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Version 2.1, February 1999

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3.4. Intellectual Property Matters

a. Third Party Claims

IF CONTRIBUTOR HAS KNOWLEDGE THAT A LICENSE UNDER A THIRD PARTY'S INTELLECTUAL PROPERTY RIGHTS IS REQUIRED TO EXERCISE THE RIGHTS GRANTED BY SUCH CONTRIBUTOR UNDER SECTIONS 2.1 OR 2.2, CONTRIBUTOR MUST INCLUDE A TEXT FILE WITH THE SOURCE CODE DISTRIBUTION TITLED "LEGAL" WHICH DESCRIBES THE CLAIM AND THE PARTY MAKING THE CLAIM IN SUFFICIENT DETAIL THAT A RECIPIENT WILL KNOW WHOM TO CONTACT. IF CONTRIBUTOR OBTAINS SUCH KNOWLEDGE AFTER THE MODIFICATION IS MADE AVAILABLE AS DESCRIBED IN SECTION 3.2, CONTRIBUTOR SHALL PROMPTLY MODIFY THE LEGAL FILE IN ALL COPIES CONTRIBUTOR MAKES AVAILABLE THEREAFTER AND SHALL TAKE OTHER STEPS (SUCH AS NOTIFYING APPROPRIATE MAILING LISTS OR NEWSGROUPS) REASONABLY CALCULATED TO INFORM THOSE WHO RECEIVED THE COVERED CODE THAT NEW KNOWLEDGE HAS BEEN OBTAINED.

b. Contributor APIs

IF CONTRIBUTOR'S MODIFICATIONS INCLUDE AN APPLICATION PROGRAMMING INTERFACE AND CONTRIBUTOR HAS KNOWLEDGE OF PATENT LICENSES WHICH ARE REASONABLY NECESSARY TO IMPLEMENT THAT API, CONTRIBUTOR MUST ALSO INCLUDE THIS INFORMATION IN THE LEGAL FILE.

c. Representations.

CONTRIBUTOR REPRESENTS THAT, EXCEPT AS DISCLOSED PURSUANT TO SECTION 3.4 (A) ABOVE, CONTRIBUTOR BELIEVES THAT CONTRIBUTOR'S MODIFICATIONS ARE CONTRIBUTOR'S ORIGINAL CREATION(S) AND/OR CONTRIBUTOR HAS SUFFICIENT RIGHTS TO GRANT THE RIGHTS CONVEYED BY THIS LICENSE.

3.5. Required Notices

YOU MUST DUPLICATE THE NOTICE IN EXHIBIT A IN EACH FILE OF THE SOURCE CODE. IF IT IS NOT POSSIBLE TO PUT SUCH NOTICE IN A PARTICULAR SOURCE CODE FILE DUE TO ITS STRUCTURE, THEN YOU MUST INCLUDE SUCH NOTICE IN A LOCATION (SUCH AS A RELEVANT DIRECTORY) WHERE A USER WOULD BE LIKELY TO LOOK FOR SUCH A NOTICE. IF YOU CREATED ONE OR MORE MODIFICATION(S) YOU MAY ADD YOUR NAME AS A CONTRIBUTOR TO THE NOTICE DESCRIBED IN EXHIBIT A. YOU MUST ALSO DUPLICATE THIS LICENSE IN ANY DOCUMENTATION FOR THE SOURCE CODE WHERE YOU DESCRIBE RECIPIENTS' RIGHTS OR OWNERSHIP RIGHTS RELATING TO COVERED CODE. YOU MAY CHOOSE TO OFFER, AND TO CHARGE A FEE FOR, WARRANTY, SUPPORT, INDEMNITY OR LIABILITY OBLIGATIONS TO ONE OR MORE RECIPIENTS OF COVERED CODE. HOWEVER, YOU MAY DO SO ONLY ON YOUR OWN BEHALF, AND NOT ON BEHALF OF THE INITIAL DEVELOPER OR ANY CONTRIBUTOR. YOU MUST MAKE IT ABSOLUTELY CLEAR THAN ANY SUCH WARRANTY, SUPPORT, INDEMNITY OR LIABILITY OBLIGATION IS OFFERED BY YOU ALONE, AND YOU HEREBY AGREE TO INDEMNIFY THE INITIAL DEVELOPER AND EVERY CONTRIBUTOR FOR ANY LIABILITY INCURRED BY THE INITIAL DEVELOPER OR SUCH CONTRIBUTOR AS A RESULT OF WARRANTY, SUPPORT, INDEMNITY OR LIABILITY TERMS YOU OFFER.

3.6. Distribution of Executable Versions

YOU MAY DISTRIBUTE OR OTHERWISE MAKE AVAILABLE COVERED CODE IN EXECUTABLE FORM ONLY IF THE REQUIREMENTS OF SECTIONS 3.1, 3.2, 3.3, 3.4 AND 3.5 HAVE BEEN MET FOR THAT COVERED CODE, AND IF YOU INCLUDE A NOTICE STATING THAT THE SOURCE CODE VERSION OF THE COVERED CODE IS AVAILABLE UNDER THE TERMS OF THIS LICENSE, INCLUDING A DESCRIPTION OF HOW AND WHERE YOU HAVE FULFILLED THE OBLIGATIONS OF SECTION 3.2. THE NOTICE MUST BE CONSPICUOUSLY INCLUDED IN ANY NOTICE IN AN EXECUTABLE VERSION, RELATED DOCUMENTATION OR COLLATERAL IN WHICH YOU DESCRIBE RECIPIENTS' RIGHTS RELATING TO THE COVERED CODE. YOU MAY DISTRIBUTE OR OTHERWISE MAKE AVAILABLE THE EXECUTABLE VERSION OF COVERED CODE OR OWNERSHIP RIGHTS UNDER A LICENSE OF YOUR CHOICE, WHICH MAY CONTAIN TERMS DIFFERENT FROM THIS LICENSE, PROVIDED THAT YOU ARE IN COMPLIANCE WITH THE TERMS OF THIS LICENSE AND THAT THE LICENSE FOR THE EXECUTABLE VERSION DOES NOT ATTEMPT TO LIMIT OR ALTER THE RECIPIENT'S RIGHTS IN THE SOURCE CODE VERSION FROM THE RIGHTS SET FORTH IN THIS LICENSE. IF YOU DISTRIBUTE OR OTHERWISE MAKE AVAILABLE THE EXECUTABLE VERSION UNDER A DIFFERENT LICENSE YOU MUST MAKE IT ABSOLUTELY CLEAR THAT ANY TERMS WHICH DIFFER FROM THIS LICENSE ARE OFFERED BY YOU ALONE, NOT BY THE INITIAL DEVELOPER OR ANY CONTRIBUTOR. YOU HEREBY AGREE TO INDEMNIFY THE INITIAL DEVELOPER AND EVERY CONTRIBUTOR FOR ANY LIABILITY INCURRED BY THE INITIAL DEVELOPER OR SUCH CONTRIBUTOR AS A RESULT OF ANY SUCH TERMS YOU OFFER.

3.7. Larger Works

YOU MAY CREATE A LARGER WORK BY COMBINING COVERED CODE WITH OTHER CODE NOT GOVERNED BY THE TERMS OF THIS LICENSE AND DISTRIBUTE OR OTHERWISE MAKE AVAILABLE THE LARGER WORK AS A SINGLE PRODUCT. IN SUCH A CASE, YOU MUST MAKE SURE THE REQUIREMENTS OF THIS LICENSE ARE FULFILLED FOR THE COVERED CODE.

4. Inability to Comply Due to Statute or Regulation

IF IT IS IMPOSSIBLE FOR YOU TO COMPLY WITH ANY OF THE TERMS OF THIS LICENSE WITH RESPECT TO SOME OR ALL OF THE COVERED CODE DUE TO STATUTE, JUDICIAL ORDER, OR REGULATION THEN YOU MUST: (A) COMPLY WITH THE TERMS OF THIS LICENSE TO THE MAXIMUM EXTENT POSSIBLE; AND (B) DESCRIBE THE LIMITATIONS AND THE CODE THEY AFFECT. SUCH DESCRIPTION MUST BE INCLUDED IN THE LEGAL FILE DESCRIBED IN SECTION 3.4 AND MUST BE INCLUDED WITH ALL DISTRIBUTIONS OF THE SOURCE CODE. EXCEPT TO THE EXTENT PROHIBITED BY STATUTE OR REGULATION, SUCH DESCRIPTION MUST BE SUFFICIENTLY DETAILED FOR A RECIPIENT OF ORDINARY SKILL TO BE ABLE TO UNDERSTAND IT.

5. Application of this License

THIS LICENSE APPLIES TO CODE TO WHICH THE INITIAL DEVELOPER HAS ATTACHED THE NOTICE IN EXHIBIT A AND TO RELATED COVERED CODE.

6. Versions of the License

6.1. New Versions

TERRACOTTA, INC. ("TERRACOTTA") MAY PUBLISH REVISED AND/OR NEW VERSIONS OF THE LICENSE FROM TIME TO TIME. EACH VERSION WILL BE GIVEN A DISTINGUISHING VERSION NUMBER.

6.2. Effect of New Versions

ONCE COVERED CODE HAS BEEN PUBLISHED UNDER A PARTICULAR VERSION OF THE LICENSE, YOU MAY ALWAYS CONTINUE TO USE IT UNDER THE TERMS OF THAT VERSION. YOU MAY ALSO CHOOSE TO USE SUCH COVERED CODE UNDER THE TERMS OF ANY SUBSEQUENT VERSION OF THE LICENSE PUBLISHED BY TERRACOTTA. NO ONE OTHER THAN TERRACOTTA HAS THE RIGHT TO MODIFY THE TERMS APPLICABLE TO COVERED CODE CREATED UNDER THIS LICENSE.

6.3. Derivative Works of License; Antecedent Licenses

IF YOU CREATE OR USE A MODIFIED VERSION OF THIS LICENSE (WHICH YOU MAY ONLY DO IN ORDER TO APPLY IT TO CODE WHICH IS NOT ALREADY COVERED CODE GOVERNED BY THIS LICENSE), YOU MUST

- A. RENAME YOUR LICENSE SO THAT THE PHRASES "TERRACOTTA", "TPL", OR ANY CONFUSINGLY SIMILAR PHRASE DO NOT APPEAR IN YOUR LICENSE (EXCEPT TO NOTE THAT YOUR LICENSE DIFFERS FROM THIS LICENSE) AND
- B. OTHERWISE MAKE IT CLEAR THAT YOUR VERSION OF THE LICENSE CONTAINS TERMS WHICH DIFFER FROM THE TERRACOTTA PUBLIC LICENSE. (FILLING IN THE NAME OF THE INITIAL DEVELOPER, ORIGINAL CODE OR CONTRIBUTOR IN THE NOTICE DESCRIBED IN EXHIBIT A SHALL NOT OF THEMSELVES BE DEEMED TO BE MODIFICATIONS OF THIS LICENSE.)

THIS TERRACOTTA PUBLIC LICENSE (TPL) IS SIMILAR TO, AND CONTAINS SAMPLES FROM, THE MOZILLA PUBLIC LICENSE (MPL) AND THE COMMON DEVELOPMENT AND DISTRIBUTION LICENSE (CDDL). HOWEVER, THIS TPL CONTAINS TERMS WHICH DIFFER FROM THOSE CONTAINED IN THE MPL AND THE CDDL.

7. Disclaimer of Warranty

COVERED CODE IS PROVIDED UNDER THIS LICENSE ON AN "AS IS" BASIS, WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES THAT THE COVERED CODE IS FREE OF DEFECTS,

MERCHANTABLE, FIT FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF THE COVERED CODE IS WITH YOU. SHOULD ANY COVERED CODE PROVE DEFECTIVE IN ANY RESPECT, YOU (NOT THE INITIAL DEVELOPER OR ANY OTHER CONTRIBUTOR) ASSUME THE COST OF ANY NECESSARY SERVICING, REPAIR OR CORRECTION. THIS DISCLAIMER OF WARRANTY CONSTITUTES AN ESSENTIAL PART OF THIS LICENSE. NO USE OF ANY COVERED CODE IS AUTHORIZED HEREUNDER EXCEPT UNDER THIS DISCLAIMER.

8. Termination

8.1. THIS LICENSE AND THE RIGHTS GRANTED HEREUNDER WILL TERMINATE AUTOMATICALLY IF YOU FAIL TO COMPLY WITH TERMS HEREIN AND FAIL TO CURE SUCH BREACH WITHIN 30 DAYS OF BECOMING AWARE OF THE BREACH. ALL SUBLICENSES TO THE COVERED CODE WHICH ARE PROPERLY GRANTED SHALL SURVIVE ANY TERMINATION OF THIS LICENSE. PROVISIONS WHICH, BY THEIR NATURE, MUST REMAIN IN EFFECT BEYOND THE TERMINATION OF THIS LICENSE SHALL SURVIVE.

8.2. IF YOU INITIATE LITIGATION BY ASSERTING A PATENT INFRINGEMENT CLAIM (EXCLUDING DECLARATORY JUDGMENT ACTIONS) AGAINST INITIAL DEVELOPER OR A CONTRIBUTOR (THE INITIAL DEVELOPER OR CONTRIBUTOR AGAINST WHOM YOU FILE SUCH ACTION IS REFERRED TO AS "PARTICIPANT") ALLEGING THAT:

a. such Participant's Contributor Version directly or indirectly infringes any patent, then any and all rights granted by such Participant to You under Sections 2.1 and/or 2.2 of this License shall, upon 60 days notice from Participant terminate prospectively, unless if within 60 days after receipt of notice You either:

1. agree in writing to pay Participant a mutually agreeable reasonable royalty for Your past and future use of Modifications made by such Participant, or
2. withdraw Your litigation claim with respect to the Contributor Version against such Participant.

If within 60 days of notice, a reasonable royalty and payment arrangement are not mutually agreed upon in writing by the parties or the litigation claim is not withdrawn, the rights granted by Participant to You under Sections 2.1 and/or 2.2 automatically terminate at the expiration of the 60 day notice period specified above.

b. any software, hardware, or device, other than such Participant's Contributor Version, directly or indirectly infringes any patent, then any rights granted to You by such Participant under Sections 2.1(b) and 2.2(b) are revoked effective as of the date You first made, used, sold, distributed, or had made, Modifications made by that Participant.

8.3. IF YOU ASSERT A PATENT INFRINGEMENT CLAIM AGAINST PARTICIPANT ALLEGING THAT SUCH PARTICIPANT'S CONTRIBUTOR VERSION DIRECTLY OR INDIRECTLY INFRINGES ANY PATENT WHERE SUCH CLAIM IS RESOLVED (SUCH AS BY LICENSE OR SETTLEMENT) PRIOR TO THE INITIATION OF PATENT INFRINGEMENT LITIGATION, THEN THE REASONABLE VALUE OF THE LICENSES GRANTED BY SUCH PARTICIPANT UNDER SECTIONS 2.1 OR 2.2 SHALL BE TAKEN INTO ACCOUNT IN DETERMINING THE AMOUNT OR VALUE OF ANY PAYMENT OR LICENSE.

8.4. IN THE EVENT OF TERMINATION UNDER SECTIONS 8.1 OR 8.2 ABOVE, ALL END USER LICENSE AGREEMENTS (EXCLUDING DISTRIBUTORS AND RESELLERS) WHICH HAVE BEEN VALIDLY GRANTED BY YOU OR ANY DISTRIBUTOR HEREUNDER PRIOR TO TERMINATION SHALL SURVIVE TERMINATION.

9. Limitation of Liability

UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, WHETHER TORT (INCLUDING NEGLIGENCE), CONTRACT, OR OTHERWISE, SHALL YOU, THE INITIAL DEVELOPER, ANY OTHER CONTRIBUTOR, OR ANY DISTRIBUTOR OF COVERED CODE, OR ANY SUPPLIER OF ANY OF SUCH PARTIES, BE LIABLE TO ANY PERSON FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, LOSS OF GOODWILL, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION, OR ANY AND ALL OTHER COMMERCIAL DAMAGES OR LOSSES, EVEN IF SUCH PARTY SHALL HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF LIABILITY SHALL NOT APPLY TO LIABILITY FOR

DEATH OR PERSONAL INJURY RESULTING FROM SUCH PARTY'S NEGLIGENCE TO THE EXTENT APPLICABLE LAW PROHIBITS SUCH LIMITATION. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THIS EXCLUSION AND LIMITATION MAY NOT APPLY TO YOU.

10. U.S. Government End Users

THE COVERED CODE IS A "COMMERCIAL ITEM," AS THAT TERM IS DEFINED IN 48 C.F.R. 2.101 (OCT. 1995), CONSISTING OF "COMMERCIAL COMPUTER SOFTWARE" AND "COMMERCIAL COMPUTER SOFTWARE DOCUMENTATION," AS SUCH TERMS ARE USED IN 48 C.F.R. 12.212 (SEPT. 1995). CONSISTENT WITH 48 C.F.R. 12.212 AND 48 C.F.R. 227.7202-1 THROUGH 227.7202-4 (JUNE 1995), ALL U.S. GOVERNMENT END USERS ACQUIRE COVERED CODE WITH ONLY THOSE RIGHTS SET FORTH HEREIN.

11. Miscellaneous

THIS LICENSE REPRESENTS THE COMPLETE AGREEMENT CONCERNING SUBJECT MATTER HEREOF. IF ANY PROVISION OF THIS LICENSE IS HELD TO BE UNENFORCEABLE, SUCH PROVISION SHALL BE REFORMED ONLY TO THE EXTENT NECESSARY TO MAKE IT ENFORCEABLE. THIS LICENSE SHALL BE GOVERNED BY CALIFORNIA LAW PROVISIONS (EXCEPT TO THE EXTENT APPLICABLE LAW, IF ANY, PROVIDES OTHERWISE), EXCLUDING ITS CONFLICT-OF-LAW PROVISIONS. WITH RESPECT TO DISPUTES IN WHICH AT LEAST ONE PARTY IS A CITIZEN OF, OR AN ENTITY CHARTERED OR REGISTERED TO DO BUSINESS IN THE UNITED STATES OF AMERICA, ANY LITIGATION RELATING TO THIS LICENSE SHALL BE SUBJECT TO THE JURISDICTION OF THE FEDERAL COURTS OF THE NORTHERN DISTRICT OF CALIFORNIA, WITH VENUE LYING IN SANTA CLARA COUNTY, CALIFORNIA, WITH THE LOSING PARTY RESPONSIBLE FOR COSTS, INCLUDING WITHOUT LIMITATION, COURT COSTS AND REASONABLE ATTORNEYS' FEES AND EXPENSES. THE APPLICATION OF THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS IS EXPRESSLY EXCLUDED. ANY LAW OR REGULATION WHICH PROVIDES THAT THE LANGUAGE OF A CONTRACT SHALL BE CONSTRUED AGAINST THE DRAFTER SHALL NOT APPLY TO THIS LICENSE. YOU AGREE THAT YOU ALONE ARE RESPONSIBLE FOR COMPLIANCE WITH THE UNITED STATES EXPORT ADMINISTRATION REGULATIONS (AND THE EXPORT CONTROL LAWS AND REGULATIONS OF ANY OTHER COUNTRIES) WHEN YOU USE, DISTRIBUTE, OR OTHERWISE MAKE AVAILABLE ANY COVERED CODE.

12. Responsibility for Claims

AS BETWEEN INITIAL DEVELOPER AND THE CONTRIBUTORS, EACH PARTY IS RESPONSIBLE FOR CLAIMS AND DAMAGES ARISING, DIRECTLY OR INDIRECTLY, OUT OF ITS UTILIZATION OF RIGHTS UNDER THIS LICENSE AND YOU AGREE TO WORK WITH INITIAL DEVELOPER AND CONTRIBUTORS TO DISTRIBUTE SUCH RESPONSIBILITY ON AN EQUITABLE BASIS. NOTHING HEREIN IS INTENDED OR SHALL BE DEEMED TO CONSTITUTE ANY ADMISSION OF LIABILITY.

13. Multiple-Licensed Code

INITIAL DEVELOPER MAY DESIGNATE PORTIONS OF THE COVERED CODE AS "MULTIPLE-LICENSED". "MULTIPLE-LICENSED" MEANS THAT THE INITIAL DEVELOPER PERMITS YOU TO UTILIZE PORTIONS OF THE COVERED CODE UNDER YOUR CHOICE OF THE TPL OR THE ALTERNATIVE LICENSES, IF ANY, SPECIFIED BY THE INITIAL DEVELOPER IN THE FILE DESCRIBED IN EXHIBIT A.

14. Certain Attribution Requirements

THIS LICENSE DOES NOT GRANT ANY LICENSE OR RIGHTS TO USE THE TRADEMARKS "TERRACOTTA," ANY "TERRACOTTA" LOGOS, OR ANY OTHER TRADEMARKS OF TERRACOTTA, INC.

HOWEVER, IN ADDITION TO THE OTHER NOTICE OBLIGATIONS, ALL COPIES OF THE COVERED CODE IN EXECUTABLE AND SOURCE CODE FORM DISTRIBUTED OR OTHERWISE MADE AVAILABLE MUST, AS A FORM OF ATTRIBUTION OF THE INITIAL DEVELOPER, INCLUDE ON EACH USER INTERFACE SCREEN (I) THE COPYRIGHT NOTICE IN THE SAME FORM AS THE LATEST VERSION OF THE COVERED CODE DISTRIBUTED OR OTHERWISE MADE AVAILABLE BY TERRACOTTA, INC. AT THE TIME OF DISTRIBUTION OR MAKING AVAILABLE OF SUCH COPY AND (II) THE FOLLOWING TEXT, WHICH MUST BE LARGE ENOUGH SO THAT IT CAN BE READ EASILY: "POWERED BY TERRACOTTA". THE COPYRIGHT NOTICE AND TEXT MUST BE VISIBLE TO ALL USERS AND BE LOCATED AT THE VERY BOTTOM AND IN THE CENTER OF EACH USER INTERFACE SCREEN. THE WORD "TERRACOTTA" MUST BE A HYPERLINK, SO THAT WHEN ANY USER ACTIVATES THE LINK (E.G., BY CLICKING ON IT WITH A MOUSE), THE USER WILL BE DIRECTED TO [HTTP://WWW.TERRACOTTA.ORG](http://www.terracotta.org).

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Packages that use this license: (dom4j: flexible XML framework for Java 1.6.1-brew)

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