

1. Introduction

1.1 This policy is intended to:

- (a) provide LIXI and the licensees of LIXI's Standards with increased certainty that Contributors to the Standards will not bring claims against LIXI or its licensees in connection with the use and licensing of the Standards; and
- (b) enable and assist LIXI to licence and enforce its Intellectual Property in the Standards.

1.2 In consideration for, among other things, LIXI granting the Contributor the right to participate in one or more Working Groups, the Contributor agrees on and from 1 January 2007, or such later date that the Contributor becomes a Contributor, to comply with this policy.

2. Limited Working Group Materials licence

2.1 Without limiting the terms of any other licence granted to the Contributor, LIXI grants the Contributor a non-exclusive licence to use the Working Group Materials solely for the purpose of participating in and contributing to the Working Groups of which the Contributor is a participant and only for so long as the Contributor is a participant of the relevant Working Group (**Working Group Licence**).

2.2 For the avoidance of doubt, the Working Group Licence does not entitle the Contributor to make any commercial use of any Standards or Working Group Materials but does entitle the Contributor to use the Working Group Materials for testing purposes in a commercial environment.

3. Contributor licence

3.1 The Contributor grants a perpetual, non-exclusive, royalty-free, worldwide licence to:

- (a) LIXI to Use Contributed Information for the Purpose; and
- (b) to each participant in a Working Group to use Contributed Information solely for the purposes of participating in and contributing to the Working Group and testing in a commercial environment, only for so long as that person is a participant in the relevant Working Group, and not for any commercial purpose,

(Contributor Licence).

3.2 LIXI may terminate the Contributor Licence immediately on written notice, in which case LIXI must immediately cease Using and request the Working Group participants to cease using the Contributed Information.

3.3 The Contributor acknowledges and agrees that the Contributor Licence may not be revoked by the Contributor and continues until terminated by LIXI in accordance with clause 3.2, regardless of whether the Contributor ceases to be a Contributor.

3.4 The Contributor may exploit all its rights in any Contributed Information, except in breach of this policy.

3.5 LIXI must not modify, translate, decompile, reverse engineer, disassemble, reproduce, disseminate or disclose Contributed Information except as provided in this policy or as permitted or required by non-excludable law, if applicable.

4. Intellectual Property

4.1 LIXI acknowledges that this policy does not transfer to it any right in the Contributed Information that is not expressly stated in this policy.

4.2 The Contributor warrants to LIXI and each other Contributor, and it is a condition of this policy, that the Contributed Information does not infringe the rights (including Intellectual Property) of any third party and that neither the granting nor exercise of the licence granted in clause 3.1 infringes any such rights.

4.3 Before the final publication of a Standard, and at any other time reasonably requested by LIXI, the Contributor must notify LIXI in writing of:

- (a) any Intellectual Property rights that the Contributor holds or is aware of that would be infringed by the Standard or its Use; and
- (b) the identity of the owner of those rights, if known.

4.4 Subject to clause 4.5, the Contributor:

- (a) acknowledges and agrees that all Standards and Intellectual Property in the Standards are the sole property of LIXI, whether created before or after the date of this policy;
- (b) hereby assigns to LIXI all present and future worldwide rights, title and interest it may otherwise have in the Standards (including Intellectual Property that is not notified by the Contributor in accordance with clause 4.5) and any causes of action with respect thereto;
- (c) must on LIXI's request do all things reasonably necessary to assist LIXI to enforce and secure registration of the Intellectual Property in the Standards at LIXI's reasonable cost, and must not apply for or assist any third party to apply for registration of any of those rights; and

- (d) must not bring any claim or proceedings against LIXI or its licensees on the grounds that the Standards or their use infringe the Contributor's Intellectual Property.

4.5 Clause 4.4 does not apply to the extent a Contributor notifies LIXI in writing that a Standard (or Draft of that Standard) incorporates specified Intellectual Property of the Contributor, either before or within 30 days after LIXI's first publication of the Standard (or the Draft of that Standard) that allegedly incorporates the Intellectual Property, unless it is subsequently determined that the Standard does not incorporate the specified Intellectual Property of the Contributor.

5. Moral Rights

5.1 The Contributor:

- (a) hereby consents to LIXI:
 - (i) omitting to attribute authorship;
 - (ii) attributing authorship to LIXI rather than to any specific individual Contributor;
 - (iii) omitting to maintain its integrity of authorship; and
 - (iv) engaging in any other conduct that would otherwise infringe its Moral Rights,

in connection with the Contributed Information, Working Group Materials or Standards, for the Purpose, and whether before or after the date of the consent; and

- (b) warrants and agrees that it holds or will procure a written consent to engage in the conduct referred to in clause 5.1(a) and a written assignment on the terms in clause 4.4(b), from all the Contributor's Personnel who have contributed or will contribute to the Contributed Information, Working Group Materials or Standards,

for the benefit of LIXI and its successors, assigns and licensees.

5.2 LIXI may, but is under no obligation to, publish or otherwise acknowledge the name of any Contributor or Contributor's Personnel who contribute to a Working Group or the development of a Standard, in such manner as LIXI determines in its sole discretion.

6. Confidentiality

6.1 The Contributor warrants and it is a condition of this policy that the Contributed Information does not contain any confidential information and that the Use of the Contributed Information for the Purpose will not breach any obligation of confidentiality owed to or by the Contributor.

7. LIXI Trade Marks

Contributors who are Members may state that they are LIXI Members in marketing and promotional material but a Contributor must not:

- (a) use the word LIXI or LIXI's logo as a part of the Contributor's name or logo or product name or logo; or
- (b) otherwise use the word LIXI or LIXI's logo without LIXI's prior written consent or represent that its products or services have a relationship with or approval by LIXI that they do not have.

8. Contributor's obligations

8.1 The Contributor must:

- (a) comply with all Laws in connection with this policy;
- (b) not use, modify, translate, decompile, reverse engineer, disassemble, reproduce, disseminate, disclose or create works derived from the Working Group Materials or Standards except as provided in this policy or as permitted by non-excludable law, if applicable; and
- (c) indemnify LIXI and its Personnel and keep them indemnified, from and against all claims, losses, costs, expenses, liabilities and damages sustained or incurred by them in connection with the Contributor's participation in or contributions to any Working Group, use of the Working Group Materials or Standards, breach of this policy, violation of any Law or infringement of another's rights.

9. Warranties

9.1 LIXI does not warrant:

- (a) title in or the performance, accuracy or reliability of the Working Group Materials or Standards;
- (b) that the Working Group Materials or Standards comply with any particular Laws or do not infringe the rights of any third party; or
- (c) that the Working Group Materials or Standards will be suitable for the Contributor's purpose.

9.2 Subject only to any implied warranties that cannot legally be excluded, LIXI makes no other warranties, either express or implied, as to any matter whatsoever, including the merchantability or the fitness for any particular use of the Working Group Materials or Standards. Clause 10.1 applies to non-excludable warranties, to the extent applicable.

9.3 This clause 9 applies only to the maximum extent permitted by law.

10. Limitation of liability

10.1 If any Act implies in this policy any term, condition or warranty that cannot lawfully be excluded, that term, condition or warranty is deemed to be included in this policy. However, LIXI's liability for a breach of the applicable term, condition or warranty is, to the maximum extent permitted by law, limited to any one or more of the following, at LIXI's option:

- (a) if the breach relates to goods:
 - (i) the replacement of the goods or the supply of equivalent goods;
 - (ii) the repair of the goods;
 - (iii) the payment of the cost of replacing the goods or of acquiring equivalent goods; or
 - (iv) the payment of the cost of having the goods repaired; or
- (b) if the breach relates to services:
 - (i) the supplying of the services again; or
 - (ii) the payment of the cost of having the services supplied again.

10.2 Subject to clause 10.1 and to the maximum extent permitted by law, LIXI has no liability to the Contributor for any Loss, however caused (including by breach of contract, negligence or breach of statute), which is suffered or incurred in connection with or relating to this policy, the Working Group Materials, Standards or otherwise arising out of the relationship between the parties regardless of whether LIXI was aware or ought to have been aware of the possibility of such Loss.

11. Termination

11.1 Any rights granted to the Contributor under this policy are terminated immediately upon the Contributor ceasing to be a Contributor.

11.2 Upon termination of the rights granted to the Contributor under this policy, the Contributor must promptly destroy or return to LIXI all copies of the Working Group Materials, at LIXI's option, and return all confidential information and other property of LIXI held by it.

11.3 Clauses 3-6 and 8-13 survive any such termination.

12. General

12.1 The Contributor acknowledges that LIXI and the other Contributors are relying on the Contributor complying with the terms of this policy and that LIXI and the other Contributors may enforce the provisions of this policy jointly or independently.

12.2 LIXI may transfer and sub-licence its rights and obligations under this policy.

12.3 This policy is governed by and construed under the law in the State of New South Wales and each party hereby irrevocably, generally and unconditionally submits to the non-exclusive jurisdiction of any court with jurisdiction in that State, in relation to both itself and its property.

12.4 LIXI may amend this policy at any time on no less than 60 days prior written notice or such lesser notice where the amendment is to the benefit of the Contributor.

12.5 Any indemnity given by any party under this policy constitutes a liability of that party separate and independent from any other liability of that party under this policy or any other agreement.

12.6 Any failure by any party to exercise any right under this policy does not operate as a waiver and the single or partial exercise of any right by that party does not preclude any other or further exercise of that or any other right by that party.

12.7 Any provision of this policy which is invalid in any jurisdiction is invalid in that jurisdiction to that extent, without invalidating or affecting the remaining provisions of this policy or the validity of that provision in any other jurisdiction.

13. Definitions and interpretation

13.1 In this policy, unless the context requires otherwise:

Consequential Loss means any indirect, incidental, special or consequential loss, loss of business profits, business interruption, loss of business information (including computer data), loss of business (whether or not caused by LIXI's negligence), loss of goodwill or loss due to delay;

Contributed Information means all materials in whatever form, including technical designs, drawings, documentation and information developed or acquired by the Contributor and provided to LIXI, including to a Working Group, at any time in connection with the Purpose;

Contributor means a Member and any other person who is a participant in a Working Group;

Draft means a draft of a Standard that has not been ratified by LIXI;

Intellectual Property means:

(a) any commercial information, industrial or intellectual property (whether in material form or not) or rights of a proprietary nature, including without limitation:

- (i) any copyright, invention, patent, design, trade mark, service mark, domain name, semiconductor, idea, confidential information, trade secret, know-how, database; or

- (ii) any rights protected or recognised under any laws anywhere in the world related to the above or any similar laws; and
- (b) any thing (whether in material form or not) copied or derived from the above property or rights;

Laws means laws, regulations, codes or industry standards;

LIXI means LIXI Limited ABN 53 095 299 835;

Loss means claims, losses, costs, expenses, liabilities and damages (including Consequential Loss and legal costs and disbursements on a solicitor and own client basis) sustained or incurred, whether directly or indirectly or consequentially or in any other way;

Member means a financial member of LIXI;

Personnel means officers, employees, contractors and agents;

Purpose means the development, ratification, marketing, promotion, licensing, distribution, maintaining, review and updating of the Standards and all associated activities;

Schema means any data schema, definition, structure, methodology or ontology, or other manner used to standardise the collection, preparation, storage or exchange of data within or between systems or applications, including application programming interfaces and messaging standards;

Standards means the individual Schema ratified by LIXI, together with any supporting documentation LIXI may supply to Contributors or licensees of the Standards from time to time such as user guides, requirements documents or discussion documents;

Use means to use, publish, licence, copy, modify, adapt, distribute and otherwise exploit;

Working Group Materials means materials made available to a Working Group by LIXI, which may include one or more Standards or Draft Standards; and

Working Group means a group established by LIXI for one or more Purposes.

- (d) where a word or phrase is defined its other grammatical forms have a corresponding meaning;
- (e) any reference to a party to this policy includes its successors and permitted assigns; and
- (f) the use of the word **includes** or **including** is not to be taken as limiting the meaning of the words preceding it.

13.2 In this policy, unless the context requires otherwise:

- (a) clause and subclause headings are for reference purposes only;
- (b) the singular includes the plural and vice versa;
- (c) reference to a person includes any other entity recognised by law and vice versa;

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