

## **Intellectual Property Rights Policy of the Electronic Commerce Code Management Association Adopted February 2, 2015**

The Electronic Commerce Code Management Association (“ECCMA”) Intellectual Property Rights Policy (“IPR Policy”) is intended to encourage collaboration in the development and adoption of its products and Deliverables. This policy sets forth ECCMA’s requirements regarding the disclosure and licensing of intellectual property rights in regard to the development and implementation of ECCMA products by participants and association members.

### **INTRODUCTION**

The ECCMA Intellectual Property Rights (IPR) Policy governs the treatment of intellectual property in the development and publication of deliverables by ECCMA.

This Policy applies to all members of ECCMA as well as any observer or participant in a working session of ECCMA committees and workgroups, making formal or informal written contributions, or participating in meetings in person, by telephone, Internet, or e-mail. ECCMA may amend this Policy at any time in its sole discretion. In the event of such change to this Policy, ECCMA will provide instructions for transition of membership and Committees to the new Policy; however, no amendment to this Policy will be effective in less than 60 calendar days from the date that written notice of such amendment posted on the ECCMA website.

### **OWNERSHIP**

ECCMA owns all documents, publications, and other works created by ECCMA including, without limitation, the ECCMA products and Deliverables (collectively, “ECCMA Products”) and any and all copyrights therein, subject only to the ECCMA License granted by Participants in Section 4 below. All final published ECCMA Deliverables will include an “End User License” in substantially the form attached as Appendix A to this policy setting forth the terms for the use of the ECCMA Product by an “End User”. “End User” means an individual or organization who makes, has made, uses, distributes, sells, offers for sale, imports, modifies, reproduces, publishes, publicly performs, displays, or makes derivative works of a product or service using or that is compliant with an ECCMA Products.

### **DEFINITIONS**

For purposes of this IPR Policy, the following capitalized terms have the meanings given the terms below. All other capitalized terms have the meanings given them elsewhere in this End User License.

1. **“End User”** means an individual or organization who makes, has made, uses, distributes, sells, offers for sale, imports, modifies, reproduces, publishes, publicly performs, displays, or makes derivative works of a product or service using or that is compliant with a ECCMA Deliverable.
2. **“ECCMA”** is the Electronic Commerce Code Management Association.

3. **“ECCMA Deliverable”** is any ECCMA product, service, dictionary, template or publication including whitepapers, newsletters and articles developed through ECCMA’s open, consensual process in which all identifiable ECCMA constituents and stakeholders have been invited to participate.
4. **“Participant”** means an organization who agreed to grant, or who has been deemed to have agreed to grant, the Royalty-Free License (as defined below) with respect to this ECCMA Deliverable pursuant to ECCMA’s IPR Policy, a copy of which is available for reference at [www.ECCMA.org](http://www.ECCMA.org).
5. **“Contribution”** is any content such as but not limited to: document template, terminology, program code, images or other media or machine readable data of any kind and in any format submitted by an individual or organization to an ECCMA service, product, working group or committee by that participant in writing, electronically, or verbally, whether in an in-person meeting or any teleconference and is or was proposed for inclusion in an ECCMA Deliverable.
6. **“Implementing Technology”** is a technology that implements an ECCMA Deliverable.
7. **“Covers” or “Covered”** mean that a valid claim of a patent or a patent application in any jurisdiction or protected claim, or any other Intellectual Property Right, would necessarily be infringed by the exercise of a right (e.g., making, using, selling, importing, distribution, copying, etc.) with respect to an Implementing Technology. For purposes of this definition, “valid claim” means a claim of any unexpired patent or patent application which shall not have been withdrawn, cancelled or disclaimed, nor held invalid by a court of competent jurisdiction in an unappealed or unappealable decision.
8. **“IPR” or “Intellectual Property Rights”** means patent, copyright, trade secret, utility model, invention registration, database and data rights that may Cover an Implementing Technology, whether such rights arise from a registration or renewal thereof, or an application therefore, in each case anywhere in the world.
9. **“Patent”** is a government-granted monopoly on the use of an invention. “Design patents” are granted for original designs of articles of manufacture; “utility patents” are granted for inventions. A patent consists of “the right to exclude others from making, using, offering for sale, or sell” the invention.

## **Declarations**

A patent holder answering a call for patents at any stage in the Deliverables process should fill out and sign the Declaration. The decision to license, the terms of the license, and even the decision to use and/or forward the form, must be the patent holder's decision and it must be voluntary. ECCMA cannot force a patent holder to license its intellectual property. Once completed and signed, the Declaration should be sent to ECCMA for consideration and handling. See Exhibit A.

## **General Process**

A Participant submits a Contribution on the following terms:

(a) with a representation to ECCMA that, to the Participant's knowledge at the time of submission (without any duty to perform a patent search), the submission to ECCMA and the use of the contribution, or any portion thereof, by ECCMA or Participants under the terms and conditions of this IPR Policy will not infringe or violate any intellectual property rights of any third party;

(b) without warranty or other representation of any kind; and

(c) with a waiver of any confidentiality rights.

### **For each Contribution made by a Participant, that Participant:**

(a) grants to ECCMA, under Participant's intellectual property rights in its Contribution, a nonexclusive, perpetual, irrevocable, royalty-free, fully paid-up, worldwide license to make, have made, use, distribute, sell (solely for recoupment of ECCMA's costs in connection with its exercise of its rights under the ECCMA Deliverables License (as defined below) of the ECCMA Works), offer for sale, import, modify, reproduce, publish, publicly perform, display and make derivative works of any and all Contributions or any parts thereof for the sole purposes of developing, distributing (via any medium), licensing, promoting, and maintaining ECCMA Deliverables ("ECCMA Deliverables License");

(b) agrees that ECCMA may grant the End User License with respect to the rights licensed under the ECCMA Deliverables License;

(c) irrevocably transfers to ECCMA, its successors and assigns, all rights, title and interest under copyright law in any jointly owned or collective work copyrights in the ECCMA Deliverables to ECCMA in perpetuity, and all claims and causes of action with respect thereto, together with the right to use and modify the ECCMA Deliverables in any manner that ECCMA in its sole discretion may determine, and further irrevocably waives any and all claims that Participant may now or hereafter have to such rights, claims and causes of action and to so-called "moral rights" with respect to any ECCMA Deliverables; and,

(d) agrees to execute any documentation reasonably requested by ECCMA to assist ECCMA in establishing or maintaining its rights under the ECCMA Deliverables License or the foregoing assignment.

**Each Participant shall disclose to ECCMA prior to final publication of an ECCMA Deliverable:**

(a) all patents and patent applications (for unpublished patent applications an identification of the portion(s) of the ECCMA Deliverable applicable to the application) that such Participant owns that would be infringed by an organization that makes, has made, uses, sells, offers for sale, or imports a product or service using or compliant with that ECCMA Deliverable by virtue of its product's or service's use or compliance with the ECCMA Deliverable ("Patent Rights"); or

(b) whether the Participant will grant to End Users, under its Patent Rights, the Royalty-Free License (as defined in the End User License) with respect to the ECCMA Deliverable. To the extent that a Participant does not disclose its Patent Rights within the time allotted by the Deliverables Manager (but in any event within ten (10) days prior to final publication of such ECCMA Deliverable), such Participant is deemed to have agreed to grant the Royalty-Free License under its Patent Rights, if any, and the Participant will be foreclosed and estopped from challenging the validity and effectiveness of such Royalty-Free License. ECCMA will give Participants at least thirty (30) days notice prior to final publication of any ECCMA Deliverable.

Any Participant who either (i) discloses to ECCMA that it is willing to grant the Royalty Free License under Section 5b above, or (ii) is deemed to have agreed to grant the Royalty-Free License under Section 5b above, hereby grants the Royalty-Free License on the terms and conditions set forth in the End User License effective upon the publication of the final version of an applicable ECCMA Deliverable.

ECCMA, PARTICIPANTS, AUTHORS, AND INTELLECTUAL PROPERTY RIGHTS HOLDERS AND THEIR RESPECTIVE OFFICERS, DIRECTORS, SHAREHOLDERS, AGENTS AND INDEPENDENT CONTRACTORS, MAKE NO REPRESENTATIONS OR WARRANTIES TO EACH OTHER OR TO END USERS, EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO THE ECCMA DELIVERABLES, ANY LICENSE GRANTED PURSUANT TO THIS IPR POLICY, OR ANY INTELLECTUAL PROPERTY RIGHTS LICENSED PURSUANT TO THIS IPR POLICY, INCLUDING, BUT NOT LIMITED TO WARRANTIES: (i) OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT; (ii) THAT THE CONTENTS OF ANY ECCMA DELIVERABLE IS FREE FROM ERROR OR SUITABLE FOR ANY PURPOSE; OR (iii) THAT MAKING, USING OR SELLING A PRODUCT OR SERVICE USING OR COMPLIANT WITH A ECCMA DELIVERABLE WILL NOT INFRINGE ANY THIRD-PARTY PATENTS, COPYRIGHTS, TRADEMARKS OR OTHER RIGHTS AND ANY SUCH WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED. IN NO EVENT WILL ECCMA, PARTICIPANTS, AUTHORS OR INTELLECTUAL PROPERTY HOLDERS, OR THEIR RESPECTIVE OFFICERS, DIRECTORS, SHAREHOLDERS, AGENTS OR INDEPENDENT CONTRACTORS, OR ANY OF THEM, BE LIABLE TO EACH OTHER OR TO ANY END USER FOR ANY DIRECT, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES FOR ANY USE OF THIS ECCMA DELIVERABLE OR THE LICENSE GRANTS IN THE END USER LICENSE, INCLUDING, WITHOUT LIMITATION, ANY LOST PROFITS, BUSINESS INTERRUPTION, LOSS OF PROGRAMS OR OTHER DATA ON ANY INFORMATION HANDLING SYSTEM OR OTHERWISE, EVEN IF SUCH ORGANIZATIONS AND PERSONS ARE EXPRESSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

An End User may assert the Royalty-Free License and any estoppel rights it has defensively in an infringement action or in response to a demand letter or similar notice from an intellectual property

rights holder, or may bring a declaratory judgment action as to the scope or validity of the Royalty-Free License, but an End User is not otherwise given affirmative rights to sue based on this IPR Policy, the Royalty-Free License, or such estoppel rights. Neither ECCMA, nor any Participant will have any obligation to any End User to file suit against any Participant or third party to enforce the Royalty-Free License or any other right or obligation under this IPR Policy on such End User's behalf. No Participant is obligated to disclose any technology or other information to any Participant or End User as a result of any license granted pursuant to this IPR Policy.

It is ECCMA's policy to make every commercially reasonable effort to develop ECCMA Deliverables that do not require the use of patent rights belonging to third parties who have not granted a Royalty-Free License with respect to such patents. However, ECCMA reserves the right to decide in its sole discretion whether to proceed with or modify an ECCMA Deliverable, and under what terms, as to which it learns that such patent rights might exist.

Participant is free to fully exploit its intellectual property rights independently of ECCMA activities in any manner that does not violate Participant's express obligations under this IPR Policy.

The Royalty-Free License is granted on an ECCMA Deliverable-by-ECCMA Deliverable basis. If a Work Group begins to develop an ECCMA Deliverable in which a Participant does not wish to participate, such Participant will notify ECCMA in writing as soon as practicable. If a Participant does not thereafter participate in a Work Group activity for the new ECCMA Deliverable, the Participant will not be obligated to grant the Royalty-Free License in connection with the new ECCMA Deliverable. If, however, the new ECCMA Deliverable incorporates an earlier ECCMA Deliverable with respect to which the Participant has granted the Royalty-Free License, the Royalty-Free License will extend solely to that portion of the new ECCMA Deliverable, as incorporated. The Participant's Royalty-Free License grant will not cover any intellectual property or technology in the new ECCMA Deliverable that was not in the prior ECCMA Deliverable. See Disclosure Form in Exhibit A.

ECCMA may maintain and make available to Participants and End Users on written request copies of patent disclosures made pursuant to Section 6 of this IPR Policy.

The ECCMA IPR Policy shall be governed by and construed in accordance with the laws of the Pennsylvania without giving effect to its principles of conflict of laws.

## EXHIBIT A - DISCLOSURE OF PARTICIPANT'S INTELLECTUAL PROPERTY RIGHTS

Use this form to submit notification of Intellectual Property Rights (IPR) claims pursuant the ECCMA IPR Policy. For details on this policy, please visit [www.eccma.org](http://www.eccma.org).

Correspondence and form submission should be directed to:

Peter Benson  
Executive Director, ECCMA  
2980 Linden St. Suite E2  
Bethlehem, PA 18017  
[info@eccma.org](mailto:info@eccma.org)

**Indicate ECCMA Deliverable addressed by this disclosure:**

---

### Participant Information:

Company:  
Contact:  
Address:  
Phone Number:  
eMail Address:

### CLAIM

The Participant indicates that it has rights, title or ownership to the Intellectual Property that would be subject to the Royalty-Free provisions in the ECCMA End User License Agreement (EULA): (only one selection is valid)

- ☐ The Organization authorizes the inclusion of its IP in the designated ECCMA Deliverable under the terms of the ECCMA IPR Policy.
- ☐ The Organization stipulates that its IP shall not be included in the designated ECCMA Deliverable under the terms of the ECCMA IPR Policy.
- ☐ The Organization does not hold any Claim of IP in the designated ECCMA Deliverable.

*Note: Failure to submit an IP Disclosure shall be interpreted to mean that the Organization does not hold any claim to IP in any ECCMA Deliverable and a Royalty-Free License is granted.*

AUTHORIZED SIGNATURE & TITLE

---

## **EXHIBIT B – End User License**

This End User License relates solely to the ECCMA Deliverable to which it is attached and sets forth the terms and conditions under which organizations that wish to use this ECCMA Deliverable may use this ECCMA Deliverable to make or distribute products or services made using or compliant with this ECCMA Deliverable. This End User License also grants to End Users (as defined below) certain patent license rights as set forth in Section 3 below subject to the terms and conditions of this End User License.

### **1. Definitions.**

For purposes of this End User License, the following capitalized terms have the meanings given the terms below. All other capitalized terms have the meanings given them elsewhere in this End User License.

“End User” means an individual or organization who makes, has made, uses, distributes, sells, offers for sale, imports, modifies, reproduces, publishes, publicly performs, displays, or makes derivative works of a product or service using or that is compliant with a ECCMA Deliverable.

“ECCMA” is the Electronic Code Management Association.

“ECCMA License Participant” means an organization who agreed to grant, or who has been deemed to have agreed to grant, the Royalty-Free License (as defined below) with respect to this ECCMA Deliverable pursuant to ECCMA’s IPR Policy, a copy of which is available for reference at [www.ECCMA.org](http://www.ECCMA.org).

“Patent Rights” are all patents and patent applications that a ECCMA License Participant owns that would be infringed by an organization that makes, has made, uses, sells, offers for sale, or imports a product or service using or compliant with that ECCMA Deliverable by virtue of its product’s or service’s use or compliance with the ECCMA Deliverable, except for any patents and patent applications that the ECCMA License Participant disclosed to ECCMA as not being subject to the Royalty-Free License.

### **2. License from ECCMA for the ECCMA Deliverable**

ECCMA hereby grants to each End User a worldwide, royalty-free, perpetual, non-exclusive license to: use this ECCMA Deliverable to develop, manufacture, have manufactured, distribute, sell and deliver products and services; reproduce this ECCMA Deliverable in copies; prepare proprietary derivative copyright works based upon this ECCMA Deliverable, to distribute copies of this ECCMA Deliverable to the public, and to perform and display the ECCMA Deliverable publicly (“ECCMA License”). If this ECCMA Deliverable is software published by ECCMA as source or object code, the ECCMA License includes the right of End User to distribute copies of, and use the code, in source or object code form, but not to modify it. Neither ECCMA, nor any ECCMA License Participant, will have any obligation to any End User to file suit against any ECCMA License Participant or third party to enforce the ECCMA License or any other right or obligation under this ECCMA License or the IPR Policy on such End User’s behalf.

### **3. Royalty-Free License from ECCMA License Participants for the ECCMA Deliverable**

Each ECCMA License Participant, under its Patent Rights, hereby grants to each End User, a non-exclusive, perpetual, irrevocable, royalty-free, fully paid-up, worldwide license to make, have made, use, sell, offer for sale and import products and services using or compliant with a ECCMA Deliverable, and for no other purpose (the “Royalty-Free License”). The Royalty-Free Licenses granted under this End User License are granted on an “AS IS, WHERE IS” basis, without warranty of any kind, express, implied or statutory and End User accepts and agrees to the grant of the Royalty-Free License on this basis. Under this Royalty-Free License, each End User may assert the Royalty-Free License and any estoppel rights it may have defensively in an infringement action or in response to a demand letter or similar notice from an ECCMA License Participant, or may bring a declaratory judgment action as to the scope or validity of the Royalty Free License, but End Users are not otherwise given affirmative rights to sue based on the Royalty-Free Licenses or such estoppel rights. Neither ECCMA, nor any ECCMA License Participant, will have any obligation to any End User to file suit against any ECCMA License Participant or third party to enforce any Royalty-Free License or any other right or obligation under the Royalty-Free License or the IPR Policy on such End User’s behalf. No ECCMA License Participant is obligated to disclose any technology or other information to any End User or other person as a result of any license granted pursuant to the IPR Policy.

#### **4. Acknowledgement regarding Third Party Intellectual Property Rights**

End User acknowledges and agrees that, notwithstanding the Royalty-Free Licenses, the making, having made, using, distributing, selling, offering for sale, importing, modifying, reproducing, publishing, publicly performing, displaying or making derivative works of a product or service using or complying with this ECCMA Deliverable may require use of intellectual property rights belonging to third parties, including, without limitation, the ECCMA License Participants, and that such use may require licenses from and the payment of royalties to these parties to avoid infringement liability. ECCMA shall not be responsible for identifying intellectual property rights for which a license may be required or for conducting inquiries into the legal validity or scope of those intellectual property rights that are brought to its attention.

#### **5. DISCLAIMER**

THIS ECCMA DELIVERABLE, END USER LICENSE (WHICH INCLUDES THE ECCMA LICENSE AND THE ROYALTY-FREE LICENSE), AND THE INTELLECTUAL PROPERTY RIGHTS LICENSED IN THE END USER LICENSE ARE PROVIDED “AS IS, WHERE IS.” ECCMA, THE ECCMA LICENSE PARTICIPANTS, AUTHORS, OR INTELLECTUAL PROPERTY RIGHTS HOLDERS AND THEIR RESPECTIVE OFFICERS, DIRECTORS, SHAREHOLDERS, AGENTS AND INDEPENDENT CONTRACTORS, MAKE NO REPRESENTATIONS OR WARRANTIES TO END USERS, EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO THIS ECCMA DELIVERABLE OR THE END USER LICENSE , INCLUDING, BUT NOT LIMITED TO WARRANTIES: (i) OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT; (ii) THAT THE CONTENTS OF SUCH ECCMA DELIVERABLE ARE FREE FROM ERROR OR SUITABLE FOR ANY PURPOSE; OR (iii) THAT MAKING, HAVING MADE, USING, IMPORTING OR SELLING A PRODUCT OR SERVICE COMPLIANT WITH SUCH ECCMA DELIVERABLE WILL NOT INFRINGE ANY THIRD-PARTY PATENTS, COPYRIGHTS, TRADEMARKS OR OTHER RIGHTS AND ANY SUCH WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED. IN



NO EVENT WILL ECCMA, THE ECCMA LICENSE PARTICIPANTS, AUTHORS OR INTELLECTUAL PROPERTY HOLDERS, OR THEIR RESPECTIVE OFFICERS, DIRECTORS, SHAREHOLDERS, AGENTS OR INDEPENDENT CONTRACTORS, OR ANY OF THEM, BE LIABLE TO ANY END USER FOR ANY DIRECT, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES FOR ANY USE OF THIS ECCMA DELIVERABLE OR WITH RESPECT TO THIS END USER LICENSE, INCLUDING, WITHOUT LIMITATION, ANY LOST PROFITS, BUSINESS INTERRUPTION, LOSS OF PROGRAMS OR OTHER DATA ON ANY INFORMATION HANDLING SYSTEM OR OTHERWISE, EVEN IF ECCMA, THE ECCMA LICENSE PARTICIPANTS, THEIR RESPECTIVE OFFICERS, DIRECTORS, SHAREHOLDERS, AGENTS OR INDEPENDENT CONTRACTORS, OR ANY OF THEM, ARE EXPRESSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## **6. Modification Rights**

ECCMA reserves the right to modify this End User License or this ECCMA Deliverable at any time upon thirty (60) days prior written notice by means of publication of such notice on the ECCMA website at [www.ECCMA.org](http://www.ECCMA.org). End User acknowledges and agrees that ECCMA is not a party to and has no obligation under the Royalty-Free License, and that the ECCMA License Participants are not parties to the ECCMA License and have no obligations thereunder.

## **7. IPR Policy Patent Disclosures**

ECCMA may, but is not obligated to, maintain and make available to End Users on written request copies of patent disclosures made pursuant to Section 6 of the IPR Policy.

## **8. Required Legal Notices**

Any distribution of copies of an ECCMA Deliverable by End User will include verbatim the entire text of this End User License under the following header: "This document includes works belonging to The Electronic Commerce Code Management Association, and is subject to the ECCMA End User License, Version 1.2 published at [www.ECCMA.org](http://www.ECCMA.org) or any subsequent applicable version of the ECCMA End User License." Any software application developed by End User based upon an ECCMA Deliverable shall include the following notice in its end user documentation and in its source codes: "This software product includes software or other works belonging to The Electronic Commerce Code Management Association that are subject to the ECCMA End User License, Version 1.2 published at [www.ECCMA.org](http://www.ECCMA.org) or any subsequent applicable version of the ECCMA End User License."

## **9. Covenant regarding Use of ECCMA Trademarks**

End User covenants that no End User product or service will be marketed in connection with the trade name "ECCMA" or any of its trademark(s) or service mark(s), nor will End User make any statement regarding "ECCMA compliance" without ECCMA's prior written approval. Any use by End User of the terms "ECCMA", "ECCMA-compliance" or any of ECCMA's other trademarks without ECCMA's prior written consent will not imply endorsement of End User's activities or products or constitute any acknowledgment by ECCMA of a product's or service's compliance with a ECCMA Deliverable. Neither

ECCMA nor any organization that participated in developing this ECCMA Deliverable will have any liability for any such products or services to End Users or third parties.

#### **10. Governing Law**

This End User License shall be governed and construed in accordance with the laws of Pennsylvania without giving effect to principles of conflict of laws, and the parties hereby irrevocably consent to the exclusive jurisdiction of the courts thereof and United States District Court sitting therein with respect to any dispute arising out of or in connection with this End User License naming ECCMA as a party.