

Brand Program Documentation

The Open Brand Trademark License Agreement (TMLA)

January 1998

The Open Group

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Any comments relating to the material contained in this document may be submitted to:

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or by email to:

OGspecs@opengroup.org

THE PARTIES TO THIS AGREEMENT ARE:

- (1) X/OPEN COMPANY LIMITED a company incorporated in England whose Registered Office is at Thames Tower, 37-45 Station Road, Reading RG1 1LX, Berkshire, England (“X/Open Company”), any Affiliated Company, and
- (2) a company incorporated in of and any Affiliated Company (“the Licensee”).

WHEREAS:

- (A) X/Open Company is the proprietor or exclusive licensor of certain Trademarks.
- (B) The Licensee wishes to be permitted to use the said Trademarks on and in relation to the Licensee’s products, when such products meet X/Open Company’s Standards of Quality.
- (C) X/Open Company is willing to permit the Licensee to use the said Trademarks as aforesaid, subject to the provisions of this Agreement.

THE PARTIES THEREFORE AGREE as follows:

1. Definitions

In this Agreement the following words shall have the following meaning unless the context otherwise requires:

Affiliated Company

In relation to any company referred to in this Agreement, Affiliated Company shall mean:

- a. Its holding company, and
- b. Any of its subsidiaries, and
- c. Any subsidiary of its holding company.

Brand Certificate

A certificate in X/Open Company’s standard form setting out the information described in Sub-clause 4.4 below.

Product Standards

The meaning set out in Schedule 4.

Conformance Statement

A printed or electronic document that must be produced, and maintained in an up-to-date state, by the Licensee giving information regarding the conformance of a Registered Product with respect to a particular Product Standard.

Excluded Countries

Those countries (if any) set out in Schedule 3 (as amended from time to time in accordance with Sub-clause 2.2 below) in which the Licensee is not permitted to use the Trademarks.

Indicator of Compliance

The meaning set out in Schedule 4.

Interpretation

The meaning set out in Schedule 4.

Person

Includes a body of persons whether or not incorporated.

Register

The record maintained by X/Open Company or its designated agent in which are entered the names and addresses of the licensees under the Trademarks, the designation of the Registered Products in respect of which the Trademarks are licensed to be used, and any other relevant particulars which X/Open Company may from time to time deem necessary.

Registered Product

Each product which has been notified to X/Open Company using a product registration form, that is currently entered in the Register, which meets the Standards of Quality and is specified alongside the name of the Licensee in the Register from time to time.

Registration Information

All information contained in the documents supplied to The Open Group or generated by The Open Group relating to an application to enter a product in the Register including without limitation the Brand Certificate, Test Reports, Conformance Statement, and the corresponding entries in the Register and the evidence of satisfaction of the Standards of Quality.

Restricted Countries

The countries (if any) listed in Schedule 3 (as amended from time to time in accordance with Sub-clause 2.2 below) in which the Licensee is permitted to use the Trademarks only once certain special conditions have been satisfied.

Specification

The document(s) that detail the application programming interface, protocols, services, and so on, that must be adhered to by a Registered Product.

Standards of Quality

The Standards of Quality set out in Schedule 4.

Temporary Waiver

The meaning set out in Schedule 4.

Territory

Those countries as set out in Schedule 3, Paragraph 3, as amended from time to time in accordance with this Agreement, and any other countries in which X/Open Company has rights in the Trademarks other than through registration, or any one or more of them as the context requires.

Trademarks

The Trademarks described in Schedule 1, whether registered or not.

Trademark Usage Guide

The set of rules attached as Schedule 5 hereto describing the form and manner in which the Trademarks are to be used by Licensees (subject to any specific reasonable interpretation by X/Open Company in individual cases) as amended or revised from time to time by X/Open Company in accordance with Clauses 5 and 18 below.

2. License

2.1 License

In consideration of the payments to be made in accordance with Clause 8 below and subject to Schedule 4 (Standards of Quality), Schedule 5 (Trademark Usage Guide), and the other provisions of this Agreement, X/Open Company hereby grants to the Licensee a non-exclusive license to use the Trademarks in the Territory on, or in relation to, Registered Products, including without limitation such use in brochures and marketing materials relating to Registered Products.

2.2 Restricted and Excluded Countries

X/Open Company may give notice to the Licensee from time to time that a country or countries should be added to the list of Restricted Countries and/or Excluded Countries where it appears or is claimed that the use of the Trademarks in such country or countries infringes the rights of any third party or parties; or the law of that country requires compliance with any specified formality.

2.3 No Other Use

Save as otherwise expressly authorized by X/Open Company, the Licensee shall not use the Trademarks other than in accordance with the provisions of this Agreement (including its Schedules), EXCEPT THAT nothing in this Agreement shall prohibit the use of the Trademarks by the Licensee in any way in which a non-licensee would legally be able to use the Trademarks, nor shall this Agreement restrict nor interfere with any contractual or other legal rights of the Licensee to use the Trademarks which pre-date this Agreement.

3. Duration

3.1 This Agreement and the licenses hereby granted shall commence on the date of counter-signature by X/Open Company of this Agreement and shall, unless terminated in any of the circumstances of Clause 9 of this Agreement, continue in force:

- a. In the case of each license granted hereunder in respect of each of the Trademarks, until the cessation of X/Open Company's registration of such Trademark, and
- b. In the case of this Agreement, until the cessation of X/Open Company's registration of the last of the Trademarks.

4. Standards of Quality

4.1 General Obligation

All Registered Products supplied by, directly or indirectly, or manufactured for or by the Licensee under or by reference to the Trademarks shall comply with the Standards of Quality.

4.2 Obligation to Provide Conformance Statement to X/Open Company

For the purpose of monitoring adherence to the Standards of Quality X/Open Company requires that:

- a. Prior to the first use of any of the Trademarks in relation to any Registered Product, and

- b. Upon submitting information concerning an amendment to a product registration, and
- c. If the Conformance Statement has been amended in any material way, and
- d. From time to time thereafter at X/Open Company's request in respect of any Registered Product,

the Licensee shall provide X/Open Company or its representative with a Conformance Statement for that Registered Product in X/Open Company's then standard form accompanied by such test and other reports as shall be specified for the purpose by the Standards of Quality.

In any event, the Licensee hereby warrants and represents that each Registered Product meets the Standards of Quality set out in Schedule 4 at the time of initial registration and that the information supplied in the Conformance Statement is correct and complete.

4.3 Test Results

X/Open Company requires test results to be audited by X/Open Company or to be obtained from test centers recognized for this purpose from time to time by X/Open Company. The Licensee shall retain records of such test results for as long as the Trademarks are used on or in relation to the Registered Products and for a period of one year thereafter. Test results and the report of audit thereof, shall be treated as confidential for the purpose of Clause 12.

4.4 Issue of Brand Certificate by X/Open Company

When X/Open Company is satisfied that the product details provided by the Licensee indicate compliance with the Standards of Quality, X/Open Company shall enter such Registered Products in the Register and within 30 days issue a Brand Certificate identifying the Registered Products, a summary of the environment, and other relevant details determined by X/Open Company. Brand Certificates may be reproduced by the Licensee in color or black and white and will be re-issued by X/Open Company upon annual renewal of each Registered Product.

4.5 Provision of Brand Certificate

X/Open Company may make copies of such Brand Certificates available to any Person requesting them on payment of the appropriate administration fee set by X/Open Company.

4.6 Details to be Made Available to Prospective Customers

Subject to Sub-clause 4.9, in respect of each Registered Product the Licensee shall make copies of the corresponding Brand Certificate and Conformance Statement and any Temporary Waivers accessible free-of-charge for pre-sale consultation and inspection by prospective customers. The Licensee shall have the right to charge for copies retained by prospective customers.

4.7 Details to be Made Available to Purchasers or Licensees

The Licensee shall on request by any Person who has purchased or licensed a Registered Product supply a copy of the Conformance Statement and any Temporary Waivers relating to that Registered Product. The Licensee shall have the right to make a reasonable charge for copies retained by customers.

4.8 Details to be Made Available Whenever the Trademarks are Used

Whenever the Trademarks are displayed on or in relation to Registered Products in accordance with this Agreement, the Licensee must use the relevant attribution statement in connection with such use as prescribed in the Trademark Usage Guide.

4.9 Optional Confidential Treatment of Information Prior to Product Launch

To enable the Licensee to keep such information confidential prior to product launch, the Licensee may request that the Registration Information be kept subject to the disclosure and use restrictions set out in Clause 12 below for a maximum period of six months from the date of notification by X/Open Company that the product in question will be entered onto the Register.

During this period the Licensee may not publicly use the Trademarks or make any representation of compliance with the Standards of Quality without first informing X/Open Company that the confidential period has expired, but may request the withdrawal and deletions of such materials, failing which such entries shall cease to be kept confidential at the end of the six-month period. Such six-month period shall be subject to extension by mutual agreement of the parties. However, X/Open Company shall not be under any obligation under this sub-clause where it considers that the Licensee provided such information for a purpose other than as stated above and has notified the Licensee accordingly.

4.10 Auditing of the Standards of Quality by X/Open Company

X/Open Company may at any time require the Licensee to provide particular information reasonably related to the Licensee's adherence to, or claim to comply with, the Standards of Quality. If the Licensee fails to provide such information within 45 days of notice from X/Open Company requesting the same, then X/Open Company may on reasonable notice to the Licensee and at X/Open Company's own expense by a qualified member of its own staff or a mutually agreed person ("Technical Auditor") visit during normal business hours the Licensee's premises and the premises of any subcontractor of the Licensee who may be manufacturing Registered Products for the Licensee, and inspect and test the behavior of the Registered Products and inspect the original versions of the test log and test results and any other documents reasonably required by X/Open Company for the purpose of determining the Licensee's adherence to the Standards of Quality. The Licensee shall take all reasonable steps to ensure that the Technical Auditor is given all reasonable cooperation and facilities at such premises at the Licensee's expense to enable such inspection and testing to take place. All information obtained under this sub-clause shall be subject to the disclosure and use restrictions set out in Clause 12 below. If the Technical Auditor is not an employee of X/Open Company he shall sign a non-disclosure agreement with the Licensee and X/Open Company consistent with the obligations of Clause 12 below. The Licensee is not obliged to disclose performance metrics related to any verification test or any information not reasonably related to the Licensee's adherence to, or claim to comply with, the Standards of Quality.

4.11 Continued Compliance with the Standards of Quality

4.11.1 The Licensee shall be obliged to check all changes to a Registered Product whether product defect corrections or otherwise to ensure that all Registered Products continue to meet the Standards of Quality which were met by each such product at the time such Registered Product was entered on the Register. If the Licensee becomes aware by any means (including, but not by way of limitation, notification by X/Open Company) that a Registered Product fails to meet the Standards of Quality or other conditions for registration under this Agreement, then the Licensee shall promptly inform X/Open Company of the nature of the failure and the Licensee's intended course of action in respect thereof, and either:

- a. Shall within 90 days cease use of the Trademarks on or in relation to such Registered Product in accordance with Clause 4.18 below, or
- b. Shall correct such failure and make the correction available to customers within 180 days of discovery of the failure, or
- c. In the event that the failure is of a minor nature, shall within 30 days of discovery of the failure apply for a Temporary Waiver or Interpretation from X/Open Company.

The Licensee shall within 30 days of obtaining a Temporary Waiver make it and an amended Conformance Statement available to its customers.

Provided that if and so long as:

- i. Any failure to meet the Standards of Quality does not materially affect the actual use of the Registered Product, and

- ii. The Licensee acknowledges the right of X/Open Company to review the evidence of materiality and is willing to provide that evidence on request by X/Open Company, and
- iii. X/Open Company remains entitled under Sub-clause 4.10 above to seek information about, inspect and test the product, and
- iv. Each customer is informed of its right to refer the question of materiality to X/Open Company

the obligations as regards that failure, set out in Sub-clauses a and b of this sub-clause shall be suspended.

4.11.2 If X/Open Company has reason to believe that the Licensee's intended course of action or the implementation of such action is not sufficient to ensure continued compliance with the Standards of Quality, then X/Open Company shall give notice to the Licensee accompanied by a detailed statement of reasons for such opinion and requiring the Licensee within 90 days to correct the failure or to cease all further use of the Trademarks on or in relation to such Registered Products in accordance with Sub-clause 4.18 below. The giving of or failure to give such notice to the Licensee on any one occasion shall not prevent X/Open Company giving further such notices to the Licensee on subsequent occasions. X/Open Company may, acting in good faith, reveal in response to an enquiry the fact that it has given notice to the Licensee under this sub-clause without incurring any liability to the Licensee, whether or not the Licensee objects to such notice under Sub-clause 4.12 below and whether or not any appeal against such notice is subsequently upheld.

4.12 Notice of Appeal

In the event that the Licensee objects to any notice from X/Open Company under Sub-clause 4.11.2 above, it shall within 30 days of the notice give notice of appeal to the President of X/Open Company in writing, specifying in reasonable detail the nature of the objection and indicating whether the Licensee wishes there to be Anonymous Review or a formal appeal.

4.13 Anonymous Review

4.13.1 An Anonymous Review is a review by the relevant Technical Working Group of a detailed technical statement associated with a notice from X/Open Company given under Sub-clause 4.11.2, or a specific Interpretation or Waiver request (as defined in Schedule 4), from which has been deleted those sections in which product and applicant identification are recorded.

4.13.2 If the Licensee requests Anonymous Review this shall take place and a decision shall be made within 45 days of the receipt by X/Open Company of the notice of appeal and the decision shall be final, unless either party to this Agreement pursues a formal appeal by giving a further notice of appeal in writing specifying in reasonable detail the reasons for the appeal to the President of X/Open Company (or in the case of appeal by X/Open Company, to the Licensee) within 30 days of the decision resulting from the Anonymous Review being communicated to X/Open Company and the Licensee. In the event that such further notice of appeal is given, the formal appeal procedure set out in Sub-clause 4.14 below shall apply.

4.14 Formal Appeal

In the case of a formal appeal, the appeal shall be conducted as follows:

4.14.1 The President shall within 14 days of the receipt of a notice of appeal from the Licensee or within 14 days of X/Open Company sending notice of appeal to the Licensee convene a meeting of an appeal committee to consider the said notice of appeal. The appeal committee shall meet within 16 days of the convening of the meeting at the principal place of business of X/Open Company or such other place as the President may decide and shall consist of:

- a. The President or his nominee being an employee of X/Open Company, and

- b. A Director on the Board of Directors of X/Open Company nominated by the Licensee, who has consented to act as such, and
- c. An independent expert (who shall act as an expert and not as an arbitrator) proposed by the Licensee and agreed by X/Open Company (such agreement not to be unreasonably withheld), or failing agreement within the said 16-day period, nominated by the British Computer Society at the request of the President of X/Open Company or his nominee. The expert shall be required to enter into a confidentiality agreement with the Licensee and X/Open Company the terms of which shall be mutually agreed to by the parties thereto within the said 16-day period or failing such mutual agreement within such period the terms shall be settled by independent legal counsel practising at the English Bar and specializing in intellectual property matters who shall be appointed by the President of X/Open Company.

4.14.2 The procedure to be adopted by the appeal committee (including the reasonable extension of time limits referred to in Sub-clause 4.14.1) shall be determined by the President or his nominee. The President or his nominee shall call for a confidential written report supporting X/Open Company's position on the action of X/Open Company and shall also invite a confidential written report from the Licensee supporting the Licensee's position.

Copies of both such reports as are received shall be made available to the three members of the appeal committee, to X/Open Company and to the Licensee, at least seven days prior to the meeting.

4.14.3 The decision of the appeal committee shall be in accordance with the Standards of Quality, shall be given within 75 days of the original notice pursuant to Sub-clause 4.11.2, shall be by majority decision (each member of the appeal committee including the President or his nominee having a single vote), shall be notified to the Licensee in writing, and shall be final and binding, unless the Licensee wishes to appeal against such decision in a court of law, in which event the Licensee shall keep X/Open Company fully and effectively indemnified against all costs and damages incurred by X/Open Company through such legal procedure. The costs of the appeal shall be borne by X/Open Company and the Licensee in equal shares. The time limit stated in this sub-clause shall be extended, where the Licensee has previously requested an Anonymous Review, by the time elapsed as a result of arranging and conducting that Anonymous Review.

4.15 Time Limit for Compliance

In respect of notices given under Sub-clause 4.11.2 above, the last dates by which a Licensee must:

- a. Comply with a decision of the appeal committee, or
- b. If no formal appeal is made, comply with the decision resulting from the Anonymous Review, or
- c. If neither appeal nor Anonymous Review is sought, ensure that the failure identified in the notice is corrected and the corrections are made available to customers, or
- d. Ensure that the Trademarks are removed from the Registered Products in accordance with Sub-clause 4.11.2 above,

are as follows:

| Event | Date of Correction of Failure or Removal of Trademarks |
|---|--|
| No request for Anonymous Review or formal appeal within the time limits specified in Sub-clause 4.12 above. | 90 days after notice given by X/Open Company under Sub-clause 4.11.2 above. |
| Request for Anonymous Review but no subsequent formal appeal within the time limits specified in Sub-clause 4.13 above. | 90 days after decision of Anonymous Review. |
| Formal appeal without Anonymous Review. | 120 days after notice given by X/Open Company under Sub-clause 4.11.2 above. |
| Formal appeal following Anonymous Review. | 120 days after decision of Anonymous Review. |

4.16 Notification of Defects in Standards of Quality

If at any time the Licensee becomes aware of any defect or insufficiency in the Standards of Quality or other information or directives of X/Open Company from time to time it should promptly inform X/Open Company in writing giving such details as the Licensee has of such defect or insufficiency, which X/Open Company may use or disclose at its discretion.

4.17 Conformance Statement to be Kept Up-To-Date

The Licensee shall ensure that the Conformance Statement is at all times accurate and up-to-date and that only such up-to-date Conformance Statement is made available to customers under Sub-clauses 4.6 and 4.7 above.

4.18 Removal of Trademarks

Upon the Licensee being required to do so under Sub-clause 4.11 or 4.15 above, the Licensee at its expense shall immediately cease to make any use of the Trademarks whatsoever on or in relation to that Registered Product, and shall within the relevant time limit set out in Sub-clause 4.15 d above, cause the Trademarks to be removed from all units of that Registered Product and from all sales literature and other materials and where necessary to achieve this shall use its best endeavors to recall Registered Products, sales literature, and materials from retailers and other Persons (other than the ultimate customer). X/Open Company may inspect any such Registered Products, sales literature, and materials to ensure adequate removal of the Trademarks before the Registered Products are released again. Without limiting the generality of Sub-clause 9.1.1 below, failure to comply with this sub-clause shall constitute a material breach of this Agreement.

4.19 Removal from Register

The Licensee may at any time, without charge, request X/Open Company to remove a product from the Register. Provided that X/Open Company has given the required notice of renewal, failure by the Licensee to renew the registration of any Registered Product within 30 days, of the due date for renewal shall be deemed to be a voluntary removal of that product from the Register, and accordingly shall not of itself constitute a breach of this Agreement.

4.20 Authorization of Product Registration and Changes to Product Registration

All product registrations, amendments, and withdrawals shall carry either an authorized signature or a letter of authority from the Licensee. X/Open Company shall be under no obligation to investigate whether any such signature is, in fact, an authorized signature for the purposes of this Agreement.

5. Use of the Trademarks

5.1 The Licensee may only use the Trademarks in accordance with the Trademark Usage Guide amended from time to time in accordance with Clause 18, EXCEPT THAT nothing in this Agreement shall prohibit the use of the Trademarks by the Licensee in any way which a non-licensee would legally be able to use the Trademarks, nor shall this Agreement restrict nor interfere with any contractual rights of the Licensee to use the Trademarks which pre-date this

Agreement.

- 5.2 The use of the Trademarks by the Licensee shall at all times be in keeping with their distinctiveness and reputation as determined by X/Open Company as set forth in this Agreement, and the Licensee shall forthwith cease any use not consistent therewith as set forth in this Agreement.
- 5.3 The Licensee shall not use or register any mark or name confusingly similar to the Trademarks in respect of any goods or services.
- 5.4 Nothing contained in this Agreement shall entitle the Licensee to use or register the Trademarks as part of any corporate, business, or trading name of the Licensee or to use the Trademarks outside the Territory.
- 5.5 The Licensee shall not intentionally, in any written material or otherwise, make any reference to or use of the Trademarks in such a manner as may lead the reader thereof to believe that the Licensee is licensed to apply the Trademarks to any product which is not listed in the Register at the time such reference is made.

6. Ownership of the Trademarks

- 6.1 X/Open Company is the proprietor or exclusive licensor of the Trademarks and of applications for registration of the Trademarks in various countries, particulars of which are available from X/Open Company on request, and warrants that it has the right to grant the licenses granted hereunder. It is not aware at the date hereof that the Trademarks or the use of them on or in relation to the Registered Products in the Territory infringes the rights of any third party but gives no warranty in relation thereto nor as to the validity of any of the applications or registrations.
- 6.2 Subject to Sub-clause 2.3, the Licensee undertakes not to do or permit to be done any act which would or might jeopardize or invalidate the Trademarks or their registration nor to do any act which might assist or give rise to an application to remove the Trademarks from any national register or which might prejudice the right of X/Open Company to the Trademarks; provided that (notwithstanding any provision to the contrary contained in this Agreement) the Licensee shall have the right either alone or with others to seek a declaration or other order from a court or other authority having competent jurisdiction that, by reason of acts or omissions (other than those done by the Licensee in breach of its obligations hereunder), the registration of any of the Trademarks is invalid in any part of the Territory.
- 6.3 The Licensee shall on request give to X/Open Company or its authorized representative any information as to its use of the Trademarks which X/Open Company may reasonably require and will (subject to the provisions of Clause 7 below) render any (non-monetary) assistance reasonably required by X/Open Company in maintaining the registrations of the Trademarks. Such information shall be subject to the provisions of Clause 12 below where applicable.
- 6.4 Except as provided in Sub-clause 2.3 or Clause 5, the Licensee shall not make any representation or do any act which may be taken to indicate that it has any right, title, or interest in or to the ownership or use of the Trademarks except under the terms of this Agreement and, subject to Sub-clause 2.3, acknowledges that nothing contained in this Agreement or done pursuant to this Agreement shall give the Licensee any right, title, or interest in or to the Trademarks save as granted hereby. To the extent that any use of the Trademarks by the Licensee in any part of the Territory may result in a development of goodwill in the Trademarks in that part of the Territory, such goodwill shall be held for the benefit of and shall be vested automatically in the proprietor of the registrations.
- 6.5 Subject to the Licensee complying with its obligations under this sub-clause and Schedule 2, Clause 2, X/Open Company shall wherever required to do so by local laws in any part of the Territory record the Licensee as a Licensee or registered user. The Licensee shall at X/Open Company's request assist X/Open Company as may be necessary (including by executing necessary documents including registered user agreements) recording the Licensee as a registered user of the Trademarks in any part of the Territory, and the Licensee hereby agrees

that each such entry may be canceled by X/Open Company upon any termination of this Agreement in accordance with its terms, and that it shall assist X/Open Company so far as may be necessary to achieve such cancellation including by executing necessary documents.

At the Licensee's request and expense X/Open Company shall take all necessary steps to record such licenses with the regulatory authorities in countries where such registration is required or desirable.

- 6.6** X/Open Company shall, subject to the Licensee's cooperation, use its reasonable efforts to renew any registrations for the Trademarks already registered, and to procure registrations for applications of the Trademarks. X/Open Company will add to the Territory any registrations of the Trademarks which are completed in additional countries. However, subject to Sub-clause 18.1 below, X/Open Company may at any time remove a country from the Territory for legal or justifiable commercial reasons.

7. Infringements

7.1 Infringements of the Trademarks

The Licensee shall exert reasonable efforts to give X/Open Company in writing, if the Licensee becomes aware thereof, particulars of any unauthorized use or proposed use by any other Person of a trade name, Trademarks, or get-up of goods or mode of promotion or advertising which might in the good faith opinion of the Licensee's Trademark attorneys amount either to infringement of X/Open Company's rights in relation to the Trademarks or to passing-off or similar causes of action under the laws of any part of the Territory. However, this Sub-clause 7.1 shall not require the Licensee actively to monitor the activities of any third party.

7.2 Infringement of Third Party Marks

If the Licensee becomes aware that any other Person alleges that the Trademarks are invalid or if either party hereto becomes aware that any other Person alleges that use of the Trademarks infringes any rights of another party, the Licensee or X/Open Company as appropriate shall give the other party hereto particulars in writing thereof. The Licensee shall make no comment or admission to any third party in respect thereof except pursuant to any judicial order binding upon it.

7.3 Conduct of Proceedings Relating to the Trademarks

X/Open Company shall have the conduct of all proceedings relating to the Trademarks and shall in its sole discretion decide what action if any to take in respect of any infringement or alleged infringement of the Trademarks or passing-off or any other claim or counter-claim brought or threatened in respect of the use or registration of the Trademarks. The Licensee shall not be entitled to bring any action for infringement under any provisions of the laws of any other jurisdiction enabling licensees to bring proceedings for infringement of Trademarks PROVIDED ALWAYS that nothing herein shall be deemed to remove from the Licensee any right to bring such proceedings which may not under any relevant country's laws be excluded by agreement between a licensor and licensee.

7.4 Cooperation

The Licensee shall at the request of X/Open Company cooperate with X/Open Company in any action, claim, or proceedings brought or threatened in respect of the Trademarks and X/Open Company shall meet any reasonable expenses incurred by the Licensee to third parties in giving such assistance. Where the Licensee requests X/Open Company to bring proceedings which X/Open Company would not otherwise bring in any part of the Territory, the Licensee shall be consulted at all significant stages of such proceedings and shall meet X/Open Company's costs associated with the bringing of such proceedings. In the event of the successful prosecution of such proceedings X/Open Company shall remit to the licensee any resulting damages recovered by it after the deduction of all of X/Open Company's own costs incurred as a result of such proceedings. Notwithstanding the above, it shall be at X/Open Company's sole discretion whether or not any proceedings are brought or continued.

7.5 Products Altered by Purchasers and Licensees

Purchasers and licensees of the Licensee's Registered Products and of related materials bearing the Trademarks who may for the purposes of resale or re-licensing be altering the content or specification of all or part of such Registered Products in such a way as to affect the compliance of such Registered Products with the Standards of Quality, are not permitted to use the Trademarks on or in relation to such altered products, including in any marketing materials relating thereto, whether supplied by the Licensee or by any other Person, unless such altered products have been specifically registered with X/Open Company for this purpose. The Licensee shall use reasonable efforts to inform purchasers and licensees who may be misusing the Trademarks that they may be infringing the rights of X/Open Company.

8. Fees

The Licensee shall pay X/Open Company the payments described in the attached Schedule 2 in accordance with the terms of that Schedule.

9. Termination

9.1 Either party may terminate this Agreement without prejudice to its other remedies forthwith by notice in writing to the other if:

9.1.1 The other commits any material breach of this Agreement; provided that, if the breach is capable of remedy within 90 days, the termination notice shall only be given if the party in breach shall not have remedied the same within 90 days of having been given notice in writing specifying the breach and requiring it to be remedied.

For the avoidance of doubt, persistent breach by Licensee of the Trademark Usage Guide shall constitute a material breach of this Agreement.

9.1.2 The other is unable to pay its debts or enters into compulsory or voluntary liquidation (other than for the purpose of effecting a reconstruction or amalgamation in such manner that the company resulting from such reconstruction or amalgamation if a different legal entity shall agree to be bound by and assume the obligations of the relevant party under this Agreement) or compounds with or convenes a meeting of its creditors or has a receiver or manager or an administrator appointed of its assets or ceases for any reason to carry on business or takes or suffers any similar action which in the opinion of the party giving notice means that the other may be unable to pay its debts.

9.2 X/Open Company may terminate this Agreement forthwith by notice in writing if at any time:

9.2.1 Except in the case of *bona fide* dispute the Licensee fails to pay any license fees, royalties, or other payments or provide any statement required in relation to the same within 60 days of their being due.

9.2.2 The Licensee does not for a period of more than two years have any products listed in the Register under this Agreement.

9.3 The Licensee may terminate this Agreement at any time upon three months' written notice to X/Open Company.

9.4 Subject to Sub-clause 2.3, termination of this Agreement for whatever reason shall not affect the accrued rights of the parties arising in any way out of this Agreement as at the date of termination.

9.5 Upon the expiration or termination of this Agreement for whatever reason the Licensee at its expense shall immediately cease to make any use of the Trademarks whatsoever, and shall forthwith cause the Trademarks to be removed from all Registered Products and from all sales literature and other materials and, where necessary to achieve this, shall use its reasonable efforts to recall Registered Products, sales literature, and materials from retailers and other Persons (other than the ultimate customer). X/Open Company may inspect any such Registered Products, sales literature and materials to ensure adequate removal of the Trademarks before

the Registered Products are released again. However, stocks of the Registered Products or related sales literature and other materials bearing the Trademarks existing at the date of expiration or termination of this Agreement, and which were produced in the ordinary course of the Licensee's business, may be disposed of by the Licensee subject to the provisions of this Agreement (including its Schedules) within 180 days thereafter if, at the time of disposal, such Registered Products comply with the Standards of Quality and can be disposed of in compliance with the terms of this Agreement, but not otherwise.

9.6 All provisions of this Agreement which in order to give effect to their meaning need to survive its termination shall remain in full force and effect thereafter.

10. Indemnity

10.1 The Licensee shall indemnify and hold harmless X/Open Company together with its officers, servants, agents, subcontractors, and shareholders of X/Open Company and their servants when engaged in activities on behalf of X/Open Company but only to the extent that they are acting in that capacity (together the "Indemnified") against any and all demands, claims, and liability (whether criminal or civil, in contract, tort, or otherwise) for losses, damages (including without limitation direct, indirect, and consequential damages and loss of profits, production, use, and contracts), settlements and costs (including lawyers' fees) of any nature whatsoever asserted against or suffered by the Indemnified (including, without limitation, demands and claims brought by the Licensee,) but limited to demands, claims, and liability arising out of:

- a. The manufacture, use, or supply of any Registered Products on or in relation to which the Trademarks have been applied by or on behalf of the Licensee (including, without limitation, claims, demands, and liability arising from any failure on the part of the Licensee to provide any of their customers with any or all of the information required to be included in Conformance Statements or to monitor the Standards of Quality in accordance with Sub-clause 4.17 of this Agreement), or
- b. The use by the Licensee of the Trademarks, or
- c. Any decision taken by X/Open Company or its officers, servants, or agents in accordance with this Agreement refusing or withdrawing permission to the Licensee to use the Trademarks on or in relation to any Registered Product(s), including, without limitation, any notice given under Sub-clause 4.11 above, and the disclosure of any such decision to any Person.

PROVIDED that:

- a. This Indemnity shall not apply in respect of any act done by the Licensee on behalf of or on the express instructions of X/Open Company, and
- b. The Licensee (together with any other Licensees of the Trademarks affected by such claims) shall have the conduct of such claims but shall consult fully with X/Open Company before taking any action or making any admission or settlement which may adversely affect X/Open Company's interests.

10.2 Any provision of Sub-clause 10.1 above shall not apply in any circumstances or in respect of any liability or class of liability to the extent that it may not apply in accordance with applicable law. In the event of such a provision being held to be inapplicable or invalid the parties will make such amendments to this Agreement by the addition or deletion of wording, or otherwise, as to remove the inapplicable or invalid part of the provision but otherwise retain the provision to the benefit of X/Open Company to the maximum extent permissible under applicable law.

11. Assignment

Neither party shall assign, transfer, subcontract, sub-license, or in any other manner make over to any third party the benefit and/or burden of the whole or any part of this Agreement or purport to do any of the same without the prior written consent of the other not to be unreasonably refused where assignment is part of a merger, reconstruction, or transfer of business and the

assignee accepts all the obligations of the Licensee under this Agreement.

12. Confidentiality

12.1 X/Open Company shall, except where a provision of the Agreement provides otherwise, maintain in confidence all information disclosed to it under or in relation to this Agreement by the Licensee, which is in writing marked "confidential" or, if oral or visual, is identified as confidential at the time of disclosure and reduced to writing marked "confidential" and sent to X/Open Company within 30 days thereafter, and shall not use any such information except for the purposes of this Agreement. X/Open Company's obligations under this sub-clause shall be limited to taking such steps as it ordinarily takes to preserve the most important of its own confidential information.

12.2 The obligations of non-disclosure and non-use set out in Sub-clause 12.1 above shall not apply to any item of information which:

- a. Is in the public domain at any time (but without prejudice to any Person's rights of action against another Person who wrongfully causes or permits such information to be in the public domain),
- b. Was rightfully in a Person's possession without obligation of confidence prior to its disclosure pursuant to this Agreement, or is subsequently independently developed by that Person by employees having no access to the information disclosed hereunder,
- c. Is subsequently rightfully obtained without obligation of confidence by a Person from a source other than the Licensee as evidenced by written records,
- d. Is required to be disclosed by order of any court of competent jurisdiction or to enable the Trademarks or any license thereunder to be validly registered or notified in any part of the Territory or otherwise to protect the validity of the Trademarks,

PROVIDED that no right or interest under any license, patent, or otherwise shall be acquired by the recipient of any information by virtue of the application of this sub-clause.

12.3 The obligations of non-disclosure, and the limitations on use, set out in Sub-clause 12.1 above, shall survive termination of this Agreement but subject to Sub-clause 12.2 above.

12.4 For the avoidance of doubt the Brand Certificate, Conformance Statement, Temporary Waivers, and Interpretations, and any information contained therein, can never be confidential except as provided in Sub-clause 4.9 above. Information regarding the name and type of test laboratory in which a Registered Product was tested for compliance with the Standards of Quality shall not be disclosed by X/Open Company or the Licensee in any publicly available document.

12.5 X/Open Company may disclose the Licensee's confidential information to those of its employees who reasonably require to have access to such information. However, X/Open Company may not disclose the Licensee's confidential information to any employee of a member company in X/Open Company, unless another exception to the obligations under this sub-clause applies. For the avoidance of doubt, X/Open Company may disclose the Licensee's confidential information to employees of the Licensee.

13. Export Restrictions

The Licensee acknowledges that the supply of Registered Products to some parts of the Territory may be subject to the export and anti-boycott provisions of the Export Administration Act or other laws or regulations of the United States and similar laws and rules in other jurisdictions and the Cocom Rules on export of technology. The Licensee will be responsible for conducting its activities under this Agreement in compliance with the obligations imposed on the Licensee under such laws.

14. Entire Agreement

Subject to Sub-clause 2.3, this Agreement including its Schedules and documents referred to therein, together with the product registration forms, renewal forms, and/or amendment forms

signed by X/Open Company and the Licensee constitute the entire agreement and understanding of the parties relating to the subject matter of this Agreement and supersede all prior oral or written agreements, understandings, or arrangements between them relating to such subject matter. For the avoidance of doubt, this Agreement supersedes any agreement between X/Open Company and the Licensee in respect of X/Open Company's XPG4 brand Program, but does not supersede any agreement in respect of X/Open Company's XPG3 brand Program.

Neither party shall be entitled to rely on any agreement, understanding, arrangement, or representation relating to the subject matter of this Agreement which is not expressly contained in this Agreement and, subject to Clause 18, no change may be made to this Agreement except in writing signed by duly authorized representatives of both parties.

Nothing in this Agreement affects the application of any other Agreement between X/Open Company and the Licensee (including, without limitation, any membership agreement).

15. Waiver of Rights under this Agreement

No failure or delay on the part of either of the parties to exercise any right or remedy under this Agreement shall be construed or operate as a waiver thereof nor shall any single or partial exercise of any right or remedy preclude the further exercise of such right or remedy as the case may be.

16. Notices

Any notice or other document to be given under this Agreement shall be in writing in the English language and, except in circumstances where this Agreement specifically provides for notices by electronic mail, shall be deemed to have been duly given if sent by hand or by recorded delivery or registered post, or by facsimile (subsequently confirmed by post) to a party at the address for that party set out above unless a different address has been notified to the other in writing for this purpose.

Notices shall be deemed to have been received by the addressee within 72 hours of posting as above or within 24 hours if sent by hand or facsimile to the addressee's correct address.

17. Interpretation

17.1 The headings in this Agreement are inserted only for convenience and shall not affect its construction.

17.2 Where appropriate words denoting the singular only shall include the plural and *vice versa*.

17.3 References to any statute or statutory provision are (unless otherwise stated) to Acts of Parliament of the United Kingdom and shall, unless the contrary intention is indicated herein, include a reference to the statute or statutory provision as from time to time amended, extended, or re-enacted.

17.4 The Schedules to this Agreement and any documents referred to therein (as amended from time to time by X/Open Company where it is entitled to do so in accordance with this Agreement) and the product registration forms, renewal forms, and/or amendment forms signed by both parties shall form part of this Agreement as if they were specifically set out herein.

18. Schedules

18.1 Amendment of Schedules

Subject to any express limitations set out therein, the Schedules to this Agreement may be amended by X/Open Company from time to time, consistent with the processes established by X/Open Company, as follows:

- Schedule 1 (Trademarks) will basically be held stable except that X/Open Company may add a newly acquired Trademark.

- Schedule 2 (Fees) will be cost-based and remain relatively stable and approved by the X/Open Company Board of Directors.
- Schedule 3 (Territory). Countries will be added on application for and completion of the registration of the Trademarks in such additional countries. Deletions of countries may be made for legal or justifiable commercial reasons and the Licensee will be notified of each such deletion accordingly. In the event of such a deletion for justifiable commercial reasons the Licensee shall have a period of 30 days from the date of X/Open Company's notice of deletion in which to object in writing to such deletion.
- Schedule 4 (Standards of Quality) may occasionally be amended in order to expand the scope of the brand program and to improve the efficiency of the registration process.
- Schedule 5 (Trademarks Usage Guide) will be held stable in order to protect the Licensees' investment.

Amendments shall take effect:

- a. In respect of the fees set out in Schedule 2, six months after they are communicated in writing to the Licensee,
- b. In any other case, on three months' notice.

18.2 Consequences of Amendment of Schedule 4

If X/Open Company amends Schedule 4, or any document referred to therein, the Licensee is not required to alter and may continue to market any Registered Product. The Licensee may continue to renew the registration of any Registered Product notwithstanding any change in the Specification pursuant to which it was registered. If compliance with any test becomes a requirement of continued registration of any product, then any Registered Product shall be required to pass such test before the date of any renewal provided that date of renewal is not earlier than nine months after the test becomes commercially available.

18.3 Consequences of Amendment of the Trademark Usage Guide

If X/Open Company amends the Trademark Usage Guide the Licensee is not required to alter and may continue to use any Registered Product, container, label, written material, advertising material, promotional material, or other item already produced for sale or distribution at the effective date of such amendment.

19. Governing Law and Jurisdiction

The validity, construction, and performance of this Agreement shall be governed by English law, and shall be subject to the non-exclusive jurisdiction of the High Court of Justice in England except that proceedings to the extent only that they relate to the validity or enforcement of any of the Trademarks in any part of the Territory shall be governed by the law and procedures of that part of the Territory.

20. Compliance with Local Requirements

If in any jurisdiction the effect of any provision of this Agreement or the absence from this Agreement of any provision would be to prejudice the Trademarks or any remedy under the Trademarks, the parties will make such amendments to this Agreement and execute such further agreements and documents limited to that part of the Territory which falls under such jurisdiction as may be necessary to remove such prejudicial effects.

SCHEDULE 1: THE TRADEMARKS

PART 1

- A** The word “X/Open”
- B** The words “The Open Group”
- C** The words “IT DialTone”
- D** The “X Device” registered as the X Logo. This comprises the device shown below:



PART 2

- E** The word “UNIX”
- F** The word “Motif”
- G** The word “CORBA”

SCHEDULE 2: LICENSE FEES

In this Schedule the following words shall have the following meaning, unless the context otherwise requires:

Additional Programs

The programs for which an additional payment or fee is required, as set out in Brand Fees and Royalties.

Brand Fees and Royalties

The document published from time to time by X/Open Company setting out the level of fees and royalties payable under this Agreement.

Company

The Licensee.

Company Revenue

The figure shown in the latest available accounts produced by the Company and audited in accordance with the Companies Act 1985 or equivalent statutory requirement in the country of incorporation as being the total trading revenue of the Company or (if the Company is not required to produce such accounts) such figure as it would have shown had it been so required, and as may be certified by its auditor (if so required by X/Open Company).

Core Program

The collection of Product Standards set out in Brand Fees and Royalties, the fees for which are calculated in accordance with Paragraph 1.2.1 below.

System

The processor or processors of a Registered Product together with the software components (including the Registered Products) required to enable the computer system to operate; but excluding any printers, drivers, or other peripheral equipment that does not form an integral part of the system.

Systems Value

The gross invoiced ex-works price at which Systems are sold by the Licensee (or its sub-licensee, if any, whichever price is greater) in a *bona fide* arm's length transaction exclusively for money after deduction of normal trade discounts actually granted and of any credits actually given by the Licensee for defective goods and excluding or making proper deductions for any costs of packing, insurance, carriage, and freight and Value Added Tax or other sales tax and, in the case of export orders, any import duties or similar applicable governmental levies or export insurance costs subject in all cases to the same being separately charged on customer invoices PROVIDED THAT in the case of any sale or other disposal of any Products or part thereof otherwise than in an arm's length transaction exclusively for money, or where the Licensee uses the Registered Products for its own commercial purposes, the Systems Value shall be deemed to be the fair market price in the relevant country of disposal or use by the Licensee.

FEES

The payments described below are payable and are subject to revision by X/Open Company from time to time in accordance with Paragraphs 1.4, 1.5, and 4 below.

They are quoted net of all other applicable taxes and duties which where appropriate will be payable to X/Open Company (or to the relevant tax authorities as applicable) by the Licensee in addition.

1. Amounts Payable

1.1 The Licensee shall pay by way of license fees and royalties such amounts as are set out in the document entitled Brand Fees and Royalties, published from time to time by X/Open Company.

The following discounts will always apply:

- a. The Product Standard registration fee is not payable if all constituent elements of the Product Standard are registered at the same time,
- b. When the test report used to demonstrate conformance by the Product Standard has been produced by a Laboratory that satisfies X/Open Company's Quality Assurance criteria, these Registration fees shall be reduced by 50%.

1.2 In addition, subject to Paragraph 1.6:

1.2.1 In the case of the Core Program:

- i. So long as Registered Product is available from the Licensee directly or indirectly as complete operational systems, the Licensee shall pay either:
 - a. A royalty calculated in accordance with Paragraph 1.4 below, or
 - b. A royalty buy-out as set out in Paragraph 1.5 below, and
- ii. In any other case the Licensee shall pay a royalty buy-out calculated in accordance with Paragraph 1.5 below.

1.2.2 In the case of the Additional Programs the Licensee shall pay an additional fee as set out in Brand Fees and Royalties.

1.3 Shareholders in X/Open Company

The annual subscription paid by X/Open Company shareholders entitles them to a 50% discount, in addition to any other discount, on registration, renewal, and amendment fees.

1.4 Royalties

The royalty payable by the Licensee is 0.1 per cent of the Systems Value of all Systems incorporating Registered Product sold by the Licensee whether or not the Trademarks are displayed on individual units of such Registered Product, for as long as such Registered Product is entered on the Register. X/Open Company undertakes not to increase the royalty rate by more than ten per cent per annum to a maximum of 0.2 per cent of Systems Value, and undertakes further that it will not, without the unanimous consent of the X/Open Company Board of Directors, increase the rates as set out in Brand Fees and Royalties or royalties in respect of any of the Trademarks by more than 20% in any three-year period.

1.5 Royalty Buy-Out

Royalty buy-outs shall be assessed in accordance with the table set out in Brand Fees and Royalties.

1.6 The annual subscription paid by X/Open Company shareholders entitles them, when Licensees, to an automatic royalty buy-out with no additional payment. However notwithstanding the above the Trademarks listed in Schedule 1, Part 2 or any Additional Programs are subject to an additional annual fee.

1.7 **X/Open Company and the Licensee may agree on a compounded sum by way of royalty on any Registered Product. Payment of such sum shall discharge the Licensee's obligations to pay royalties under this Agreement in respect of that Registered Product and shall (unless the agreement provides otherwise) relieve the Licensee of his obligations to maintain and supply records under Paragraphs 1.8.1 to 1.8.3 below.**

1.8 Where all or any part of the sums payable by the Licensee under this Agreement are calculated in accordance with Paragraph 1.4:

- 1.8.1** The Licensee shall send to X/Open Company with each payment a statement giving particulars of the sales of the Registered Product during the period to which the payment relates showing the quantity of the Registered Product sold and (in the case of Licensees who are liable under this Agreement to pay royalties to X/Open Company based on Systems Value) the Systems Value thereof in U.S. dollars and the amount due and, if more than one type of the Registered Product is sold, showing such information for each type, together with any other particulars as X/Open Company may reasonably require but excluding names of customers. If the Registered Product is sold by the Licensee in a currency other than U.S. dollars the Systems Value shall first be determined in the currency in which such Registered Product is sold and then converted into equivalent U.S. dollars at the middle market rate of such foreign currency as quoted by Barclays Bank plc in London as at the close of business of the last business day of the half-yearly period with respect to which the payment is made. Information obtained under this Paragraph 1.8.1 shall be subject to the provisions of Clause 12 of the Agreement where applicable.
- 1.8.2** The Licensee shall keep separate and detailed books and records of all sales of the Registered Product to enable X/Open Company to check the accuracy of the information contained in the statements rendered under Paragraph 1.8.1 and X/Open Company shall be entitled no more frequently than once every 12 months, at its expense to inspect the same by its authorized representative or representatives on reasonable notice during business hours and to take copies of or extracts from such books and records, save that this right shall not be exercisable in respect of any statement if no inspection has been made within three years of it being rendered to X/Open Company. X/Open Company shall be solely responsible for the said representatives' costs in making such inspections unless the representative certifies that there is an inaccuracy greater than five per cent on any royalty statement, in which event the Licensee shall reimburse all the said representatives' costs. Information obtained under this Paragraph 1.8.2 shall be subject to the provisions of Clause 12 of the Agreement where applicable.
- 1.8.3** At X/Open Company's request, the Licensee shall supply to X/Open Company within 60 days of each anniversary of this Agreement at the Licensee's expense a certificate in writing by its independent auditors certifying the amount of royalties due. The rendering of such certificate shall not preclude the right of inspection given to X/Open Company under Paragraph 1.8.2 above.
- 1.8.4** If any Registered Product is incorporated in any other products supplied by the Licensee, and the Registered Product is not priced separately from such other products, the Systems Value of such Registered Product shall be deemed to be that proportion of the Systems Value of such other products which is fairly attributable to such Registered Products comparing the function of the Registered Product with that of the complete product or the agreed amount of royalty hereunder whichever is greater. In the event of a dispute arising as to the proportion of Systems Value which is fairly attributable as referred to above, such dispute shall be referred to the decision of a single independent expert to be agreed upon between X/Open Company and the Licensee or, in default of such agreement, to be selected (at the instance of X/Open Company or the Licensee) by the president of the British Computer Society and any such expert shall act as expert (and not as arbitrator) in connection with the giving of such decision which shall be binding.

2. Special Registration Fees

Where the Territory specified includes any of the countries referred to in Schedule 3, Paragraph 1, there will be an additional charge as specified in Paragraph 1.1 above which shall be fixed from time to time so as to cover X/Open Company's costs of registering the Licensee in those countries as a licensee under the Trademarks. This charge is payable on execution of the Agreement and is not covered by the buy-out referred to in Paragraph 1 above.

3. Time of Payment

- 3.1** The License Fee is payable by the Licensee upon execution of this Agreement; an annual License fee is payable on the anniversary of this Agreement.

- 3.2** Registration fees are payable by the Licensee upon submission to X/Open Company of the Licensee's application for a product to become a Registered Product.
- 3.3** Amendment fees are payable by the Licensee upon execution of any Registered Product amendment.
- 3.4** During the period of this Agreement, annual renewal fees are payable by the Licensee on the anniversary of the registration or last renewal of each Registered Product, provided that the Licensee may request early renewal of any product registration.

X/Open Company shall, not later than 60 days prior to each such anniversary, send the Licensee a renewal form and the Licensee shall complete such form and return it to X/Open Company.

- 3.5** Royalties are payable quarterly in arrears on or before 28th February, 31st May, 31st August, and 30th November in respect of sales made during the quarters ending 31st January, 30th April, 31st July, and 31st October respectively, unless otherwise agreed.
- 3.6** The royalty buy-out is assessed annually commencing with the date on which a product is first registered, and is payable quarterly on or before 28th February, 31st May, 31st August, and 30th November next following, unless otherwise agreed.

4. Revisions of Fees

- 4.1** X/Open Company reserves the right to alter its fee structure in accordance with Sub-clause 18.1 of the Agreement in the light of experience of administration, registration, and other costs.

- 4.2** No amendment shall be made to this Schedule inconsistent with the principles:

- i. That Shareholders by virtue of having paid an annual subscription are entitled to an automatic royalty buy-out in respect of the Core Program and to a discount on Registration, Renewal, and Amendment fees,
- ii. That applications supported by reports from laboratories whose quality has been accepted by X/Open Company shall be entitled to a discount on Registration, Renewal, and Amendment fees.

5. Payment

- 5.1** Amounts payable hereunder shall be paid in full without deduction of income or other taxes, charges, and duties that may be imposed except insofar as the Licensee is required to deduct the same to comply with applicable laws. X/Open Company and the Licensee shall cooperate in all respects and take all steps necessary:

- i. Lawfully to avoid the making of such deduction, and
- ii. To take advantage of such double taxation agreements as may be available.

In the event that the Licensee is required to make any such deduction it shall provide X/Open Company with a certificate or other documentary evidence to enable X/Open Company to obtain appropriate relief from double taxation of such payment.

- 5.2** Payments are payable in U.S. dollars by check drawn on a London bank or by wire transfer to the bank account notified by X/Open Company from time to time, bank or other charges to be borne by the Licensee. Payment shall be made within 45 days of the due date. X/Open Company may charge the Licensee interest on any payment not made within 45 days of the due date on a daily basis until the date of receipt of such payment by X/Open Company at a rate equivalent to two per cent above the base lending rate of Barclays Bank plc in London from time to time.
- 5.3** If at any time during the continuation of this Agreement the Licensee is prohibited from making any of the payments required hereunder by a governmental authority in any country then the Licensee shall within the prescribed period for making the said payments in the appropriate manner use its best endeavors to secure from the proper authority in the relevant country permission to make the said payments and will make them within seven days of receiving such permission. In the event that such permission is not received within 30 days of the Licensee

making such a request for permission then, at the option of X/Open Company the Licensee shall deposit the payments due in the currency of the relevant country either in a bank account designated by X/Open Company within such country, or such payment shall be made to an associated company of X/Open Company designated by X/Open Company and having offices in the relevant country.

SCHEDULE 3: THE TERRITORY

1. Restricted Countries

These countries are excluded from the licenses granted under this Agreement unless the special registration fees set out in Schedule 2 have been paid.

Taiwan
South Korea

2. Excluded Countries

None.

3. Registrations and Applications

| Country | Mark | Class | Status | Registration No. |
|------------|--------|-------|------------|------------------|
| Argentina | UNIX | 42 | Registered | 1351039 |
| | UNIX | 9 | Registered | 1384038 |
| | UNIX | 38 | Registered | 1347641 |
| | X Logo | 9 | Registered | 1562780 |
| | X Logo | 42 | Registered | 1483962 |
| | X Logo | 16 | Registered | 1499052 |
| | X/Open | 9 | Registered | 1562779 |
| | X/Open | 42 | Registered | 1559459 |
| | X/Open | 16 | Registered | 1559458 |
| Armenia | X Logo | 42 | Pending | — |
| | X Logo | 9 | Pending | — |
| | X Logo | 16 | Pending | — |
| | X/Open | 42 | Pending | — |
| | X/Open | 9 | Pending | — |
| | X/Open | 16 | Pending | — |
| Australia | UNIX | 42 | Registered | A385867 |
| | UNIX | 16 | Registered | A385868 |
| | UNIX | 9 | Registered | A385869 |
| | UNIX | 38 | Registered | A385866 |
| | X Logo | 42 | Registered | B537447 |
| | X Logo | 16 | Registered | 483435 |
| | X Logo | 9 | Registered | 483436 |
| | X/Open | 42 | Registered | 537448 |
| | X/Open | 16 | Registered | A483437 |
| | X/Open | 9 | Registered | A483438 |
| Austria | UNIX | 37 | Registered | 103346 |
| | UNIX | 41 | Registered | 103346 |
| | UNIX | 38 | Registered | 107947 |
| | UNIX | 9 | Registered | 103346 |
| | UNIX | 16 | Registered | 103346 |
| | UNIX | 9 | Registered | 107947 |
| | X Logo | 16 | Registered | AM1195/88 |
| | X Logo | 9 | Registered | AM1195/88 |
| | X/Open | 16 | Registered | AM1196/88 |
| | X/Open | 9 | Registered | AM1196/88 |
| Azerbaijan | X Logo | 16 | Pending | 3511 |

| | | | | |
|---------|--------|----|------------|-----------|
| | X Logo | 9 | Pending | 3511 |
| | X Logo | 42 | Pending | 3511 |
| | X/Open | 9 | Pending | 3510 |
| | X/Open | 42 | Pending | 3510 |
| | X/Open | 16 | Pending | 3510 |
| Belarus | X Logo | 42 | Pending | — |
| | X Logo | 16 | Pending | — |
| | X Logo | 9 | Pending | — |
| | X/Open | 42 | Pending | — |
| | X/Open | 16 | Pending | — |
| | X/Open | 9 | Pending | — |
| Benelux | UNIX | 9 | Registered | 388828 |
| | UNIX | 38 | Registered | 151848 |
| | UNIX | 16 | Registered | 388828 |
| | UNIX | 42 | Registered | 151848 |
| | X Logo | 16 | Registered | 711348 |
| | X Logo | 9 | Registered | 711348 |
| Bermuda | UNIX | 9 | Registered | 10651 |
| Bolivia | UNIX | 9 | Registered | 45209-C |
| | UNIX | 38 | Registered | 45210-C |
| | X Logo | 9 | Registered | 55328-C |
| | X Logo | 16 | Registered | 55327-C |
| | X Logo | 42 | Registered | 55326-C |
| | X/Open | 16 | Registered | 55325-C |
| | X/Open | 9 | Registered | 55323-C |
| | X/Open | 42 | Registered | 55324-C |
| Brazil | UNIX | 38 | Registered | 812412141 |
| | UNIX | 9 | Registered | 811174492 |
| | UNIX | 9 | Registered | 812412150 |
| | X Logo | 42 | Pending | 819812587 |
| | X Logo | 16 | Pending | 819812579 |
| | X Logo | 9 | Pending | 819812560 |
| | X/Open | 16 | Pending | 819812544 |
| | X/Open | 9 | Pending | 819812536 |
| | X/Open | 42 | Pending | 819812552 |
| Canada | UNIX | 99 | Registered | 326693 |
| | X Logo | 16 | Pending | 448174 |
| | X Logo | 9 | Pending | 448174 |
| | X/Open | 9 | Registered | 411623 |
| | X/Open | 16 | Registered | 411623 |
| Chile | UNIX | 38 | Registered | 320594 |
| | UNIX | 9 | Registered | 320594 |
| | X Logo | 16 | Registered | 427561 |
| | X Logo | 9 | Pending | 254409 |
| | X Logo | 42 | Registered | 427562 |
| | X/Open | 42 | Registered | 427560 |
| | X/Open | 16 | Registered | 427558 |

| | | | | |
|---------------------|--------|----|------------|------------|
| | X/Open | 9 | Registered | 427559 |
| China | UNIX | 16 | Registered | 270239 |
| | X Logo | 9 | Registered | 90025759 |
| | X Logo | 16 | Registered | 90025760 |
| | X/Open | 9 | Registered | 90025757 |
| | X/Open | 16 | Registered | 90025758 |
| Colombia | UNIX | 38 | Registered | 125349 |
| | UNIX | 9 | Registered | 253831 |
| | X Logo | 9 | Pending | — |
| | X Logo | 42 | Pending | — |
| | X Logo | 16 | Pending | — |
| | X/Open | 42 | Pending | — |
| | X/Open | 16 | Pending | — |
| | X/Open | 9 | Pending | — |
| Community Trademark | UNIX | 9 | Pending | 227991 |
| | UNIX | 38 | Pending | 227991 |
| | UNIX | 16 | Pending | 227991 |
| | UNIX | 42 | Pending | 227991 |
| Costa Rica | UNIX | 9 | Registered | 68807 |
| | UNIX | 16 | Registered | 73760 |
| | X Logo | 42 | Pending | — |
| | X Logo | 9 | Registered | 100445 |
| | X Logo | 16 | Registered | 100444 |
| | X/Open | 9 | Pending | — |
| | X/Open | 16 | Pending | — |
| | X/Open | 42 | Pending | — |
| Croatia | UNIX | 9 | Pending | — |
| Cyprus | UNIX | 9 | Registered | B32770 |
| Denmark | UNIX | 9 | Registered | VR01029 19 |
| | UNIX | 38 | Registered | VR01029 19 |
| | X Logo | 9 | Registered | 2031/88 |
| | X Logo | 16 | Registered | 2031/88 |
| | X/Open | 16 | Registered | 2032/88 |
| | X/Open | 9 | Registered | 2032/88 |
| Dominican Republic | UNIX | 20 | Registered | 40849 |
| | UNIX | 22 | Registered | 40859 |
| Ecuador | UNIX | 9 | Registered | 4985/86 |
| | UNIX | 38 | Registered | 443/86 |
| | X Logo | 42 | Registered | 223/93 |
| | X Logo | 16 | Registered | 956/93 |
| | X Logo | 9 | Registered | 954/93 |
| | X/Open | 42 | Registered | 222/93 |
| | X/Open | 9 | Registered | 953/93 |
| | X/Open | 16 | Registered | 955/93 |

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|------------------------|--------|---------|------------|---------|
| Egypt | UNIX | 42 | Registered | 65109 |
| | UNIX | 9 | Registered | 66260 |
| Eire | UNIX | 9 | Registered | 113939 |
| | X Logo | 16 | Registered | 955/88 |
| | X Logo | 9 | Registered | 954/88 |
| | X/Open | 16 | Registered | 953/88 |
| | X/Open | 9 | Registered | 952/88 |
| El Salvador | UNIX | 9 | Registered | 166/122 |
| | X Logo | 9 | Pending | — |
| | X Logo | 16 | Pending | — |
| | X Logo | 42 | Registered | 98/31 |
| | X/Open | 42 | Registered | 80/31 |
| | X/Open | 16 | Pending | — |
| | X/Open | 9 | Pending | — |
| Estonia | X Logo | 9 | Pending | — |
| | X Logo | 16 | Pending | — |
| | X Logo | 42 | Pending | — |
| | X/Open | 16 | Pending | — |
| | X/Open | 42 | Pending | — |
| | X/Open | 9 | Pending | — |
| EU Community Trademark | UNIX | 35 | Pending | 431569 |
| | UNIX | 16 | Pending | 431569 |
| | UNIX | 9 | Pending | 431569 |
| | UNIX | 37 | Pending | 431569 |
| | UNIX | 42 | Pending | 431569 |
| | UNIX | 41 | Pending | 431569 |
| | X Logo | 42 | Pending | 431452 |
| | X Logo | 35 | Pending | 431452 |
| | X Logo | 37 | Pending | 431452 |
| | X Logo | 16 | Pending | 431452 |
| | X Logo | 41 | Pending | 431452 |
| | X Logo | 9 | Pending | 431452 |
| | X/Open | 41 | Pending | 431320 |
| | X/Open | 9 | Pending | 431320 |
| | X/Open | 16 | Pending | 431320 |
| | X/Open | 37 | Pending | 431320 |
| | X/Open | 42 | Pending | 431320 |
| X/Open | 35 | Pending | 431320 | |
| Finland | UNIX | 9 | Registered | 103581 |
| | UNIX | 38 | Registered | 103581 |
| | X Logo | 16 | Registered | 1179/88 |
| | X Logo | 9 | Registered | 1179/88 |
| | X/Open | 9 | Registered | 1178/88 |
| | X/Open | 16 | Registered | 1178/88 |
| France | UNIX | 38 | Registered | 1316168 |
| | UNIX | 9 | Registered | 1316168 |
| | UNIX | 3 | Registered | 1199875 |
| | UNIX | 16 | Registered | 1199875 |

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|-----------|----------|----|------------|----------|
| | UNIX | 17 | Registered | 1199875 |
| | UNIX | 9 | Registered | 1199875 |
| | UNIX | 28 | Registered | 1199875 |
| | X Logo | 9 | Registered | 913731 |
| | X Logo | 16 | Registered | 913731 |
| Georgia | X Logo | 42 | Pending | — |
| | X Logo | 16 | Pending | — |
| | X Logo | 9 | Pending | — |
| | X/Open | 42 | Pending | — |
| | X/Open | 16 | Pending | — |
| | X/Open | 9 | Pending | — |
| Germany | UNIX | 9 | Registered | 2002662 |
| | UNIX | 38 | Registered | 1162628 |
| | UNIX | 37 | Registered | 1162628 |
| | UNIX | 16 | Registered | 1162628 |
| | UNIX | 42 | Registered | 1162628 |
| | UNIX | 9 | Registered | 1056071 |
| | UNIX | 9 | Registered | 1162628 |
| | Words X/ | 16 | Pending | 2031951 |
| | Words X/ | 9 | Pending | 2031951 |
| Greece | UNIX | 38 | Pending | 111447 |
| | UNIX | 9 | Registered | 88.771 |
| | X Logo | 9 | Registered | 88458 |
| | X Logo | 16 | Registered | 88458 |
| | X/Open | 9 | Pending | 88459 |
| | X/Open | 16 | Pending | 88459 |
| Guatemala | UNIX | 9 | Registered | 55786 |
| | X Logo | 42 | Pending | 7920 |
| | X Logo | 16 | Pending | 9721 |
| | X Logo | 9 | Pending | 7922 |
| | X/Open | 42 | Pending | 7923 |
| | X/Open | 16 | Pending | 7924 |
| | X/Open | 9 | Pending | 7925 |
| Honduras | UNIX | 9 | Registered | 50198 |
| | UNIX | 38 | Registered | 736 |
| | X Logo | 42 | Registered | 1736 |
| | X Logo | 16 | Registered | 59212 |
| | X Logo | 9 | Registered | 59213 |
| | X/Open | 42 | Registered | 1671 |
| | X/Open | 16 | Registered | 58923 |
| | X/Open | 9 | Pending | 58965 |
| Hong Kong | UNIX | 9 | Registered | 327 |
| | UNIX | 16 | Registered | 2600 |
| | X Logo | 16 | Pending | B1884/95 |
| | X Logo | 42 | Registered | B5644/96 |
| | X Logo | 9 | Registered | B1885/95 |
| | X/Open | 16 | Registered | 1324A/88 |
| | X/Open | 42 | Registered | B1882/94 |

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|-----------|--------|----|------------|------------|
| | X/Open | 9 | Registered | 1324/88 |
| Hungary | UNIX | 9 | Pending | 1027/91 |
| | X Logo | 9 | Registered | 135775 |
| | X Logo | 16 | Registered | 135775 |
| | X Logo | 42 | Registered | 135775 |
| | X/Open | 42 | Registered | 2574/90 |
| | X/Open | 16 | Registered | 2574/90 |
| | X/Open | 9 | Registered | 2574/90 |
| Iceland | UNIX | 9 | Registered | 973/1990 |
| | X Logo | 9 | Registered | 169/1988 |
| | X Logo | 16 | Registered | 169/1988 |
| | X/Open | 9 | Registered | 170/1988 |
| | X/Open | 16 | Registered | 170/1988 |
| India | UNIX | 9 | Registered | 441463 |
| | UNIX | 9 | Registered | 431702 |
| | X Logo | 16 | Pending | 532327 |
| | X Logo | 9 | Pending | 532326 |
| | X/Open | 16 | Pending | 532304 |
| | X/Open | 9 | Pending | 532325 |
| Indonesia | UNIX | 9 | Pending | 040041514 |
| | X Logo | 16 | Registered | — |
| | X Logo | 9 | Registered | — |
| | X/Open | 9 | Pending | — |
| | X/Open | 16 | Pending | — |
| Israel | UNIX | 38 | Registered | 55634 |
| | UNIX | 9 | Registered | 55633 |
| | UNIX | 16 | Registered | 55636 |
| | UNIX | 42 | Registered | 64956 |
| Italy | UNIX | 38 | Registered | 428287 |
| | UNIX | 9 | Registered | 428287 |
| | X Logo | 9 | Registered | 17388c/88 |
| | X Logo | 16 | Registered | 17388c/88 |
| | X/Open | 9 | Registered | 446088 |
| | X/Open | 16 | Registered | 446088 |
| Jamaica | UNIX | 9 | Registered | 23317 |
| Japan | UNIX | 26 | Registered | 50257/1984 |
| | UNIX | 42 | Pending | — |
| | UNIX | 42 | Pending | — |
| | UNIX | 41 | Registered | 3027368 |
| | UNIX | 11 | Registered | 2702681 |
| | X Logo | 42 | Pending | 235709/92 |
| | X Logo | 9 | Registered | 2711950 |
| | X Logo | 16 | Registered | 3158/88 |
| | X Logo | 25 | Registered | 2531752 |
| | X Logo | 11 | Registered | 9458/88 |
| | X/Open | 42 | Pending | 235708/92 |

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|---------------|--------|----|------------|-----------|
| | X/Open | 11 | Pending | 9457/88 |
| | X/Open | 26 | Registered | 31859/88 |
| Kazakhstan | X Logo | 9 | Pending | — |
| | X Logo | 16 | Pending | — |
| | X Logo | 42 | Pending | — |
| | X/Open | 16 | Pending | — |
| | X/Open | 9 | Pending | — |
| | X/Open | 42 | Pending | — |
| Kenya | UNIX | 9 | Pending | — |
| Kirgluzia | X Logo | 42 | Pending | — |
| | X Logo | 9 | Pending | — |
| | X Logo | 16 | Pending | — |
| | X/Open | 16 | Pending | — |
| | X/Open | 42 | Pending | — |
| | X/Open | 9 | Pending | — |
| Korea | UNIX | 39 | Registered | 96367 |
| | X Logo | 39 | Registered | 6840/88 |
| | X Logo | 52 | Registered | 6842/88 |
| | X/Open | 52 | Registered | 6841/88 |
| | X/Open | 39 | Registered | 6839/88 |
| Kyrgystan | X/Open | 42 | Pending | 951326.3 |
| | X/Open | 9 | Pending | 951326.3 |
| | X/Open | 16 | Pending | 951326.3 |
| Latvia | X Logo | 9 | Pending | M 95 1301 |
| | X Logo | 42 | Pending | M 95 1301 |
| | X Logo | 16 | Pending | M 95 1301 |
| | X/Open | 9 | Pending | M 95 1302 |
| | X/Open | 16 | Pending | M 95 1302 |
| | X/Open | 42 | Pending | M 95 1302 |
| Liberia | UNIX | 99 | Registered | — |
| Liechtenstein | UNIX | 38 | Registered | — |
| | UNIX | 9 | Registered | — |
| Lithuania | UNIX | 9 | Pending | ZP 5705 |
| | X Logo | 16 | Pending | — |
| | X Logo | 9 | Pending | — |
| | X Logo | 42 | Pending | — |
| | X/Open | 42 | Pending | — |
| | X/Open | 16 | Pending | — |
| | X/Open | 9 | Pending | — |
| Macao | UNIX | 9 | Registered | 3735 |
| | UNIX | 16 | Pending | — |
| | UNIX | 38 | Registered | 3736 |
| | X Logo | 16 | Registered | 13331-M |
| | X Logo | 9 | Registered | 12847-M |

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|-------------|----------|----|------------|----------|
| | X/Open | 16 | Registered | 11699-M |
| | X/Open | 9 | Registered | 11698-M |
| Malaysia | UNIX | 9 | Registered | MA/6/86 |
| | X Logo | 16 | Pending | 90/07594 |
| | X Logo | 9 | Registered | 90/07592 |
| | X/Open | 16 | Pending | 90/07593 |
| | X/Open | 9 | Pending | 90/7595 |
| Malta | UNIX | 9 | Registered | 16825 |
| | UNIX & D | 35 | Registered | |
| Mexico | UNIX | 35 | Registered | 326432 |
| | UNIX | 26 | Registered | 313643 |
| | UNIX | 9 | Registered | 327494 |
| | X Logo | 16 | Pending | 246617 |
| | X Logo | 9 | Registered | 512748 |
| | X Logo | 42 | Registered | 512747 |
| | X/Open | 9 | Registered | 510855 |
| | X/Open | 16 | Pending | 246618 |
| | X/Open | 42 | Registered | 510848 |
| Moldova | X Logo | 42 | Pending | 04-5155 |
| | X Logo | 16 | Pending | 04-5155 |
| | X Logo | 9 | Pending | 04-5155 |
| | X/Open | 9 | Pending | 04-5154 |
| | X/Open | 16 | Pending | 04-5154 |
| | X/Open | 42 | Pending | 04-5154 |
| Monaco | UNIX | 9 | Registered | 86.10696 |
| | UNIX | 38 | Registered | 86.10696 |
| Morocco | UNIX | 16 | Registered | 37 038 |
| | UNIX | 38 | Registered | 37 038 |
| | UNIX | 9 | Registered | 37 038 |
| New Zealand | UNIX | 9 | Registered | 142900 |
| | UNIX | 9 | Registered | 159161 |
| | UNIX | 16 | Registered | 155192 |
| | X Logo | 16 | Registered | 178253 |
| | X Logo | 9 | Registered | 178251 |
| | X/Open | 9 | Registered | 178252 |
| | X/Open | 16 | Registered | 178250 |
| Nicaragua | UNIX | 9 | Registered | 17,638CC |
| | X Logo | 9 | Registered | 31171CC |
| | X Logo | 16 | Registered | 31118cc |
| | X Logo | 42 | Pending | 31172CC |
| | X/Open | 9 | Registered | 31174CC |
| | X/Open | 16 | Registered | 31117cc |
| | X/Open | 42 | Registered | 31170CC |
| Nigeria | UNIX | 99 | Pending | TP24/86 |

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|------------------|--------|----|------------|----------|
| Norway | UNIX | 9 | Registered | 131136 |
| | UNIX | 38 | Registered | 131136 |
| | X Logo | 9 | Registered | 88.1191 |
| | X Logo | 16 | Registered | 88.1191 |
| | X/Open | 16 | Registered | 88.1192 |
| | X/Open | 9 | Registered | 88.1192 |
| Pakistan | UNIX | 9 | Registered | 89939 |
| | UNIX | 16 | Pending | 89941 |
| | X Logo | 9 | Registered | 107402 |
| | X Logo | 16 | Pending | 107395 |
| | X/Open | 16 | Registered | 107396 |
| | X/Open | 9 | Pending | 107403 |
| Panama | UNIX | 9 | Registered | 041111 |
| | UNIX | 9 | Registered | 045268 |
| | X Logo | 42 | Registered | 253351 |
| | X Logo | 9 | Registered | 68998 |
| | X Logo | 16 | Registered | 68993 |
| | X/Open | 16 | Pending | 067801/4 |
| | X/Open | 9 | Registered | 67804 |
| | X/Open | 42 | Registered | 67805 |
| Papua New Guinea | UNIX | 38 | Registered | A55152 |
| | UNIX | 9 | Registered | A54788 |
| Paraguay | UNIX | 16 | Registered | 124458 |
| | UNIX | 9 | Registered | 118,426 |
| | UNIX | 38 | Registered | 118,427 |
| | X Logo | 9 | Registered | 07289 |
| | X Logo | 42 | Registered | 07290 |
| | X/Open | 9 | Registered | 07291 |
| | X/Open | 42 | Registered | 07287 |
| | X/Open | 16 | Registered | 07286 |
| Peru | UNIX | 9 | Registered | 61676 |
| | X Logo | 42 | Registered | 201911 |
| | X Logo | 16 | Registered | 201910 |
| | X Logo | 9 | Registered | 201909 |
| | X/Open | 9 | Registered | 98973 |
| | X/Open | 16 | Registered | 98974 |
| | X/Open | 42 | Registered | 10063 |
| Philippines | UNIX | 9 | Registered | 44861 |
| | UNIX | 38 | Pending | 44861 |
| Poland | UNIX | 9 | Registered | R-73821 |
| Portugal | UNIX | 9 | Registered | 233373 |
| | UNIX | 16 | Pending | 233372 |
| | UNIX | 38 | Registered | 233374 |
| | X Logo | 9 | Pending | 246200 |
| | X Logo | 16 | Pending | 246201 |
| | X/Open | 9 | Registered | 246202 |

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|----------------|--------|----|------------|-----------|
| | X/Open | 16 | Registered | 246203 |
| Puerto Rico | X Logo | 9 | Pending | — |
| | X Logo | 16 | Pending | — |
| | X Logo | 42 | Pending | — |
| | X/Open | 9 | Pending | — |
| | X/Open | 16 | Pending | — |
| | X/Open | 42 | Pending | — |
| Ras Al-Khaimah | UNIX | 9 | Registered | 4971 |
| Romania | X Logo | 16 | Pending | 18754 |
| | X Logo | 42 | Pending | 18754 |
| | X Logo | 9 | Pending | 18754 |
| | X/Open | 42 | Registered | 19207 |
| | X/Open | 9 | Registered | 19207 |
| | X/Open | 16 | Registered | 19207 |
| Russia | UNIX | 38 | Registered | 83378 |
| | UNIX | 9 | Registered | 83378 |
| Salvador | X Logo | 9 | Registered | 103/31 |
| | X Logo | 16 | Registered | 228/33 |
| Singapore | UNIX | 9 | Registered | S/2825/85 |
| | X Logo | 42 | Pending | 538/92 |
| | X Logo | 16 | Pending | 537/92 |
| | X Logo | 9 | Pending | 7665/90 |
| | X/Open | 42 | Pending | 539/92 |
| | X/Open | 9 | Registered | 7663/90 |
| | X/Open | 16 | Registered | 7664/90 |
| South Africa | UNIX | 16 | Pending | 86/0752 |
| Spain | UNIX | 9 | Pending | 1068660 |
| | UNIX | 38 | Registered | 1068661/4 |
| | X Logo | 16 | Pending | 2067385 |
| | X Logo | 9 | Registered | 2019446 |
| | X Logo | 16 | Registered | 1241751 |
| | X/Open | 16 | Registered | 1241751 |
| | X/Open | 16 | Registered | 1241753 |
| | X/Open | 9 | Registered | 1241752 |
| Sri Lanka | UNIX | 9 | Registered | 50670 |
| Sudan | UNIX | 9 | Registered | 22073 |
| Suriname | UNIX | 9 | Registered | 11,782 |
| | UNIX | 16 | Registered | 11,781 |
| Sweden | UNIX | 16 | Registered | 208408 |
| | UNIX | 9 | Registered | 208408 |
| | UNIX | 9 | Registered | 212925 |
| | UNIX | 38 | Registered | 212925 |

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|--------------|--------|----|------------|------------|
| | X Logo | 9 | Registered | 87-9450 |
| | X Logo | 16 | Registered | 87-9450 |
| | X/Open | 16 | Registered | 301370 |
| | X/Open | 9 | Registered | 301370 |
| Switzerland | UNIX | 9 | Registered | 339763 |
| | X Logo | 16 | Registered | 1850 |
| | X Logo | 9 | Registered | 1850 |
| | X/Open | 9 | Registered | 1849 |
| | X/Open | 16 | Registered | 1849 |
| Tadzhikistan | X Logo | 42 | Pending | — |
| | X Logo | 16 | Pending | — |
| | X Logo | 9 | Pending | — |
| | X/Open | 16 | Pending | — |
| | X/Open | 9 | Pending | — |
| | X/Open | 42 | Pending | — |
| Taiwan | UNIX | 8 | Pending | 11053 |
| | UNIX | 35 | Registered | 225789 |
| | UNIX | 80 | Registered | 250677 |
| | UNIX | 94 | Registered | 249469 |
| | UNIX | 8 | Registered | 11351 |
| | X Logo | 49 | Registered | (77)13360 |
| | X Logo | 9 | Pending | (84) 63629 |
| | X Logo | 48 | Registered | (77)13359 |
| | X Logo | 52 | Registered | (77)13361 |
| | X/Open | 49 | Registered | (77)13356 |
| | X/Open | 72 | Registered | (77)13358 |
| | X/Open | 48 | Registered | (77)13355 |
| Tanzania | UNIX | 9 | Registered | 20093 |
| Thailand | UNIX | 8 | Registered | 103798 |
| | UNIX | 8 | Registered | 101279 |
| | X Logo | 8 | Registered | 205957 |
| | X Logo | 39 | Registered | 205958 |
| | X/Open | 8 | Registered | 205955 |
| | X/Open | 39 | Pending | 2350010 |
| Tunisia | UNIX | 9 | Registered | EE 86.015 |
| Turkmenistan | X Logo | 42 | Pending | — |
| | X Logo | 9 | Pending | — |
| | X Logo | 16 | Pending | — |
| | X/Open | 9 | Pending | 2015 |
| | X/Open | 16 | Pending | 2015 |
| | X/Open | 42 | Pending | 2015 |
| U.A.E. | UNIX | 9 | Pending | — |
| U.K. | UNIX | 9 | Registered | A1198356 |
| | UNIX | 16 | Registered | A119357 |
| | X Logo | 16 | Pending | 2056066 |

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| | X Logo | 42 | Pending | 1423938 |
| | X Logo | 9 | Pending | 2056066 |
| | X Logo | 9 | Pending | 1560227 |
| | X Logo | 16 | Pending | 1423938 |
| | X Logo | 42 | Pending | 1560228 |
| | X Logo | 9 | Pending | 1560228 |
| | X Logo | 42 | Pending | 2056066 |
| | X Logo | 16 | Pending | 1560228 |
| | X Logo | 42 | Pending | 1560227 |
| | X Logo | 16 | Pending | 1560227 |
| | X Logo | 9 | Pending | 1423938 |
| | X/Open | 42 | Registered | 1423936 |
| | X/Open | 16 | Registered | 1322055 |
| | X/Open | 9 | Registered | 1322054 |
| Ukraine | X Logo | 42 | Pending | 1950 |
| | X Logo | 16 | Pending | 1950 |
| | X Logo | 9 | Pending | 1950 |
| | X/Open | 42 | Pending | 1949 |
| | X/Open | 16 | Pending | 1949 |
| | X/Open | 9 | Pending | 1949 |
| Uruguay | UNIX | 16 | Registered | 209.924 |
| | UNIX | 9 | Registered | 209.924 |
| | UNIX | 38 | Registered | 209.924 |
| | X Logo | 9 | Registered | 253351 |
| | X Logo | 42 | Registered | 253351 |
| | X Logo | 16 | Registered | 253351 |
| | X/Open | 16 | Registered | 253350 |
| | X/Open | 9 | Registered | 253350 |
| | X/Open | 42 | Registered | 253350 |
| U.S.A. | UNIX | 9 | Registered | 1392203 |
| | UNIX | 9 | Registered | 1390593 |
| | X Logo | 42 | Registered | 2085163 |
| | X Logo | 16 | Registered | 2085163 |
| | X Logo | 9 | Registered | 2085163 |
| | X/Open | 9 | Registered | 2080466 |
| | X/Open | 16 | Registered | 2080466 |
| | X/Open | 42 | Registered | 2080466 |
| U.S.S.R. | X Logo | 16 | Registered | 124870 |
| | X Logo | 42 | Registered | 124870 |
| | X Logo | 9 | Registered | 124870 |
| | X/Open | 9 | Registered | 124871 |
| | X/Open | 16 | Registered | 124871 |
| | X/Open | 42 | Registered | 124871 |
| Uzbekistan | X Logo | 9 | Pending | — |
| | X Logo | 16 | Pending | — |
| | X Logo | 42 | Pending | — |
| | X/Open | 9 | Pending | — |
| | X/Open | 16 | Pending | — |
| | X/Open | 42 | Pending | — |

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| Venezuela | UNIX | 26 | Pending | 11.569-85 |
| | X Logo | 9 | Pending | — |
| | X Logo | 16 | Pending | — |
| | X Logo | 42 | Pending | — |
| | X/Open | 42 | Pending | — |
| | X/Open | 16 | Pending | — |
| | X/Open | 9 | Pending | — |
| Vietnam | UNIX | 42 | Registered | 668 |
| | UNIX | 38 | Registered | 668 |
| | UNIX | 9 | Registered | 668 |
| Yugoslavia | UNIX | 9 | Registered | 36560 |
| | X Logo | 16 | Registered | Z-206/88 |
| | X Logo | 9 | Registered | Z-206/88 |
| | X/Open | 9 | Registered | Z-205/88 |
| | X/Open | 16 | Registered | Z-205/88 |
| Zaire | UNIX | 38 | Registered | 486/86 |
| | UNIX | 9 | Registered | 486/86 |
| | UNIX | 35 | Registered | 486/86 |
| Zimbabwe | UNIX | 9 | Registered | 82/86 |

SCHEDULE 4: STANDARDS OF QUALITY

PART A: STANDARDS OF QUALITY FOR XPG4

1. Introduction

Registration applies to software products in defined hardware and hardware/software environments and extends also to the product in a range of environments declared to be binary-compatible to the one in which testing took place.

2. Product Standards

The conformance requirements that must be met by Registered Products are defined in the **Practical Guide to the Open Brand** or on the World Wide Web at <http://www.opengroup.org/prodstandards>. A Product Standard identifies the Specifications that contain the detailed definitions of the interfaces that a product must rigorously implement, and any additional conditions that it must meet (such as mandating features that the specifications allow to be optional), in order to be conformant to the Product Standard. It also identifies any Indicators of Compliance (test reports) that must be produced, and other conformance factors that must be met. All the conditions of the Product Standard must be satisfied before a product can be registered.

A Product Standard identifies any integration and other requirements specific to the Product Standard (such as mandating features that the constituent Product Standards allow to be optional). It may also specify an additional Indicator of Compliance regarding demonstration of the conformance of the integrated system.

A product must be maintained in conformance with the Product Standard in order to be able to continue to be registered (as required by Sub-clause 4.11 of the Agreement).

3. Conformance Statement

A Conformance Statement gives a precise identification of the Registered Product and the environment (or binary-compatible family of environments) in which conformance is guaranteed, and details of how the Registered Product behaves in areas where the specifications declare features to be optional or allow variable limits. It also includes details of the specific configuration (including but without limitation hardware and software identification, compilation routines and installation procedures) used to validate conformance, in sufficient detail to enable the results of any applicable tests, identified by the Product Standard as the Indicator of Compliance, to be reproduced. It also gives the reference numbers of any Temporary Waivers and their expiry date. A Conformance Statement is in X/Open Company's standard form for each Product Standard, and is produced by completing the relevant Questionnaire which also includes a rationale for each question. Conformance Statements and Questionnaires are at <http://www.opengroup.org/csqs>.

Pursuant to Sub-clauses 4.6 and 4.7 of the Agreement, the Licensee must make available a Conformance Statement as specified by X/Open Company in respect of each Registered Product.

4. Formal Testing

Whenever the Indicator of Compliance is a formal test report, that test report must either have been prepared by a test laboratory recognized by X/Open Company in accordance with the X/Open Company Laboratory Recognition policy as amended from time to time, or must be audited by X/Open Company.

5. Conformance Testing

Test suites exist, provided by X/Open Company or third parties, for many of the individual Product Standards. Such test suites are updated from time to time and licensees are required to use current versions of test suites except as provided in Sub-clause 18.2. X/Open Company will provide further details of current test suites, and of how the Licensee may gain access to them,

upon request. For practical reasons, the coverage of any test suite is incomplete and hence “passing” the test must be treated as an Indicator of Compliance rather than proof of compliance.

To qualify for registration a Registered Product must “pass” the relevant test but in addition the Licensee warrants and represents that compliance is actually against the Product Standards and undertakes to handle any proven deviation from those specifications in accordance with Sub-clause 4.11 of the Agreement.

6. Test Results

It is the responsibility of test laboratories to resolve all test results to the equivalent of PASS or FAIL. For an application for registration to succeed, a test report must contain no results in the FAIL category unless these are resolved by Interpretations, Test Suite Deficiencies, or Waivers (see below).

7. Interpretations

7.1 There will be occasions, due to ambiguities in specifications, where compliance may be difficult to determine. In such situations X/Open Company, at its sole discretion, may decide to grant Permanent Interpretations of the specification on application from the Licensee by electronic mail. From time to time and in any event not less frequently than every three months, X/Open Company shall publish a list of Interpretations that may be cited in support of other Brand applications.

7.2 The issue of an Interpretation shall not adversely affect the status under this Agreement of any previously Registered Product.

8. Test Suite Deficiencies

There may be occasions due to deficiencies in test suites where failures may be reported incorrectly. In this situation, a Test Suite Deficiency may be granted by X/Open Company on application from the Licensee by electronic mail. From time to time and in any event not less frequently than every three months, X/Open Company shall publish a list of Test Suite Deficiencies that may be cited in support of other Brand applications.

9. Lifetimes of Interpretations and Agreed Test Suite Deficiencies

The lifetime of an Interpretation or Agreed Test Suite Deficiency depends on the underlying cause as follows:

| Cause | Result | Lifetime |
|--|--------------------------|--|
| Ambiguity in CAE Specification. | Permanent Interpretation | Permanent; against the Specification in question. |
| Need to comply with overriding standard. | Permanent Interpretation | Permanent; against the Specification and formal standard in question. |
| Apparent ambiguity in formal standard. | Temporary Interpretation | Temporary; until the standards body itself issues an Interpretation when the Temporary Interpretation will become either a Permanent Interpretation or a Temporary Waiver. |
| Deficiency in a prescribed Test Suite. | Test Suite Deficiency | Permanent; against a particular version of the Test Suite. |

10. Temporary Waivers

Where there are a limited number of implementation errors and these are demonstrated to be of a minor nature, X/Open Company at its sole discretion and having regard to the effect on applications portability may on application from the Licensee by electronic mail and payment of the then current Temporary Waiver fee issue a Temporary Waiver permitting the Trademarks to be applied to the system for a limited period of 12 months after which the errors must be eliminated.

11. Response Time to Waiver/Interpretation/Test Suite Deficiency Request

X/Open Company will use reasonable efforts to make a decision and respond within 20 working days of receipt of each request.

12. Appeals

The appeals procedure set out in Sub-clauses 4.12 to 4.14 inclusive of the Agreement shall apply to decisions of X/Open Company under Paragraph 9 above, save that references therein to a notice given by X/Open Company under Sub-clause 4.11.2 shall be interpreted to mean the notification to the applicant of a decision by X/Open Company under Paragraph 7, 8, and 10.

13. Application of Trademarks

13.1 Pursuant to a license granted under Clause 2 of the Agreement, the Trademarks may be applied to products which meet the conformance requirements of Product Standards but only when the product has been registered with X/Open Company for this purpose.

13.2 Pursuant to a license granted under Clause 2 of the Agreement, the Trademarks associated with a Product Standard may be applied provided the Registered Product meets the following conditions:

- a. A configuration of the product that meets the conformance requirements for the Product Standard is available for delivery, or has been announced planned for availability within the next six months,
- b. The same Registered Product and/or constituent products have been registered with X/Open Company by the Licensee or any other licensee for each Product Standard, and
- c. The requirements for the binary, portability, and language environments, specified in the Product Standard, are met for all the constituents.

It is understood that where an applicant registers a Product Standard referencing a Product Standard registered by another licensee, the Licensee loses the registration if one or more of the Product Standards are no longer registered.

14. Availability of Products

Subject to any special requirements listed in the Product Standard, the Licensee must ensure that if a configuration meeting the conformance requirements of the Product Standard against which registration of the Products had been made is ordered it will be delivered in full and the conditions of this Agreement will apply to it.

PART B: STANDARDS OF QUALITY FOR “UNIX 93”

1. In this Schedule the following words shall have the following meaning:

Brandable

The date upon which X/Open Company accepts applications to brand against the XPG4 UNIX Profile.

Full UNIX Brand Program

A Brand Program under which X/Open grants the rights to use the Trademarks to organizations to use with Registered Products that comply with SPEC1170.

SPEC1170

The XPG4 UNIX Profile Definition which will be the same as SPEC1170, Version 1, modified from time to time by X/Open Company.

SPEC1170, Version 1

The initial version of SPEC1170 that includes the following specifications required for all Products:

- XPG4 Base 95:
 - CAE Specification, System Interface Definitions, Issue 4, Version 2 (XBD)
 - CAE Specification, System Interfaces and Headers, Issue 4, Version 2 (XSH), requiring the following features:
 - POSIX.2 C Language Binding
 - Shared Memory
 - Enhanced Internationalization
 - CAE Specification, Commands and Utilities, Issue 4, Version 2 (XCU) (without optional features)
- System Interface Definitions (XBD), being shaded sections in System Interface Definitions, Issue 4, Version 2, identified by the “UX” designator
- System Interface and Headers (XSH), being shaded sections in System Interfaces and Headers, Issue 4, Version 2, identified by the “UX” designator
- Commands and Utilities (XCU), being shaded sections in Commands and Utilities, Issue 4, Version 2, identified by the “UX” designator
- CAE Specification, Networking Services, Issue 4
- CAE Specification, X/Open Curses, Issue 4

2. Standards of Quality

- i. Registered Products must be derived from UNIX System Laboratories’ UNIX operating system technology and qualify as a sub-licensed product under a license now in effect between Novell, Inc., as successor to UNIX System Laboratories (or one of its subsidiaries) and a licensee, and
- ii. Registered Products must at the time of registration:
 - a. Be registered XPG3 Base or XPG4 Base, and
 - b. Conform with SVID Edition 2 Base or SVID Edition 3 Base, and(In the event of any conflict between a. and b. above, a. shall take precedence.)

- iii. The Licensee hereby commits to use its most reasonable efforts to comply with SPEC1170 and to submit operating system software to be registered XPG4 UNIX as soon as possible.

3. Transition from UNIX 93 to XPG4 UNIX

- a. Until the date 12 months after XPG4 UNIX is Brandable the Licensee will be granted by X/Open Company a license to use the UNIX Trademark in respect of any of its products which are conformant with the Standards of Quality set out in Part B, Paragraph 2 ("the Interim Criteria") for which complete and correct applications are accepted by X/Open Company.
- b. Except as provided by Sub-paragraph d. below, no new applications for a license under the Interim Criteria will be accepted by X/Open Company after the date 12 months after SPEC1170 is brandable, but any registrations existing by such date shall be renewable each year for the duration of this Agreement, provided that the sum of the renewal fees for interim brand registrations meets the cost of the Program.
- c. Subject to Sub-paragraph d. below, any license granted to the Licensee in respect of any of its products which are conformant with the Interim Criteria shall not entitle the Licensee to make any use of the UNIX Trademark as part of a product name.
- d. Notwithstanding Sub-paragraphs a., b., and c. above, if, at the time of taking a license to use the UNIX Trademark under the Interim Criteria, the Licensee commits in writing to obtaining a license under the Full UNIX Brand Program within 24 months of SPEC1170 being Brandable, the Licensee may use the UNIX Trademark as part of a product name (provided that such use is in accordance with the Trademark Usage Guide), and may make new applications for a license under the Interim Criteria up until the date 24 months after SPEC1170 is Brandable. Without prejudice to the generality of Clause 9 of the Trademark License Agreement, the failure by the Licensee to obtain a license under the Full UNIX Brand Program within such 24-month period shall constitute a material breach of this Agreement.

PART C: STANDARDS OF QUALITY FOR FULL UNIX BRAND "UNIX 95"

Full UNIX Brand is an integral part of the XPG4 Brand Program. The Standards of Quality for UNIX 95 are defined in Part A of this Schedule. The Standards of Quality in Schedule 4, Part B, Paragraph 2, Sub-paragraph iv. also apply to XPG4 UNIX (UNIX 95) and will be recorded in the XPG4 UNIX Profile Definition.

If the Licensee is granted a license to use the UNIX Trademark under the Full UNIX Brand Program, the Licensee may use the UNIX Trademark as part of a product name, provided that such use is in accordance with the Trademark Usage Guide.

SCHEDULE 5: TRADEMARK USAGE GUIDE

1. Using X/Open Company Trademarks

1.1 Introduction

X/Open Company owns a number of Trademarks and these are amongst the most valuable assets of the Company.

Trademarks are important because they:

- Identify and distinguish a product or service
- Serve as an assurance of consistency of the quality of a product
- Assist in advertising and promoting a service or product

Unlike rights derived from patents and copyrights, which provide protection for only a limited number of years, trademark rights can last forever. Trademark rights can also be lost forever. The exclusive right granted in a trademark is usually lost as a result of careless or improper use, usually by allowing the mark to be used as generic or descriptive words for products. All of the following were once valuable trademarks in the U.S.A.: aspirin, escalator, cellophane, zipper, shredded wheat, corn flakes, and kerosene. All became common or generic words because their owners did not use them carefully and correctly and did not prevent the improper use of them by others.

This Guide describes the rules for the use of X/Open Company Trademarks. It is designed to be a practical guide to practitioners.

1.2 Legal Status

This Guide forms Schedule 5 of the Open Brand Trademark License Agreement (January 1998). It forms an integral part of the Agreement and should be read in conjunction with it.

The Agreement defines the conditions and technical criteria that must be fulfilled before the Licensee may make use of the Trademarks. This Guide defines the permitted visual presentation, form, and manner in which the Trademarks can be used by a Licensee who complies with those conditions and technical criteria. Failure to comply with the mandatory provisions of the Guide constitutes a breach of the Agreement, but the Licensee shall use its most reasonable efforts to comply with all the provisions herein.

There are three distinct circumstances in which the Trademarks may be used. These are:

- Use of the X Device as a Brand Logo on or in relation to Registered Products
- Use of the UNIX, CORBA, or Motif Trademarks on or in relation to Registered Products
- Use of the Trademarks only in the course of a reference to X/Open Company Limited or The Open Group, their objectives, products, or activities

These uses must never be confused; it is a breach of the Agreement to do so.

Of itself, this Guide does not grant permission to use any Trademark.

1.3 Use of Trademarks by Third Parties

There are circumstances where, for example, in referring to a Trademark in editorial or articles, the use of a Trademark is either desirable or unavoidable. Such use of Trademarks is permitted, without the requirement for the user to be licensed, provided that the rules in this Guide are followed.

There are instances where a third party may wish to promote the sale of its products in relation to a Trademark or to promote a Registered Product that they distribute. Such uses are permitted under the same principles as are required of licensed users, provided the third party maintains the distinctiveness of the Trademark and that there is no likelihood of confusion between Registered Products and non-Registered Products or compromise of any Trademark.

Examples of proper (4) and improper (8) use are:

- 8 MyProduct UNIX word processor
- 8 MyProduct UNIX[®] word processor
- 8 The Motif specification
- 4 MyProduct word processor for the UNIX[®] operating system
- 4 MyProduct word processor for the BrandName UNIX[®] operating system
- 4 The Motif[®] graphical user interface specification

2. Trademark Rules for Proper Usage

2.1 Use in Text and Descriptive Materials

A Trademark whenever and wherever it appears in print must be distinguished from the surrounding text. This applies to all forms of printed media, including advertising copy, product packaging, brochures, manuals, internal memoranda, editorial, articles, correspondence, overhead projector slides, and presentation materials, and to computer video screens.

Methods of distinguishing the Trademark include printing it in *CAPITALS*, *italicized text*, **bold faced text**, Initial Capital Letters, or placing the Trademark in "quotation marks".

- Always try to follow the Trademark with the common generic (the dictionary name) of the product:
 - 8 UNIX is a
 - 4 A UNIX system is a
- Trademarks should be used as adjectives, not as nouns:
 - 8 ABC Company's UNIX
 - 4 ABC Company's UNIX system
- Never use a Trademark as a verb.
 - 8 Can we Motif this application
 - 4 Can we add a Motif GUI to this application
- Never use a Trademark in the plural form:
 - 8 ABC company and EFG company use the same UNIXs
 - 4 ABC company and EFG company use the same UNIX systems
- Never use a Trademark in the possessive form:
 - 8 UNIX's programming interfaces
 - 4 The UNIX system's programming interface specifications
- Refrain from hyphenating a Trademark:
 - 8 UNIX-based
 - 8 PC-to-UNIX
 - 8 UNIX-like
 - 4 UNIX system-based
 - 4 ABC's UNIX implementation-based

4 connecting PCs to UNIX systems

- The Trademarks should never be combined to form a new word, combined with other words, be hyphenated, or abbreviated:

8 TOG

8 UN-IX

8 UN*X

8 MotiForum

- The graphical design of the Trademarks must be strictly adhered to. The Trademarks must always be used with white space (see Paragraph 4.3) around them and must never be superimposed on or used in association with other graphics or Trademarks.
- You should always mark the first or most significant occurrence of the Trademark as appropriate and must place the required attribution as a footnote. Use the ® symbol for a registered Trademark and the ™ symbol for an unregistered Trademark. It is acceptable to use an asterisk in place of the trademark symbol where the medium used (for example, electronic mail) cannot reproduce the ™ or ® symbols. However, this is not intended to authorize use of the asterisk as the norm.

You may translate the trademark attribution to national language(s).

The trademark attribution is important as it reminds competitors, licensees, customers, and others that X/Open Company claims exclusive rights in the trademarks.

Blanket or generic attributions are not acceptable, such as:

8 “All Trademarks are the property of their respective owners.”

The correct attributions are:

4 Motif, OSF/1, UNIX, and the “X Device” are registered trademarks and IT DialTone and The Open Group are trademarks of The Open Group in the U.S. and other countries.

4 CORBA is a trademark of the Object Management Group.

In order to clearly identify to purchasers the exact specification to which a Registered Product is compliant, the following *additional* attribution (see below) is required when reference is made to a Registered Product or a Trademark is used on and in relation to a Registered Product.

4 “ProductName Version X.X is an Open Brand <Attribution> Registered Product.”

The first occurrence of the product name linked with a Trademark should be asterisked and the attribution above used *after* the Trademark attribution.

For Licensees with multiple environments (for example, hardware platforms), the attribution must identify any differences in specification on different platforms.

4 “ProductName Version X.X on Intel is an Open Brand <Attribution> Registered Product, ProductName Version X.X on ZZRisc is an Open Brand <Attribution> Registered Product.”

An Attribution is required so that a reader may always easily identify the specification(s) to which a Registered Product is guaranteed to comply.

The <Attribution> is always the name of the Product Standard.

3. Graphical Representation of the Trademarks

3.1 The Open Group Corporate Logo

The Open Group Corporate Logo is shown below:

THE *Open* GROUP

Many companies have expressed an interest in using The Open Group Corporate Logo in advertising (for example, in corporate, product, and recruitment advertising), in trade shows, company presentations, house magazines, video materials, as well as print and promotional materials.

The Open Group encourages member companies to make use of the logo to demonstrate their commitment to The Open Group and to the cause of open systems. **Non-member companies may only use The Open Group name with the express permission of The Open Group.**

The Open Group Corporate Logo may never be used on and in connection with Licensee's products or services.

The Open Group Corporate Logo may only be used in the course of a reference to The Open Group, its objectives, or activities.

The Open Group Corporate Logo should be used preferably in full color with the "O" in Standard Green, and the remaining text in Standard Blue; see Sub-clause 4.2. Reproduction, scaling, positioning, and so on, should follow the guidelines below.

To indicate membership of The Open Group, use the appropriate Member Logo detailed below.

3.2 The X Device

The "X Device" is the letter "X" written in the stylized script and enclosed in a circle of a different color as shown below:



The X Device may be used in the combined formats specified below, **but not in any other way.**

In abbreviated format: in circumstances where the Licensee is licensed to use the Brand Logo and wishes to use an abbreviated format. For example, where the Licensee wishes to reduce the amount of lettering displayed, the Licensee may use the X Device on its own, but only:

- In circumstances, and in locations, where the Licensee is already authorized to use a Brand Logo, and

- In conjunction with, and in close physical proximity to, an attribution (the Attribution) that identifies the Product Standard to which the Registered Product in question is registered.

The Attribution must be reasonably visible.

If the X Device is applied on its own:

- On software media, the relevant Attribution must be applied somewhere on the same media (for example, application of the Attribution to the packaging of the software would not be sufficient for this purpose)
- In a written document, the relevant Attribution must be used in the same part of the document, and it must be clear to the reader to which Registered Product the Attribution relates
- In an advertisement or display board, it must be clear to the reader to which Registered Product the Attribution relates.

3.3 The Open Group Member Logo

The Open Group members are authorized to use the appropriate Open Group Member logo in accordance with the rules in this Guide.

The logo **must not** be used in any way that might be construed as an endorsement of a product or service or an indication that it is a Registered Product. The logo must not be used in any way that may cause confusion or be misinterpreted by a reader.



The Open Group Member Logo should be reproduced preferably in full color using Standard Green and Standard Blue; see Sub-clause 4.2. The first element (The Open Group Corporate Logo) should be as described in Sub-clause 3.1 above, and the second element (Member Platinum, Member Gold, Member Silver) should be in Standard Green.

The original artwork should always be used unaltered. The Member Logo must appear horizontally, never angled. The Member Logo's minimum allowable size is 1.2 inches or 30 millimeters total width. The Member Logo may be used reversed out of another color, although care should be taken only to reverse it out of sympathetic colors, such as black or Standard Green.

3.4 The UNIX Trademark

There is no logo for the UNIX Trademark and, other than the need for the mark to always be

reproduced in capitals, no specific form is prescribed.

3.5 The Open Brand Logo

The Open Brand Logo ("Brand Logo") is the X Device and associated lines and text (the <Label>) reproduced in size and position relative to each other exactly as shown.

Use of the Brand Logo on and in connection with Registered Products is encouraged.

When the Open Brand Logo is used, the following requirements must be met:

- The <Label> must be in Helvetica Bold type face or its equivalent, in Standard Blue.
- A solid horizontal bar shall be above and below the <Label> with a thickness equivalent to 1/50th of the diameter of the circle. The bars are to be in solid color in Standard Green.
- The bars shall be the same width as the circle.
- The gap between the circle and the first bar shall be 1/7th of the diameter of the circle.
- The gap between the bars shall be 1/4th of the diameter of the circle.
- The height of the letters shall be in proportion (as shown).
- The "®" mark shall be positioned as shown.



The <Label> and bars may be repeated for each Product Standard to which the Product is registered in order to produce a composite. The labels should be used in the following order (from the top down): UNIX, BASE, CDE, SECURITY, followed by others as desired.



Color printing is the preferred form and is covered in Paragraph 4.2. It is acceptable to present the whole logo in black print.

Only a Licensee (or an authorized distributor of a Licensee) may use the Open Brand Logo and then only on or in relation to Registered Product.

The Open Brand Logo must always be accompanied by a Trademark attribution.

Set out below is a description of where and how the Open Brand Logo may appear on such items in accordance with the Agreement and this Guide.

3.6 Transition from a Previous Brand Logo

Where a Licensee is already using a previous version of the Brand Logo in respect of any Registered Product, the Licensee may continue such use in the short term. However, the Licensee should transition to use of the Brand Logo set out in Paragraph 3.5 above (in lieu of the previous Brand Logo) within a reasonable period of time.

3.7 Use of the Brand Logo on Hardware

The Licensee is permitted to use the Brand Logo displayed on the processor of a computer system when loaded with and executing a Registered Product solely for the purpose of display at trade shows and demonstrations. The Brand Logo must be removed from the processor if and when it passes out of the custody and control of the Licensee.

However, the Trademarks need not be removed from the processor when a Registered Product is embedded in a medium which cannot be removed from the processor, such as in the case of a computer in which the Registered Product is embedded in ROM which is part of the computer memory system.

3.8 Use of the Brand Logo with Combined Product

Use of the Trademarks on and in connection with Registered Products is encouraged.

Where a supplier bundles a Registered Product as part of a package, such as shipping of hardware with the Registered Product pre-loaded or when shipping a Registered Product bundled within or alongside another (software) product which is not registered the Licensee must:

- Use the Brand Logo only in direct association with the Registered Product
- Ensure that the use of the Brand Logo could not mislead a customer to believe that the mark applied to any non-registered products.

3.9 Use of the Brand Logo in Advertisements

All use of the Brand Logo in advertisements, display boards, promotional material, and product catalogues must be in relation to Registered Products. If an advertisement, document, or other material refers both to Registered Products and to non-Registered Products, the Brand Logo must not be used in such a way as to suggest that all the products being advertised are Registered Products.

3.10 Use of the Brand Logo on Software Products

The Licensee is permitted (and encouraged) to use the Brand Logo with Registered Product:

- On the packaging of the software and its media
- In manuals for the software
- On the log-in screen of a terminal with a graphics screen provided that if the system can display color on a graphics screen they must be rendered accurately in color. In the case of an alphanumeric screen, the Licensee is permitted to use the alternative forms of display on the log-in screen as follows: "The <product/range identifier> is an Open Brand Registered Product and complies with <the name of the Product Standard>".

The Licensee may use a translation of this statement where to do so would be compatible with the language used for the Registered Product.

4. Other Conditions for Use of Trademarks

4.1 Combination of Trademarks in Product Names

Despite the need to protect and preserve the rights associated with its Trademarks, X/Open Company recognizes the value to Licensees of associating the UNIX Trademark with their own marks in product names.

Licensees may combine the UNIX Trademark with their own trademarks as a product name, provided they seek prior approval by submitting the proposed combination including a sketch of the proposed use, if appropriate, to X/Open Company. X/Open Company may ask to review a proof of the final artwork.

Licensees may use the UNIX Trademark as part of the proper name of a product.

In making its decision, X/Open Company will take into account the following factors:

- The relative positioning of each trademark or name; having particular regard to their being no real or implied adverse connotations for either X/Open Company or UNIX and what X/Open Company, The Open Group, and the UNIX system stand for in the marketplace.
- The graphic including typographic design should ensure that the UNIX Trademark has at least equal prominence in any name combination and that there is no likelihood of confusion or compromise for the UNIX Trademark.
- 4 ProductMark UNIX is ABC Company's UNIX system product.

The Trademarks "X/Open" or "The Open Group" may not be used in a product name.

The License specifically prohibits Licensees of any Trademarks from registering with the relevant trademark authorities specific forms of the Trademarks including Trademarks used in combination.

4.2 Colors for Trademarks

The color references refer to the International Pantone Matching System for printing purposes. Whenever the colors blue or green are used in the Trademarks, they must be accurately matched to the standard.

Colors must never be applied to the Trademarks as a screen or a tint.

The standard colors are:

| | |
|----------------|----------|
| Standard Blue | PMS 3015 |
| Standard Green | PMS 3435 |

The four-color process derivation of the Standard Blue is: cyan 100%; magenta 23%; yellow 0%; black 18%. The four-color process derivation of the Standard Green is: cyan 100%; magenta 0%; yellow 79%; black 60%.

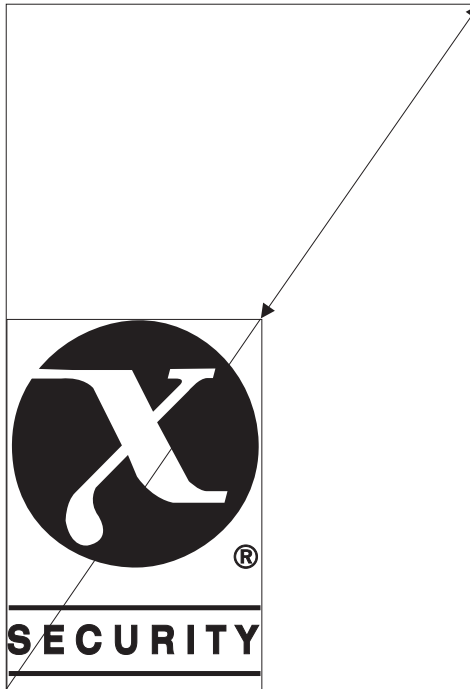
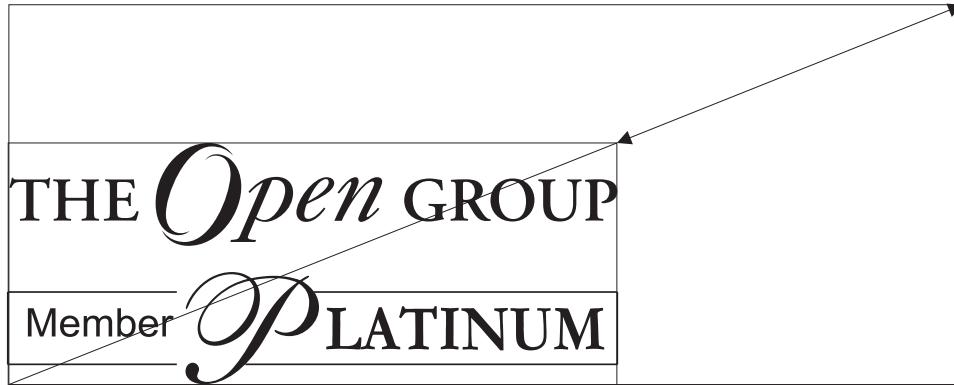
Color reproduction is preferred and should be applied where practicable.

The X Device and, where applicable, the lines above and below the <Label>, together with the ® must appear in Standard Green. No other color combinations are permissible. The "X" within the X Device must appear in white.

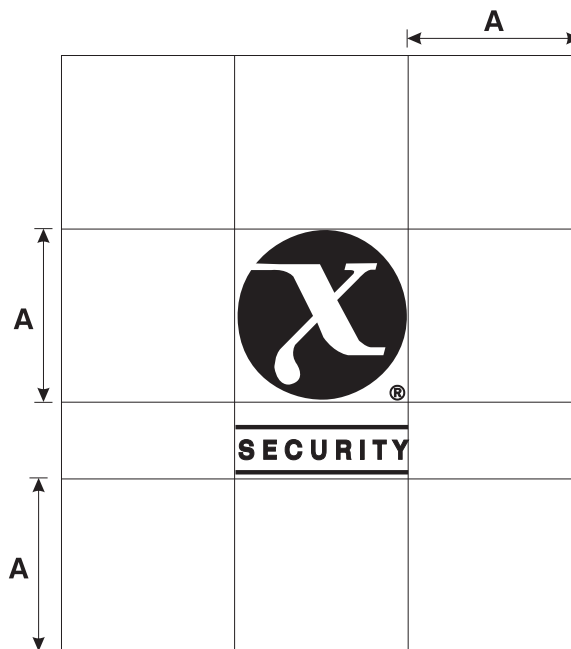
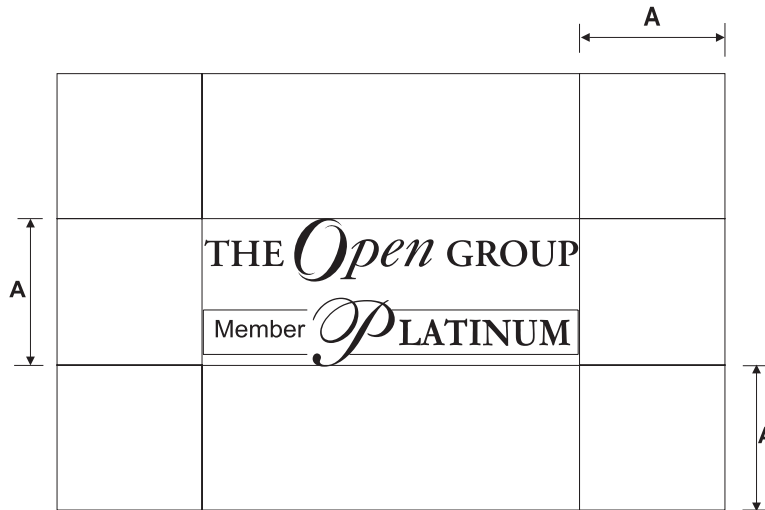
The specified PMS colors must be used in logo reproductions as far as the printing or rendering process allows.

4.3 General Conditions

The Brand Logos can be enlarged or reduced to any size you require, but the relative size and position of the elements must remain the same.



The Trademarks reproduced from the Artwork Reference Sheet (Paragraph 5) should stand alone and must always be surrounded by a generous amount of space. They must not be enclosed within a contrived shape or used as part of another symbol or name (except as prescribed in Paragraph 4.1 above). The diagrams below define the minimum amount of clear space to be left around the Brand Logo. A margin on all four sides of the logotype equal to dimension A on the diagrams must remain clear without interference from other written or graphic material.



The logos must not be juxtaposed to other symbols or text in such a way as to show a connection with them. Where the labels and bars are repeated, extra room should be allowed and the space below the logo shall always be equivalent to “A” in the diagram above.

For purposes of protecting the Trademarks and their registration, X/Open Company requests from Licensee a copy of the final published form of materials on which the Trademarks are used.

To change a logo beyond the provided dimensions, or for additional information contact X/Open Company by phone or electronic mail at trademarks@opengroup.org.

4.4 Positioning of Trademark Symbols

The Trademark symbols (® and ™) should be positioned to the right of the Trademark name as a superscript. Refer to the Artwork Reference Sheet for examples.

5. Artwork Reference Sheet

Below is the artwork for Brand Logos, The Open Group Corporate Logo, and The Open Group

Member Logo. These can be used as camera-ready artwork. Alternatively, you may obtain the logos on disks for either Apple Macintosh computers, or PCs in various graphic formats.

There is no logo for the UNIX Trademark and, other than the need for the mark to always be reproduced in capitals, no specific form is prescribed.

Note: The use of the Open Brand Logo is strictly controlled and it may only be used on and in connection with Registered Products registered under the terms and conditions of the Trademark License Agreement.

Corporate and Member Logos

THE *Open* GROUP

THE *Open* GROUP

Member *P*LATINUM

THE *Open* GROUP

Member *G*OLD

THE *Open* GROUP

Member *S*ILVER

Brand Logos (Examples)



UNIX



BASE



CDE



SECURITY



UNIX

CDE



UNIX

CDE

SECURITY
