of results, of workmanlike effort, of lack of viruses, and of lack of negligence. ALSO, THERE IS NO WARRANTY OR CONDITION OF TITLE, QUIET ENJOYMENT, QUIET POSSESSION, CORRESPONDENCE TO DESCRIPTION OR NON-INFRINGEMENT WITH REGARD TO THIS MATERIAL.

Limitation of Liability. IN NO EVENT WILL ANY AUTHOR, DEVELOPER, LICENSOR, OR DISTRIBUTOR OF THIS MATERIAL OR WS-I BE LIABLE TO 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 AGREEMENT RELATING TO THIS MATERIAL, WHETHER OR NOT SUCH PARTY HAD ADVANCE NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.

Covenant Not to Assert. To the extent that you have any patents which cover the use of the Test Material in any manner permitted under this License, you hereby agree not to assert any such patents against WS-I or its Members or any other parties who have entered into a license substantially similar to this License for the licensed use of the WS-I Test Material.

Use of WS-I Name. WS-I rules, if any, regarding the use of its name and your ability to make claims regarding WS-I or your use of the Test Material or any result therefrom can be found at \_\_\_\_\_. As a condition to your license, you agree to abide by all such rules.

General.

No other rights are granted by implication, estoppel or otherwise.

If any provision of this Agreement is invalid or unenforceable under applicable law, it shall not affect the validity or enforceability of the remainder of the terms of this Agreement, and without further action by the parties hereto, such provision shall be reformed to the minimum extent necessary to make such provision valid and enforceable.

Your rights under this Agreement shall terminate if you fail to comply with any of the material terms or conditions of this Agreement and do not cure such failure in a reasonable period of time after becoming aware of such noncompliance. If all your rights under this Agreement terminate, you agree to cease use of the Test Material immediately.

This Agreement is governed by the laws of the State of New York and the intellectual property laws of the United States of America. No party to this Agreement will bring a legal action under this Agreement more than one year after the cause of action arose. Each party waives its rights to a jury trial in any resulting litigation.

## Exhibit C

### Sample Application License Agreement

By downloading or using this software or accompanying documentation you agree to the following terms and conditions.

License Grant. You are hereby granted a personal, non-transferable and non-sublicenseable, nonexclusive, world-wide, royalty free copyright license to reproduce, prepare derivative works of, publicly display, publicly perform, distribute and sublicense the program examples and sample applications ("Sample Applications") and any such derivative works, in source code and object code form. Except for the copyright license above, you are granted no other rights or licenses, by implication, or estoppel, or otherwise, under any patents or other intellectual property rights.

No Warranties. The Sample Applications contained herein are provided on an "AS IS" basis and to the maximum extent permitted by applicable law, this material is provided *AS IS AND WITH ALL FAULTS*, and the authors and developers of this material and WS-I hereby disclaim all other warranties and conditions, either express, implied or statutory, including, but not limited to, any (if any) implied warranties, duties or conditions of merchantability, of fitness for a particular purpose, of accuracy or completeness of responses, of results, of workmanlike effort, of lack of viruses, and of lack of negligence. ALSO, THERE IS NO WARRANTY OR CONDITION OF TITLE, QUIET ENJOYMENT, QUIET POSSESSION, CORRESPONDENCE TO DESCRIPTION OR NON-INFRINGEMENT WITH REGARD TO THIS MATERIAL.

Limitation of Liability. IN NO EVENT WILL ANY AUTHOR, DEVELOPER, LICENSOR, OR DISTRIBUTOR OF THIS MATERIAL OR WS-I BE LIABLE TO 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 AGREEMENT RELATING TO THIS MATERIAL, WHETHER OR NOT SUCH PARTY HAD ADVANCE NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.

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- title and non-infringement, and implied warranties or conditions of merchantability and fitness for a particular purpose;
2. effectively exclude on behalf of all authors, developers, licensors, and distributors all liability for damages, including direct, indirect, special, punitive, incidental and consequential damages, such as lost profits;
  3. state that any provisions which differ from this license are offered by you alone and not by any other party; and
  4. require that the license under which any subsequent distribution of the Sample Applications or derivative works thereof is made satisfy the terms of this section.

Use of WS-I Name. WS-I rules, if any, regarding the use of its name and your ability to make claims regarding WS-I or your use of the Sample Applications can be found at \_\_\_\_\_ . As a condition to your license, you agree to abide by all such rules.

General.

No other rights are granted by implication, estoppel or otherwise.

If any provision of this Agreement is invalid or unenforceable under applicable law, it shall not affect the validity or enforceability of the remainder of the terms of this Agreement, and without further action by the parties hereto, such provision shall be reformed to the minimum extent necessary to make such provision valid and enforceable.

Your rights under this Agreement shall terminate if you fail to comply with any of the material terms or conditions of this Agreement and do not cure such failure in a reasonable period of time after becoming aware of such noncompliance. If all your rights under this Agreement terminate, you agree to cease use of the Sample Applications and any derivative works thereof immediately.

This Agreement is governed by the laws of the State of New York and the intellectual property laws of the United States of America. No party to this Agreement will bring a legal action under this Agreement more than one year after the cause of action arose. Each party waives its rights to a jury trial in any resulting litigation.

**Exhibit D**

**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. "Adopters" 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. "Affiliate" 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. Copyright License. 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. Limited Patent License. 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-sublicenseable, 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-sublicenseable, 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. No Other Rights. 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. Prohibition on Registration of the Name. 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. Prohibition on Assertion of Rights in the Name. 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. Required Use of the Name. 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. Limitations on the Use of the Name. 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. Effective Date. This Agreement shall become effective when executed by the Adopter and WS-I.
- b. No Other Licenses. 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. No Warranty. 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. Limitation of Liability. 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. Governing Law. This Agreement shall be construed and controlled by the laws of the State of New York without reference to conflict of laws principles.
- f. Jurisdiction. 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 Brown Raysman Millstein Felder  
& Steiner LLP  
900 Third Avenue  
New York, NY 10022  
Attn: Jeffrey D. Neuburger, Esq.

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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: \_\_\_\_\_

**Adopter:**

Company: \_\_\_\_\_

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Notice Information:**

Address: c/o Brown Raysman Millstein  
Felder & Steiner LLP  
900 Third Avenue  
New York, NY 10022  
Attention: Jeffrey D. Neuburger, Esq.

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

e-mail: \_\_\_\_\_

**Notice Information:**

Address: \_\_\_\_\_

\_\_\_\_\_

Attention: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

e-mail: \_\_\_\_\_