

PC/SC WORKGROUP ADOPTERS AGREEMENT

This PC/SC Workgroup Adopters Agreement (“Agreement”) is entered into by and between the Members (as defined below) and the adopting party set forth below (“Adopting Party”).

Adopting Party Name

City State Country Zip

Contact Name Telephone Fax

The parties hereto hereby agree as follows.

Agreement

1. DEFINITIONS

1.1 “Adopter” means Adopting Party and any other party that has entered into or later enters into a PC/SC Workgroup Adopters Agreement and has delivered an original, fully executed copy thereof to the Program Administrator.

1.2 “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.

1.3 “Compliant Portion” means only those specific portions of products (hardware, software or combinations thereof) that (i) implement a PC/SC Workgroup Specification and are compliant with all relevant portions of a PC/SC Workgroup Specification, and (ii) are within the bounds of the Scope.

1.4 “Member” means each company that has executed the PC/SC Workgroup Members Agreement for Managing Joint Specifications for PC Smartcards.

1.5 “Necessary Claims” means claims of a patent or patent application that (a) are owned or controlled by a party or its Affiliates now or at any future time during the term of this Agreement; and (b) are necessarily infringed by implementing those portions of a PC/SC Workgroup Specification within the bounds of the Scope, wherein a claim is necessarily infringed only when it is not possible to avoid infringing it because there is no commercially reasonable non-infringing alternative for implementing such portions of the PC/SC Workgroup Specification within the bounds of the Scope. Notwithstanding the foregoing, Necessary Claims do not include any claims (w) other than those set forth above even if contained in the same patent as Necessary Claims; (x) that read solely on an optional implementation example included in the

PC/SC Workgroup Specification ; (y) that read solely on any implementations of any portion of the PC/SC Workgroup Specification that are not within the bounds of the Scope; or (z) that, if licensed, would require a payment of royalties by the licensor to unaffiliated third parties.

1.6 “PC/SC Workgroup Specification” means a Release 1.0 Specification and/or the Specification 2.0.

1.7 “Program Administrator” means an entity identified by the Members to administer PC/SC Workgroup activities.

1.8 “Release 1.0 Specification” means the Interoperability Specification for ICCs and Personal Computer Systems, Revision 1.0, and all technical corrections, errata, revisions and amendments thereto prior to adoption of Specification 2.0.

1.9 “Release 1.0 Implementer” means a party that has not signed a Contribution Agreement or Implementers Agreement, but that has, prior to 2002, implemented the Release 1.0 Specification (but not the Specification 2.0) in a Compliant Portion.

1.10 “Scope” means ICC (smart card) and Interface Devices (IFDs) compatibility requirements and standard interfaces for IFDs, including high level interfaces which abstract services supported by an ICC, associated device sharing, control and dynamic service provider assignment mechanisms, support for contactless and synchronous cards, and general-purpose ICC-based cryptographic and storage devices, solely to the extent disclosed with particularity in a PC/SC Workgroup Specification where the sole purpose of such disclosure is to enable products to operate as defined within the PC/SC Workgroup Specification. Notwithstanding the foregoing, the Scope shall not include (a) any enabling technologies that may be necessary to make or use any product or portion thereof that complies with the PC/SC Workgroup Specification, but are not themselves expressly set forth in the PC/SC Workgroup Specification or (b) the implementation of other published specifications developed elsewhere but referred to in the body of the PC/SC Workgroup Specification, or (c) any portions of any product and any combinations thereof the purpose or function of which is not required for compliance with the PC/SC Workgroup Specification.

1.11 “Specification 2.0” means the documents entitled “Interoperability Specifications for ICCs and Personal Computer Systems, Revision 2.0”, as adopted and published by the Members.

2. LICENSES

2.1 Limited Patent Licenses.

(a) To Adopter. Effective upon adoption by the Members of the Specification 2.0 and receipt by the Program Administrator of a fully executed original of this Agreement, the Members and their Affiliates hereby agree that they will, upon request, grant to Adopting Party and its Affiliates, (collectively “Licensee” for purposes of this subsection (a)) a nonexclusive, worldwide license under their Necessary Claims solely to make, have made, use, import, offer to sell, sell and otherwise distribute and dispose of Compliant Portions; provided that such license does not extend to any part or function of a product the inclusion or operation of which is not a Compliant Portion. Such license shall be

granted on a royalty-free basis and under otherwise reasonable and non-discriminatory terms, provided that such license shall be conditioned upon Licensee's grant of a reciprocal royalty-free license binding Licensee and its Affiliates as provided in Section 2.1(b). Such license may be conditioned upon the Licensee not distributing its Compliant Portions under a license that grants a third party the right to modify and redistribute such Compliant Portions without first executing an Adopters Agreement, or otherwise obtaining any necessary license from the Member, for such modification and redistribution.

- (b) By Adopter. Adopting Party and its Affiliates hereby agree that they will grant
- (i) to each of the Members and all Adopters and their respective Affiliates (also collectively "Licensee" for purposes of this subsection (b)), a nonexclusive, worldwide license under its Necessary Claims solely to make, have made, use, import, offer to sell, sell and otherwise distribute and dispose of Compliant Portions that implement the Specification 2.0; provided that such license does not extend to any part or function of a product the inclusion or operation of which is not a Compliant Portion; and
 - (ii) to any Release 1.0 Implementers, and their respective Affiliates (collectively "Release 1.0 Licensees" for purposes of this subsection (b)(ii)), a nonexclusive, worldwide license under its Necessary Claims solely to make, have made, use, import, offer to sell, sell and otherwise distribute and dispose of Compliant Portions, but only to the extent that such Compliant Portions implement the Release 1.0 Specification, and provided that such license shall not extend to any part or function of a product the inclusion or operation of which is not a Compliant Portion or that does not implement the Release 1.0 Specification.

The licenses described in subparts (i) and (ii) above shall be granted on a royalty-free basis and under otherwise reasonable and non-discriminatory terms, provided that such license grant may be conditioned upon Licensee's or Release 1.0 Licensee's grant of a reciprocal license binding Licensee and its Affiliates.

2.2 Copyright License. Effective upon adoption by the Members of the Specification 2.0, the Members hereby grant to Adopting Party and its Affiliates a nonexclusive, royalty-free, non-transferable, non-sublicenseable, worldwide, perpetual copyright license to the Specification 2.0 to reproduce the Specification 2.0 as necessary in order to exercise the patent rights granted in Section 2.1(a), provided that all reproductions thereof shall include all copyright notices and disclaimers contained in the Specification 2.0.

2.3 Trademarks. The Adopting Party hereby agrees not to assert against any Member any trademark or trade name rights they may have now or hereafter in any name or logo adopted by the Members for use in or with the Specification 2.0. The Adopting Party will not use any name or logo adopted by the Members except to refer to the Specification 2.0 and to products which fully comply with the Specification 2.0.

3. GENERAL

3.1 Effective Date. This Agreement shall become effective when the Secretary receives an original, fully executed copy hereof. THEREFORE, THIS AGREEMENT IS NOT EFFECTIVE UNTIL A FULLY EXECUTED ORIGINAL HAS BEEN RECEIVED BY THE SECRETARY.

3.2 No Other Licenses. Except for the rights expressly provided by this Agreement, no party grants or receives, by implication, or estoppel, or otherwise, any rights under any patents or other intellectual property rights.

3.3 NO WARRANTY. ALL PARTIES ACKNOWLEDGE THAT ALL INFORMATION PROVIDED AS PART OF THE PC/SC WORKGROUP SPECIFICATION AND THE PC/SC WORKGROUP SPECIFICATION ITSELF ARE ALL PROVIDED "AS IS" WITH NO WARRANTIES WHATSOEVER, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, AND THE PARTIES EXPRESSLY DISCLAIM ANY WARRANTY OF MERCHANTABILITY, NONINFRINGEMENT, FITNESS FOR ANY PARTICULAR PURPOSE, OR ANY WARRANTY OTHERWISE ARISING OUT OF ANY PROPOSAL, SPECIFICATION, OR SAMPLE.

3.4 Limitation of Liability. IN NO EVENT WILL ANY PARTY HERETO OR ANY MEMBER BE LIABLE TO ANY OTHER FOR THE COST OF PROCURING SUBSTITUTE GOODS OR SERVICES, LOST PROFITS, LOSS OF USE, LOSS OF DATA OR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, 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.

3.5 Governing Law. This Agreement shall be construed and controlled by the laws of Delaware without reference to conflict of laws principles.

3.6 Jurisdiction. The parties agree that all disputes arising in any way out of this Agreement shall be resolved by arbitration pursuant to the rules of arbitration of the International Chamber of Commerce. Such arbitration shall take place in Geneva, Switzerland, or in such other location as may be agreed upon in writing by all Members who are parties to such arbitration.

3.7 Notices. All notices in connection with this Agreement shall be in writing and addressed to the parties at the following addresses or at such addresses as the parties may later specify by such written notice.

To Members and to the Program Administrator:

PC/SC Workgroup Administration
Open Domain, Inc.
9 Crow Canyon Court, Suite 108
San Ramon, CA 94583

To Adopting Party:

3.8 Good Faith Dealing. The Adopting Party 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.

3.9 Not Partners. The parties hereto are independent companies and are not partners or joint venturers with each other.

3.10 Third Party Beneficiaries. The Adopting Party understands and agrees that all of the Members are intended third party beneficiaries of this Agreement and may enforce the provisions thereof against the Adopting Party.

3.11 Press Release. The Adopting Party agrees that any of the Members may make press or other public announcements regarding its activities as a Member and may include the identity of the Adopting Party in such announcement.

3.12 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 an authorized representative of all parties, and the waiver of any breach or default will not constitute a waiver of any other right hereunder or any subsequent breach or default.

3.13 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.

3.14 Compliance with Laws. Notwithstanding anything to the contrary contained in this Agreement, 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.

In witness of their agreement, the parties have executed this Agreement below:

Member

Adopting Party

On behalf of all Members

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____