

4/12/2006

THE INTELICAD TECHNOLOGY CONSORTIUM

API MEMBER AGREEMENT

This Agreement, dated as of the date following the last signature below, is made and entered into by and between The IntelliCAD Technology Consortium, a Washington non-profit corporation (the “*Consortium*”), and the person or entity named at the end of this document (the “*API Member*”).

RECITALS

A. The Consortium has been organized and established to promote the IntelliCAD computer aided design (“*CAD*”) software platform as an open, industry-standard platform for computer aided design.

B. API Member desires to become a member of the Consortium to gain access to the IntelliCAD Licensed Materials to enable API Member’s creation of independent software applications that will be compatible and interoperate with IntelliCAD, upon the terms and subject to the conditions set forth in this Agreement.

AGREEMENT

Accordingly, the Consortium and API Member agree as follows:

1. Definitions

Whenever used in this Agreement with initial letters capitalized, the following terms shall have the following specified meanings:

“*Consortium Web Site*” means a point of presence maintained by or for the Consortium on the World Wide Web, under the URL specified in writing to API Member by the Consortium from time to time.

“*Documentation*” means documentation for the IntelliCAD Base Software, in electronic format only and only as contained in on-line help for the IntelliCAD Base Software, together with such additions, enhancements, modifications, updates, upgrades or successors thereto as the Consortium may, in its sole discretion, make available to members of the Consortium from time to time.

“*Bug Fix*” means any bug fix or patch that resolves an element of the IntelliCAD Base Software that does not perform according to its specification.

“*Enhancement*” means any software code developed by or for API Member which does not constitute a Modification, but which is designed to run in conjunction with or to add new functionality to the IntelliCAD Base Software or any Modification that is not identified in the software’s specification. Enhancements may include, by way of example and not limitation, localized resource files or user interfaces for use with the IntelliCAD Base Software.

“*IntelliCAD Base Software*” means the IntelliCAD software identified on the attached Exhibit A, together with all additions, enhancements, modifications, updates, upgrades and

successors thereto which the Consortium may, in its sole discretion, make available to members of the Consortium from time to time.

“IntelliCAD Licensed Materials” means: (a) the IntelliCAD Base Software in object code format with standard installation; (b) the Documentation in object format; and (c) the Marks.

“Marks” means the trademarks set forth on Exhibit B.

“Member Application” means any independent software application developed or distributed by or for API Member that is designed to be compatible or operate with features or functions of the IntelliCAD Base Software or any Modification.

“Member Web Site” means a point of presence maintained by or for API Member on the World Wide Web, under the URL specified in writing to the Consortium by API Member from time to time.

“Modification” means any addition to or deletion from the substance or structure of either the IntelliCAD Base Software or any previous Modification. A Modification includes, without limitation:

(a) any addition to or deletion from the contents of a file containing any part of the IntelliCAD Base Software or any previous Modification;

(b) any new file that contains any part of the IntelliCAD Base Software or any previous Modification or that provides the same functionality as the IntelliCAD Base Software or any previous Modification;

(c) any updates to the IntelliCAD Base Software or any previous Modifications; or

(d) any translation (including compilation or recapitulation by Commercial Member) of the IntelliCAD Licensed Materials into a different spoken language.

“Potential Member” means any individual or entity which has applied for membership in the Consortium prior to acceptance as a member in the Consortium. Until acceptance of this Agreement by the Consortium, API Member shall be a Potential Member.

“Rules” means the bylaws, policies, procedures, plans, the Membership Rules and determinations made by the Consortium, its Board of Directors or committees thereof (as such may be amended, revised or supplemented from time to time).

2. API Member’s Rights

2.1 API Membership.

2.1.1 Classification. Subject to the terms and conditions of this Agreement, API Member will have, and will be entitled to exercise, all rights of an “API Member” of the Consortium; as such rights are specified from time to time in the bylaws of the Consortium.

2.1.2 Eligibility; Acceptance. Signature and submittal of this Agreement by a Potential Member is considered application for membership in The Consortium. The Consortium will evaluate the application in good faith and will notify Potential Member of acceptance or rejection. The Consortium may reject the application in its sole discretion. If the

Consortium rejects the application, Potential Member is welcome to reapply at any time. The terms of this Agreement shall become effective upon the date of the Consortium's written acceptance of this Agreement.

2.2 Limited License Grant.

2.2.1 General. Promptly after the date API Member and the Consortium have both signed this Agreement, the Consortium will furnish to API Member a copy of the IntelliCAD Licensed Materials. Subject to the terms and conditions of this Agreement and the Membership Rules, the Consortium hereby grants to API Member a nonexclusive, royalty-free license to:

(a) use and reproduce, the IntelliCAD Base Software, in object code form, solely for the API Member's internal purposes of developing, modifying or supporting Member Applications;

(b) disclose the IntelliCAD Licensed Materials (in object code form) and the Documentation to API Member's contractors for the limited purpose of internally developing Member Applications; provided, that such disclosure to persons other than API Member's employees is made by API Member pursuant to a written nondisclosure agreement that protects the IntelliCAD Licensed Materials from further disclosure or use;

(c) use and reproduce the Marks in connection with API Member's marketing, distribution and licensing of products for use with the IntelliCAD Base Software, subject to those guidelines and restrictions on use which the Consortium may adopt from time to time; and

(d) use and reproduce, but not modify or create derivative works of the Documentation, in connection with API Member's use of the IntelliCAD Base Software.

2.2.2 No Distribution or Sublicensing. API Member shall have no right to use the object code for the IntelliCAD Base Software or any Modification except to assist API Member in the internal development of Member Applications as expressly provided in Section 2.2.1. API Member may not use the object code of the IntelliCAD Base Software for production drafting or design. API Member shall not distribute the IntelliCAD Base Software or any Member Application containing the IntelliCAD Base Software (in whole or in part) or other IntelliCAD Licensed Materials. API Member agrees that any determination of whether API Member's obligations under this Section 2.2.2 have been breached shall be made by the Consortium in its sole discretion. Without limiting any rights of the Consortium under this Agreement or otherwise, API Member will promptly take such action as is reasonably designated in writing by the Consortium to the API Member to remedy any breach of this Section 2.2.2 by API Member.

2.3 Restrictions.

2.3.1 Ownership. The IntelliCAD Licensed Materials, including the IntelliCAD Base Software, are owned by the Consortium and its suppliers. The Consortium reserves all rights in the IntelliCAD Licensed Materials, including the IntelliCAD Base Software and the Marks.

2.3.2 Support. API Member shall be solely responsible for providing customer support and follow-up service and advice with respect to any Member Application.

2.3.3 Rules; Changes. API Member agrees that all use of the IntelliCAD Licensed Materials pursuant to the licenses granted in Section 2.2.1 shall be in accordance with the Rules as modified from time to time. The Consortium reserves the right to modify the Rules at any time upon thirty (30) days prior written notice to API Member. If API Member does not agree to such modifications, it may reject them by notifying the Consortium in writing within the thirty-day notice period of such rejection. Any such rejection shall be deemed to be a notice of termination by API Member pursuant to Section 5. If API Member fails to notify the Consortium of its rejection with the thirty-day notice period, API Member shall be deemed to have accepted the modifications and shall be bound to comply with them upon the expiration of the notice period.

3. API Member's Covenants and Obligations

3.1 Bylaws, Rules and Policies. API Member will perform its obligations as a member of the Consortium and comply with the Rules with respect to all matters concerning the responsibilities and authority delegated by the members to the Consortium, as set forth in the articles of incorporation, the bylaws, or the Rules of the Consortium (as such may be modified from time to time) or as otherwise disclosed to API Member by the Consortium.

3.2 Payment of Dues and Expenses. API Member will pay, in accordance with this Agreement and the Rules, all dues, fees and assessments imposed or levied by the Consortium for the "API Member" class. Without limiting the generality of the foregoing, the Board of Directors of the Consortium is authorized to determine whether or not the Consortium will require regular dues from its members and the amount of any such dues. The fees, dues and assessments payable by API Member under this Agreement will be paid at such times as are determined by the Consortium. All amounts will be due and payable in United States dollar currency within thirty (30) days from the date set by the Consortium for payment. All dues, fees and assessments imposed or levied by the Consortium are nonrefundable and may not be prorated, but credit for such amounts may be transferred or assigned in accordance with Section 8.2. Should the API Member become a Commercial Member, the fees paid by API Member for any current period may be credited toward payment of the Commercial Membership fees owing by Commercial Member for such period.

3.3 Use of API Member's Name and Mark. API Member hereby grants the Consortium permission to use and reproduce API Member's name and logo to identify API Member as a member of the Consortium in connection with promotional and marketing activities of the Consortium. The Consortium will comply with all reasonable trademark guidelines of API Member in connection with any such use of the logo as the same are provided to the Consortium in writing.

3.4 Records and Audit.

3.4.1 General. API Member shall maintain complete and accurate records relating to API Member's use of the IntelliCAD Licensed Materials, including without limitation, copies of all agreements relating to the distribution of the IntelliCAD Base Software (which would be in breach of Section 2.2.2.). API Member shall permit the Consortium or its independent auditors to access, review and copy such records (including, but not limited to, any IntelliCAD Base Software in source code form as maintained by API Member) upon the Consortium's reasonable request, to determine API Member's compliance with this Agreement.

3.4.2 Member Applications. Within thirty (30) days of the Consortium's written request, API Member shall provide a copy of and grant a limited license to any Member

Application (in object code) to the Consortium so that the Consortium may install, test and evaluate API Member's use of the IntelliCAD Licensed Materials.

4. Acknowledgments and Representations

4.1 No Ownership Interest. All amounts paid by or on behalf of API Member to the Consortium will constitute dues, fees or assessments related to membership in the Consortium and will not be deemed to be an investment or purchase of any ownership interest in the Consortium.

4.2 Representations. API Member represents and warrants to the Consortium that:

(a) the principal office of API Member is at the address shown under the signature of API Member's authorized representative at the bottom of this Agreement;

(b) API Member has been duly authorized to enter into this Agreement; and

(c) API Member has received and reviewed the Rules, articles of incorporation and bylaws of the Consortium and understands its duties and obligations associated with membership in the Consortium.

4.3 Acknowledgments. API Member acknowledges that, prior to the execution of this Agreement, it has had the opportunity to ask questions of and receive answers or obtain additional information from a representative of the Consortium concerning the affairs of the Consortium and the duties and obligations associated with being a member of the Consortium, and, to the extent it believes necessary in light of its knowledge of the Consortium's affairs, it has asked such questions and received satisfactory answers. API Member has carefully read this Agreement and, to the extent it believes necessary, it has discussed with its counsel and representatives of the Consortium the representations, warranties and agreements which it makes by signing this Agreement.

5. Termination and Suspension of API Membership or Services

5.1 Term. This Agreement shall remain in full force and effect until terminated by either party.

5.2 Termination by API Member. API Member may terminate its membership in the Consortium and its obligations under this Agreement effective thirty (30) days following receipt of written notice by the Board of Directors of the Consortium; provided, however, that such termination will not relieve API Member of any liabilities or obligations incurred prior to the effective date of termination. API Member's membership automatically terminates upon the voluntary or involuntary dissolution of the Consortium.

5.3 Termination by Consortium. The Consortium may suspend or terminate API Member's rights under this Agreement and API Member's membership in the Consortium if:

(a) API Member fails to adhere to any Rules approved by the Consortium, breaches any material provision of this Agreement (including, without limitation, Sections 2.2, 2.3, 3.1, and the Membership Rules) or fails to pay any dues or other amounts payable to the Consortium within thirty (30) days following the date due, and further fails to remedy such nonperformance, noncompliance or nonpayment within thirty (30) days following receipt of notice from the Consortium; or

(b) API Member fails to develop and make commercially available any Member Application within 6 months of the Consortium's acceptance of this Agreement.

The Consortium's right to terminate API Member's membership in the Consortium is in addition to any other rights and remedies that may be available to the Consortium, whether at law, in equity, as set forth in the Rules, or otherwise.

5.4 Effect of Termination. Upon any termination of API Member's membership in the Consortium for any reason, this Agreement and all rights granted to API Member hereunder (including, but not limited to, the rights granted under Section 2) will immediately terminate. Sections 2.2.2, 2.3, 3.1, 5.4, 6, 7 and 8 (together with such other provisions which reasonably can be construed as surviving termination) will survive any termination of this Agreement. All IntelliCAD Licensed Materials source files must be destroyed immediately upon termination at the API Member's sole cost and API Member shall certify such destruction to the Consortium within ten (10) days of the effective date of termination.

6. Warranty Disclaimer; Indemnification

6.1 API Member Warranty. API Member warrants that Member Applications, the Member Web Site, and any Modifications developed by or for API Member, do not and will not infringe, misappropriate or otherwise violate any third party copyright, patent or other intellectual property right of any kind.

6.2 IntelliCAD Disclaimer. THE INTELICAD LICENSED MATERIALS ARE PROVIDED TO ASSOCIATE MEMBER "AS IS" AND WITH ALL BUGS, DEFECTS, ERRORS, DEFICIENCIES AND FAULTS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, THE CONSORTIUM HEREBY DISCLAIMS AND ASSOCIATE MEMBER HEREBY WAIVES ANY AND ALL WARRANTIES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, IMPLIED WARRANTY ARISING FROM ANY COURSE OF PERFORMANCE OR DEALING OR USAGE OF TRADE, ANY WARRANTY OF NONINFRINGEMENT OR IMPLIED WARRANTY OF QUIET ENJOYMENT.

6.3 Indemnification. API Member releases and will defend, indemnify and hold harmless the Consortium and all other past, present or future members from and against any and all claims, losses, damages, liens, liabilities, costs and expenses (including, but not limited to, reasonable attorneys' fees) arising out of or in connection with:

- (a) API Member's use of the IntelliCAD Licensed Materials, and
- (b) any sale or other distribution of any Member Application by, through or under API Member, or
- (c) any breach of the warranty set forth in Section 6 or the restrictions set forth in Section 2.2.2 or Section 2.3.

This Section 6.3 will apply to the fullest extent permitted by applicable law, regardless of the fault, negligence or strict liability of the Consortium.

7. Limitations of Liability

7.1 No Fiduciary Capacity. ASSOCIATE MEMBER AGREES THAT IN EXERCISING ITS RIGHTS AND AUTHORITY UNDER THIS AGREEMENT OR THE RULES, NEITHER THE CONSORTIUM OR ANY MEMBER OR AGENT ACTING AT THE REQUEST OR ON BEHALF OF THE CONSORTIUM, OR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS, WILL, BY VIRTUE OF THIS AGREEMENT OR THE ARRANGEMENTS DESCRIBED HEREIN, HAVE ANY FIDUCIARY OBLIGATION TO ASSOCIATE MEMBER OR ANY OF ITS AFFILIATES.

7.2 No Consequential. IN NO EVENT WILL THE CONSORTIUM OR ANY MEMBER OR AGENT ACTING AT THE REQUEST OR ON BEHALF OF THE CONSORTIUM, OR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS, BE LIABLE TO ASSOCIATE MEMBER FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, PUNITIVE OR OTHER SIMILAR DAMAGES, ARISING FROM BREACH OF THIS AGREEMENT, THE ACTIVITIES UNDERTAKEN BY THE CONSORTIUM, ANY ITEMS OR MATERIALS FURNISHED PURSUANT TO THIS AGREEMENT, ANY USE OF OR INABILITY TO USE THE INTELICAD LICENSED MATERIALS, OR THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT SERVICES, WHETHER ARISING IN CONTRACT, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), STRICT LIABILITY, EQUITY OR OTHERWISE, EVEN IF THE CONSORTIUM WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING WILL NOT RELIEVE THE CONSORTIUM OR ANY OF ITS MEMBERS FROM LIABILITY FOR ANY WILLFUL MISCONDUCT OR ANY BREACH OF AN OBLIGATION OF CONFIDENTIALITY.

7.3 Third-Party Beneficiaries. The limitations set forth in this Section 7 will inure to the benefit of all past, present or future members or agents of the Consortium acting at the request or on behalf of the Consortium, and their respective officers, directors, employees, attorneys and agents, each being an intended third-party beneficiary of the provisions of Section 7 of this Agreement.

8. General Provisions

8.1 Notices. Any notices required or permitted to be given or made under this Agreement will be in writing. Such notices will be deemed to be duly given on the earliest of (a) actual receipt, irrespective of whether communicated in person, by telephonic facsimile, telegraph, teletype, electronic mail or other form of wire or wireless communication, or by mail or private carrier or other method in which the writing is to be read by the recipient, or (b) on the fifth day after mailing by registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

If to the Consortium:	The IntelliCAD Technology Consortium 10260 SW Greenburg Road Suite 400 Portland, OR 97223
-----------------------	--

If to API Member:	at the address, telephone and facsimile numbers set forth below.
-------------------	--

Either API Member or the Consortium may from time to time change its address for notification purposes by giving the other party written notice of the new address and the date upon which it will become effective.

8.2 Assignment. Subject to any limitations set forth in the bylaws of the Consortium, API Member will be entitled to assign its rights and obligations under this Agreement to any affiliated corporation or other business entity and to any successor, by sale, merger or other business combination, to all or substantially all of its business and assets, provided the successor assumes all obligations of API Member under this Agreement and agrees in writing to be bound hereby.

8.3 Nonwaiver. No delay or omission by any party hereto to exercise any right or power under this Agreement will impair such right or power or be construed to be a waiver thereof. A waiver by either of the parties hereto of any of the covenants to be performed by the other or any breach thereof will not be construed as a waiver of any succeeding breach thereof or of any other covenant herein contained.

8.4 Severability. If any provision of this Agreement or the application thereof to any person or circumstance is, to any extent, held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions or applications of the Agreement will in no way be affected or impaired thereby.

8.5 Dispute Resolution. All disputes, controversies, claims, and defenses arising out of, relating to, or involving this Agreement, whether involving theories of tort, contract, or violation of statutory laws ("Claims") are subject to the following provisions:

8.5.1 Arbitration. Except as to actions, suits, or proceedings commenced or maintained by persons not parties hereto, any party may elect to have any Claim be determined by binding arbitration. The election shall be made by written notice. Unless the parties otherwise agree in writing, the arbitration shall be conducted in Portland, Oregon before a single arbitrator and in accordance with the commercial arbitration rules of the Arbitration Service of Portland, Inc. If the parties are unable to agree on an arbitrator within 14 days of an election to arbitrate, the arbitrator shall be appointed in accordance with the procedures set forth in ORS 36.320. The arbitrator shall issue an award within 30 days of conclusion of the hearing. The award of the arbitrator shall be final and binding. Judgment on any arbitration award may be entered in any court with jurisdiction.

8.5.2 Provisional Remedies. If a party elects to have any Claims determined by arbitration, any provisional remedy issued prior thereto may remain in effect until such time as an arbitrator is selected or appointed and has assumed to determine the Claim. Thereafter the arbitrator may issue, continue, or terminate provisional relief or may permit a party to pursue provisional relief in court.

8.5.3 Applicable Law; Jurisdiction and Venue. This Agreement will be interpreted, construed and enforced in all respects in accordance with the laws of the State of Washington without reference to its choice of law rules. All actions or suits by a party shall be brought and maintained in Portland, Oregon. Each party consents to personal jurisdiction in Oregon and waives any right to seek a change of venue.

8.5.4 Costs and Attorney Fees. The prevailing party in a judicial action, suit or arbitration proceeding shall be awarded all reasonable costs, attorneys' fees and expenses incurred in connection with the proceeding and on any appeal except that the costs and fees of the arbitrator shall be shared equally.

8.6 UCC. The rights and obligations of the parties under this Agreement shall not be governed by the provisions of the 1980 U.N. Convention on Contract for the International Sale of Goods; rather, these rights and obligations shall be governed by the laws of the State of Washington, U.S.A., including its applicable provisions of the Uniform Commercial Code.

8.7 Amendments. This Agreement may not be modified or amended by API Member except by written instrument duly executed by an authorized representative of each party. This Agreement may be amended by the Consortium at any time upon sixty (60) days prior written notice to API Member. If API Member does not agree to the amendment, it may reject the amendment by notifying the Consortium in writing within the sixty-day notice period. Any such rejection shall be deemed to be a notice of termination by API Member pursuant to Section 5.2. If API Member fails to notify the Consortium of its rejection with the sixty-day notice period, API Member shall be deemed to have accepted the amendment and shall be bound to comply with it upon the expiration of the notice period. In the event that API Member does not agree to any amendment of the Consortium, API Member's sole remedy is to terminate this Agreement pursuant to Section 5.2.

8.8 Entire Agreement. Subject to the Rules, this Agreement sets forth the entire agreement, and supersedes any and all prior written and oral representations and agreements between the parties with respect to the subject matter hereof. Any attempted or purported amendment, modification or waiver that does not comply with this requirement will be null and void. In the event of any conflict between the terms and conditions of this Agreement, and the terms and conditions of any other agreement between the parties now or hereafter in effect, the terms and conditions of this Agreement will govern and control.

[Rest of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives as of the date indicated below as being accepted on behalf of the Consortium.

API Member: _____

By: _____

Title: _____

Print Name: _____

Date: _____

Address: _____

Telephone: _____

Facsimile: _____

Website: _____

Executive Management Contact Email:

Agreed and Accepted on behalf of:

The IntelliCAD Technology Consortium

By: Officer: _____

Print Name: _____

Date: _____

EXHIBIT A

IntelliCAD Base Software

The IntelliCAD Base Software includes IntelliCAD 2000 as developed, licensed and delivered to the Consortium by Visio Corporation (“*Visio*”), provided that in no event will the IntelliCAD Base Software include any components or content not owned or licensable by Visio or its successor.

EXHIBIT B

Marks

IntelliCAD

Designed for IntelliCAD logo

Solutions Development System (SDS)