

ROSETTANET INTELLECTUAL PROPERTY POLICY

AMENDED AND RESTATED JUNE 11, 2002

- 1. About this Policy.** The intellectual property policy described in this document (the “Policy”) restates and clarifies the intellectual property policy previously embodied in (a) the RosettaNet Bylaws, (b) the “Intellectual Property Memorandum” dated February 11, 1999 (the “IP Memo”), (c) certain RosettaNet board resolutions dated June 10, 1999 (the “IP Board Resolutions”), and (d) the “RosettaNet Intellectual Property Policy” dated April 08, 2002. This Policy thus replaces the IP Memo, the IP Board Resolutions and the relevant portion of the Bylaws. This Policy is the complete and exclusive statement of RosettaNet’s intellectual property policy, and applies to and governs all RosettaNet-related activity and all RosettaNet members moving forward.
- 2. Applicability of Policy.** This Policy applies to intellectual property which a participant in a working group contributes to RosettaNet in connection with a RosettaNet specification development effort. Specification as used within the RosettaNet intellectual property policy refers to business methods, business process, data structure and data format specifications and not product specifications. For the purposes of this Policy, a participant in a particular specification development effort will be deemed to have contributed all intellectual property that it owns or controls which is necessary to implement the final, approved specification developed pursuant to such effort, subject to the following limitations and qualifications:

 - The participant must have formally joined the working group of a particular specification development effort pursuant to a process defined by the applicable governing RosettaNet Board. Subsequent withdrawal from the working group by the participant will have no effect on the participant’s obligations under this Policy; *except* if the final output of a working group’s particular specification development effort differs substantially from the expected output that was documented at the time the working group commenced, then a participant that has withdrawn promptly from a working group prior to final approval of the applicable specification will have no obligations under Sections 2 and 3 of this Policy in connection with such specification.
 - In connection with patented or patent pending intellectual property, only business methods, business processes, data structures and data formats that enable such business processes or business methods will be deemed a contribution. That is, in no case will patented or patent pending intellectual property that addresses anything other than business methods, business processes, data structures or data formats that enable such business processes or business methods be deemed contributed, even if it otherwise appears to qualify as a contribution per this section 2.
 - In connection with intellectual property other than patented or patent pending intellectual property, no participant in a working group or specification development effort is obligated to contribute or license (or will be deemed to have contributed or licensed) its intellectual property that is used in or becomes part of a specification based on an unauthorized submission of that intellectual property by another. Only intellectual property under which the participant making the submission has a right to grant the licenses required by this policy without obligation of payment or other material consideration to an unrelated third party will be deemed a contribution.
 - No participant will submit intellectual property that it knows it does not have the right to license as required by this policy or that it knows requires such obligation of payment or other material consideration.
 - No intellectual property owned or controlled by a participant will be deemed contributed except as described in this Section 2. Further, each participant in each RosettaNet specification development effort will retain ownership of all intellectual property rights that the participant owned prior to participation and that may vest in the course of participation. Except as specifically set forth in this Policy, participants do not grant any licenses or otherwise limit their rights in or to their contributions or any other intellectual property.
 - Individual participants will be deemed to be acting on behalf of the organizations they represent. For the purposes of this policy, “participant” or “contributor” means the legal entity on whose behalf individual participants act.
- 3. Use of Contributions.** In connection with each contribution, the contributor agrees as follows:

 - (a) Copyright.** The contributor grants RosettaNet a non-exclusive, perpetual, irrevocable *royalty-free* license under the contributor’s copyright rights in the contribution to reproduce, distribute, perform, display and create derivative works of the contribution, solely for the purpose of creating, implementing and promoting RosettaNet’s e-business process specifications. RosettaNet may sublicense its rights as necessary to advance this purpose.
 - (b) Patents.** If a contribution is incorporated into a published final RosettaNet specification, then the contributor agrees that it will grant to any third party implementing such specification, on *royalty-free* and otherwise reasonable and non-discriminatory terms, a non-exclusive, non-transferable, world-wide license under any Necessary Claim that reads on such contribution to use, make, have made, import, sell and offer to sell those portions of specification-compliant products that implement the contribution. License terms may include but are not limited to: (i) conditioning the license on a grant of a reciprocal royalty free license to all Necessary Claims owned or controlled by the licensee; (ii) revocation of the license should a suit for patent

infringement be brought by licensee against the licensor; and (iii) a requirement that an implementer manifests an intent to accept the terms of the royalty-free license as offered by the licensor within a reasonable period of time.

“Necessary Claims” means claims of a patent or patent application that (a) are owned or controlled by the contributor or its majority owned or controlled subsidiaries now or at any future time and (b) are necessarily infringed by implementing the contribution as disclosed with particularity in the RosettaNet specification because there is no non-infringing alternative for implementing the contribution and still complying with such specification. Necessary Claims do not include any claims (i) that may be contained in the same patent as Necessary Claims but are not themselves Necessary Claims; (ii) that may read on any portions of any product and any combinations thereof that are not required for compliance with the specification; or (iii) that relate to any enabling technologies (e.g. computers, networks, connectivity protocols, application programs, integrated circuits or the like) even if expressly described in a specification.

- (c) **Trade secrets.** Participants acknowledge that recipients of information disclosed in the context of a specification development effort will have no obligation to keep such information confidential.
- (d) **Trademarks.** No trademark licenses are granted in connection with RosettaNet participation or contribution.
- (e) **Warranties.** Any and all contributions are furnished "AS IS" with respect to this policy. Contributors and participants do not make any warranties, express, implied or statutory, including without limitation any warranty of merchantability or fitness for a particular purpose with respect thereto.

4. RosettaNet’s IP Rights and Obligations.

- (a) **Ownership of new intellectual property.** To the extent that a published specification embodies intellectual property that is not owned in whole or in part by a contributing party or by any other person or entity, then such intellectual property will be owned by RosettaNet.
- (b) **No charge for specifications.** RosettaNet will not charge royalties or any similar fees in connection with the use of RosettaNet specifications.

5. Other IP Issues.

- (a) **Participant IP other than contributions.** If an individual participant in RosettaNet becomes aware that the member on whose behalf the individual participant is acting owns or controls intellectual property that would, in the opinion of the individual participant, necessarily be infringed in the course of implementing or using a RosettaNet published or draft specification (excluding intellectual property that has been contributed in accordance with this Policy) then the individual participant or the member must alert the RosettaNet CEO to this fact. For the purposes of this Section, “awareness” means actual knowledge by an individual participant of the member who actively participates in representing the member’s interests at RosettaNet meetings of both (i) this disclosure obligation, and (ii) specific knowledge of the potential infringement of a particular published or draft specification. The RosettaNet CEO will notify the then-current RosettaNet board members of this claim. With respect to patents or patent applications, failure to comply with this disclosure obligation will result in an obligation by the member to grant licenses under Necessary Claims as defined in section 3(b) as if such infringing portions of the specification were “contributions” made by the member. However, such awareness by an individual of the member’s intellectual property does not impose any positive duty or obligation to search the member’s intellectual property portfolios for such intellectual property.
- (b) **Mechanism for accepting royalty-bearing IP in extraordinary circumstances.** If a RosettaNet member, which has not already formally joined a particular working group, believes that a potential contribution would significantly advance the efforts of that working group but is unwilling to contribute in accordance with this Policy, the member may invoke the following process. The member can discuss a potential contribution with the working group without having the discussion be deemed a “contribution” for the purposes of this Policy, provided that the member clearly identifies the potential contribution as a “discussion document: not a contribution” in writing in advance of the discussion and has not yet become a documented participant in that working group. If the working group decides that the potential contribution is so compelling as to warrant departure from the principle of royalty free contributions as set forth in this Policy, the working group can recommend this course of action to the applicable governing Board(s). Upon such recommendation, the applicable RosettaNet Board(s) will vote on the matter, and by majority vote can choose to accept the contribution if (i) the Board(s) believes that the offered contribution is unique, compelling and necessary, and (ii) the member offers the contribution to all RosettaNet users on reasonable and non-discriminatory license terms. Any RosettaNet specification that includes such a royalty-bearing contribution will be clearly labeled accordingly, and a description of license terms will be included with the specification. However, such “potential contribution” identified as a “discussion document: not a contribution”, would not in any case, be deemed a royalty free contribution without the consent of the participant.