

**ECLIPSE FOUNDATION, INC.
MEMBER COMMITTER AGREEMENT**

THIS MEMBER COMMITTER AGREEMENT (THE “AGREEMENT”) is entered into as of the ___ day of _____, 20__ (the “Effective Date”) by and between Eclipse Foundation, Inc. (“Eclipse Foundation”), a Delaware not-for-profit corporation, and _____ and its subsidiaries (“Member”) with respect to Member’s employees and/or contractors listed in the Eclipse Foundation’s Committer Database who have been approved to be committers as further described herein.

INTRODUCTION

Individuals who give frequent and valuable contributions to an Eclipse development project, or component of a project (in the case of large projects), can have their status promoted to that of a “committer” for that project or component respectively, in accordance with the project’s corresponding charter. A committer has write access to the source code repository for the associated project (or component), or to other content on the Eclipse Foundation website. In order for an individual to become a committer, another committer for the project (or component) must nominate that individual. Once an individual is nominated, the existing committers for the project (or component) will vote using the process and rules determined by each Project Charter and administered by the Project Management Committee (“PMC”). When a new project is started, the responsible corresponding Development Team Leader PMC (Project Management Committee) will nominate an initial set of committers for approval by the Executive Director (or his delegates). Becoming a committer is a privilege that is earned by contributing and showing discipline and good judgment. It is a responsibility that should be neither given nor taken lightly.

The employees or contractors of Member listed in Exhibit A have been approved to be committers by their PMC. By executing this Agreement with respect to such employees or contractors, Member agrees that it has reviewed this Agreement with such personnel, and that it shall allow them to enjoy the rights of a committer and cause them to agree to and comply with all obligations that result from being a committer, including without limitation those set forth in Section 2 below. Member’s employees or contractors listed in the Eclipse Foundation’s Committer Database shall hereinafter be referred to in this Agreement as “Committers,” and each as a “Committer”. The Committers listed in Exhibit A are understood to be an initial set of Committers and the list may be subject to change. Once the personnel in Exhibit A have been entered into the Eclipse Foundation’s Committer Database, the database will constitute the master list of the Member’s Committers and may be updated as required in compliance with the New Committer Process. The Eclipse Foundation will provide the Member with a list of its Committers upon request.

1. MEMBER RIGHTS AND OBLIGATIONS

1.1 Representation of Employee Status. Member hereby represents that all individuals listed on Exhibit A are employees or contractors of Member as of the Effective Date, and that any future Committers listed in the Eclipse Foundation Committer Database shall be employees or contractors of Member as of the date of such listing. In the event that any

Committer leaves Member's employ, Member shall use reasonable efforts to notify the Eclipse Foundation, provided that Member's failure to do so shall not be considered a material breach of this Agreement. To the extent any new Member employees or contractors are listed in the Eclipse Foundation's Committer Database from time to time after the Effective Date, they shall be deemed to be Committers hereunder. Upon the Eclipse Foundation's request from time to time, Member shall verify the employment or contractor status of the Committers. Member shall notify the Eclipse Foundation in writing in the event that Member desires to discontinue an employee's or contractor's Committer-status under this Agreement. In such event, the Eclipse Foundation shall have the right to determine, at its sole discretion, whether to continue such individual's status as a Committer pursuant to a separate agreement between such individual and the Eclipse Foundation.

1.2 Member Consent. For each Committer, Member agrees that Committer's current and future contributions to Eclipse will be provided under the terms of this Agreement and under the terms of the Eclipse.org Terms of Use currently located at: <http://www.eclipse.org/legal/termsofuse.php>.

2. COMMITTER RIGHTS AND OBLIGATIONS

2.1 Compliance with Bylaws. Each Committer shall abide by the Bylaws of the Eclipse Foundation as may be amended from time to time, which is hereby incorporated herein by reference.

2.2 Compliance with Policies and Guidelines. Each Committer shall abide by the IP Policy and Committer Guidelines and any and all additional policies, guidelines and procedures adopted by the Eclipse Foundation, as may be amended from time to time, which are hereby incorporated herein by reference.

2.3 Compliance with the Eclipse Public License and the Eclipse.org Terms of Use. Each Committer shall review and ensure that they understand the terms and conditions of the Eclipse Public License ("EPL") and the Eclipse.org Terms of Use. Each Committer agrees that the Eclipse.org Terms of Use will serve as the general contribution agreement for the Eclipse Foundation, unless otherwise agreed to in accordance with the Bylaws and IP Policy. Except as otherwise determined by the Eclipse Foundation Board of Directors in accordance with the Bylaws and IP Policy, or as set forth in the Eclipse.org Terms of Use, each Committer agrees that the EPL will serve as the distribution license.

2.4 Committer Questionnaire. Committers shall complete and submit to the Eclipse Foundation the Committer Questionnaire.

2.5 Committer Contact Information. Committers shall promptly inform the Eclipse Foundation of any change in the information provided on the Committer Questionnaire, including without limitation address, other contact information and/or change in employment status or employer, and shall promptly provide such information to the Eclipse Foundation for new Committers when added to the Eclipse Foundation Committer Database.

2.6 Committer's Rights. Committers working on an Eclipse Project may be granted privileged access rights to services, resources, or content on one or more servers,

repositories, or content management systems provided by, or managed by, the Eclipse Foundation. Committers may also be granted other rights necessary to administrate and manage projects such as mailing list administration, Bugzilla administration, etc. The Eclipse Foundation will have complete control and discretion over which capabilities are assigned to a Committer account, and may terminate or temporarily disable Committer access for any reason at any time.

2.7 Treatment of Account. Each Committer shall maintain the strict confidentiality of his or her passwords issued by the Eclipse Foundation (“Password”) and shall not allow any other individual or entity to use his or her username or Password. Should a Committer become aware of any such use, Committer shall notify the Eclipse Foundation immediately by sending an e-mail to EMO@Eclipse.org, or such other e-mail address as may be designated by the Eclipse Foundation from time to time. Until a Committer has provided such notice to the Eclipse Foundation, such Committer shall be presumed to have taken and shall be fully responsible for all actions made through its username and Password.

2.8 Employment by Member. If a Committer leaves the employment (or his or her contract ends) of Member, his or her rights and obligations as a Committer shall continue unless and until such Committer’s Password is discontinued. Committer may be required to execute an Individual Committer Agreement or be covered by another Member Committer Agreement in order to maintain Password access.

3. TERM AND TERMINATION

3.1 Term. The term of this Agreement shall begin on the Effective Date and shall continue until such time as Member’s Membership Agreement terminates.

3.2 Termination of Committer Status. The Eclipse Foundation may terminate any Committer(s), with or without cause, by providing Member notice of such termination. A Committer can terminate its status as a Committer by providing written notice to the Eclipse Foundation.

4. GENERAL

4.1 No Other Licenses. By executing this Agreement, Member and Committers neither grant nor receive, by implication, estoppel, or otherwise, any rights under any copyright, patents or other intellectual property rights of the Eclipse Foundation or another Member.

4.2 Limitation of Liability. IT IS THE EXPECTATION OF THE ECLIPSE FOUNDATION AND OTHER MEMBERS THAT MEMBER WILL MONITOR THE ACTIVITIES OF ITS COMMITTERS AND THAT THE COMMITTERS WILL MEET THEIR OBLIGATIONS, AND NOT EXCEED THE SCOPE OF THEIR AUTHORITY, AS SET FORTH IN THIS AGREEMENT. NOTWITHSTANDING THE PRECEDING SENTENCE, IN NO EVENT WILL EITHER ECLIPSE FOUNDATION, MEMBER OR THE COMMITTERS BE LIABLE TO EACH OTHER OR ANY OTHER MEMBER OR THIRD PARTY UNDER THIS AGREEMENT FOR THE COST OF PROCURING SUBSTITUTE GOODS OR SERVICES, LOST PROFITS, LOST REVENUE, LOST SALES, LOSS OF USE, LOSS OF DATA OR ANY DIRECT, INCIDENTAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, OR

SPECIAL DAMAGES WHETHER OR NOT SUCH PARTY HAD ADVANCE NOTICE OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES.

4.3 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. The federal and state courts residing in New York shall have sole jurisdiction over any disputes arising under or related to this Agreement.

4.4 Notices. All notices or other communications to or upon any party shall be delivered to or at the addresses set forth on the signature page(s) hereto. For purposes of this Section, notice can include notice by written mail, electronic mail or by facsimile and shall be deemed served when sent; provided, however, that notice of a breach of this Agreement and notice of termination of this Agreement shall be given by overnight courier service or certified mail, return receipt requested. Either 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.

4.5 Complete Agreement; No Waiver. Except with respect to the Bylaws of Eclipse Foundation, the IP Policy, the Membership Agreement, the EPL, the Eclipse.org Terms of Use, Eclipse Foundation's Antitrust Policy, and any other policies, guidelines and procedures that may be adopted by Eclipse Foundation, from time to time, in accordance with the Bylaws, this Agreement, including all attachments, sets forth the entire understanding of the Eclipse Foundation and Member with respect to the subject matter hereof and supersedes all prior agreements and understandings relating hereto, unless otherwise stated in this Agreement. The waiver of any breach or default will not constitute a waiver of any other right hereunder or any subsequent breach or default.

4.6 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.

4.7 Compliance with Laws. Anything contained in this Agreement to the contrary notwithstanding, the obligations of Eclipse Foundation and Member shall be subject to all laws, present and future, of any government having jurisdiction over Eclipse Foundation or Member including, without limitation, all export and re-export laws and regulations. It is the intention of Eclipse Foundation and Member that this Agreement and all referenced documents shall comply with all applicable laws and regulations.

4.8 Independent Contractors. The relationship of Eclipse Foundation with respect to Member and its Committers established by this Agreement is that of independent contractors. 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 venturer, 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.

In witness of this Agreement, Eclipse Foundation and Member have executed this Agreement below,

Eclipse Foundation, Inc.

Notice Information

Eclipse Foundation, Inc.

Address: c/o Eclipse Foundation, Inc.
102 Centrepointe Drive
Ottawa, Ontario,
Canada K2G 6B1
Attention: **Committer Records**

By: _____

Name: _____

Telephone: +1 (613) 224-9461

Title: _____

Fax: +1 (212) 918-1619

Date: _____

e-mail: emo-records@eclipse.org

Member

Notice Information

Company

Address: _____

By: _____

Attention: _____

Name: _____

Telephone: _____

Title: _____

Fax: _____

Date: _____

e-mail: _____

EXHIBIT A

[List Member Employees]