

# **KHRONOS GROUP CONTRACTORS AGREEMENT PROCESSING INSTRUCTIONS**

**This agreement enables a company, to supply contractor services  
to the Khronos Group**

**PLEASE TYPE OR PRINT CLEARLY: THIS IS A LEGAL DOCUMENT  
ILLEGIBLE AGREEMENTS CANNOT BE PROCESSED**

**Contact for processing this agreement and arranging payment:**

<b>COMPANY:</b> _____
<b>NAME:</b> _____
<b>EMAIL:</b> _____
<b>PHONE:</b> _____
<b>FAX:</b> _____

## **Guidelines for completing this agreement:**

1. Download and print TWO copies of this agreement and fill out both copies. Enter your company or institution name on this cover page, along with your name, email address and fax number.
2. Have an authorized person sign the signature page on both completed copies of this agreement. If your company requires more than one authorized signatory, duplicate the signature page for each required signature for both copies of the agreement.
3. Mail two signed copies of this agreement to the address below. One completed copy will be returned for your records:

**Khronos Group Inc,  
14525 SW Millikan Way #45043, Beaverton, OR 97005-2343, USA**

## **If you have questions please contact:**

Khronos Group Management  
Gold Standard Group  
finance@goldstandardgroup.com  
Voice mail: +1 (415) 869-8627  
Fax: +1 (707) 202-0030

# KHRONOS CONTRACTORS AGREEMENT

This Khronos Independent Contractor Services Agreement ("**Agreement**") is entered into by and between The Khronos Group Inc. ("**Khronos**"), and the undersigned party ("**Contractor**"), by and through their authorized representatives as of the Effective Date as defined below.

## 1. PURPOSE

The parties are entering into this Agreement to establish a relationship whereby Khronos is commissioning Contractor to perform certain general services ("**Services**") and deliver work items ("**Deliverables**") as specified in the Statement of Work in Attachment B. Contractor hereby agrees to conform to all of the applicable terms and conditions set forth in this Agreement. In addition any Contributions made by Contractor are covered by the Khronos Group Contractor Intellectual Property Rights Policy in Attachment A which is incorporated herein and made a part hereof.

## 2. DEFINITIONS

Throughout this Agreement and Attachment A the following terms when capitalized shall have the following meanings:

**"Background Technology"** means all technology which (a) Contractor intends to use in performing under this Agreement, (b) is either owned solely by Contractor or licensed to Contractor with a right to sublicense and (c) is in existence in the form of writing or working prototype prior to the Effective Date.

**"Confidential Information"** shall include all materials generated by Khronos and by Members on behalf of Khronos, and not specifically designated as non-Confidential by Khronos, including but not limited to, (a) trade secrets, inventions, mask works, ideas, processes, formulas, source and object codes, data, programs, other works of authorship, know-how, improvements, discoveries, developments, designs and techniques; and (b) information regarding plans for research, development, new products, marketing and selling, business plans, budgets and unpublished financial statements, licenses, prices and costs, suppliers and customers; and (c) information regarding the skills and compensation of other employees of Khronos; and (d) all versions and revisions of Draft Specifications and any passwords and minutes provided to Contractor under this agreement. Notwithstanding the above, Confidential Information will not include any information that is (a) rightfully in the public domain other than by a breach of a duty to the disclosing party; (b) rightfully received from a third party without any obligation of confidentiality; (c) rightfully known to the receiving party without any limitation on use or disclosure prior to its receipt from the disclosing party; (d) independently developed by employees of the receiving party; (e) generally made available to third parties by the disclosing party without restriction on disclosure; or (f) disclosed in furtherance of an order to disclose issued by a court of proper jurisdiction; provided, however, in such instance, the Contractor having received the Confidential Information will provide prompt notice to Khronos in order to facilitate Khronos' legal intercession.

**"Contribution"** means verbal or written information provided by Contractor to Khronos that is incorporated into a Draft Specification.

**"Draft Specification"** means any version or revision of the specifications produced by a Khronos working group prior to Ratification.

**"Effective Date"** means the later of the last date of signature on the signature page below.

**"Khronos Work Product"** means all Work Products which are solely or jointly conceived, made, reduced to practice, or learned by Contractor in the course of any work performed for Khronos.

**"Member"** means an entity that has executed the Khronos Contributor Associate Agreement or the Khronos Promoters Participation Agreement and has not withdrawn its membership.

**"Residuals"** means information in non-tangible form which may be retained in the minds of persons who have had access to Confidential Information, including ideas, concepts, know-how or techniques contained therein.

**"Ratification"** means Khronos approving a Draft Specification for public release.

**"Ratified Specification"** means a specification after Ratification.

**"Work Product"** means any invention, whether or not patentable, and all related know-how, designs, mask works, trademarks, formulae, processes, manufacturing techniques, trade secrets, ideas, artwork, software or other copyrightable or patentable works.

### 3. CONTRACTOR ENGAGEMENT

#### 3.1 Term

This Agreement shall commence on Effective Date and, unless terminated earlier in accordance with Termination provisions below, shall continue in full force and effect until the Statement of Work is completed ("**Term**").

#### 3.2 1111111111Engagement of Services

Khronos may from time to time issue Project Assignments in the form attached to this Agreement as Exhibit B. Khronos shall not be responsible for any work, services or expenses incurred by Contractor related to a Project Assignment prior to a Project Assignment Attachment being executed by both parties. Contractor shall stop work and notify Khronos immediately if Contractor is unable to complete a Project Assignment under the terms defined in the Project Assignment Attachment. Subject to the terms of this Agreement, Contractor will, to the best of its ability, render the services set forth in Project Assignments accepted by Contractor by the completion dates set forth therein. The manner and means by which Contractor chooses to complete the Project Assignments are in Contractor's sole discretion and control. Contractor agrees to exercise the highest degree of professionalism, and to utilize its expertise and Khronos talents in completing such Project Assignments. In completing the Projects Assignments, Contractor agrees to provide its own equipment, tools and other materials at its own expense. Khronos will make its facilities and equipment available to Contractor when necessary. Contractor shall perform the services necessary to complete the Project Assignments in a timely and professional manner consistent with industry standards, and at a location, place and time which the Contractor deems appropriate. Contractor may not subcontract or otherwise delegate its obligations under this Agreement without Khronos' prior written consent.

#### 3.3 Khronos Supplied Materials

Contractor shall specifically describe and identify in Exhibit C all materials which Khronos shall supply that Contractor intends to use in performing under this Agreement ("**Khronos Materials**"). Such description shall include the licensing terms under which Contractor shall use Khronos Materials.

### **3.4 Compensation**

Khronos will pay Contractor a fee for services rendered under this Agreement as set forth in the Project Assignments undertaken by Contractor. Contractor will be reimbursed for any reasonable expenses incurred in connection with the performance of services under this Agreement provided Contractor obtains Khronos' prior approval and submits verification of such expenses as Khronos may require. Upon termination of this Agreement for any reason, Contractor will be paid fees and expenses on a proportional basis as stated in the Project Assignments for work which is then in progress, to and including the effective date of such termination. Unless other terms are set forth in the Project Assignments for work which is in progress, Khronos will pay the Contractor for services and will reimburse the Contractor for previously approved expenses within thirty (30) days of the date of Contractor's invoice.

### **3.5 Acceptance and Invoicing**

Any testing and acceptance procedures for particular Deliverables are defined in the Project Assignments. Upon acceptance of any item of work, such acceptance not to be unreasonably delayed, Contractor may immediately invoice Khronos the corresponding amount specified in the Project Assignment.

### **3.6 Milestones**

If intermediate deliverables and schedules ("**Milestones**") are defined in the Project Assignments, work on each Milestone shall not proceed until Khronos approves the work in writing after the completion of the preceding Milestone.

### **3.7 Independent Contractor Relationship**

Contractor's relationship with Khronos will be that of an independent contractor and nothing in this Agreement should be construed to create a partnership, joint venture, or employer-employee relationship. Contractor is not the agent of Khronos and is not authorized to make any representation, contract, or commitment on behalf of Khronos. Contractor will not be entitled to any of the benefits which Khronos may make available to its employees, such as group insurance, profit-sharing or retirement benefits. Contractor will be solely responsible for all tax returns and payments required to be filed with or made to any federal, state or local tax authority with respect to Contractor's performance of services and receipt of fees under this Agreement. Khronos will regularly report amounts paid to Contractor by filing Form 1099-MISC with the Internal Revenue Service as required by law; since Contractor is an independent contractor, Khronos will not withhold or make payments for social security; make unemployment insurance or disability insurance contributions; or obtain worker's compensation insurance on Contractor's behalf. Contractor agrees to accept exclusive liability for complying with all applicable state and federal laws governing self-employed individuals, including obligations such as payment of taxes, social security, disability and other contributions based on fees paid to Contractor, its agents or employees under this Agreement. Contractor hereby agrees to indemnify and defend Khronos against any and all such taxes or contributions, including penalties and interest.

### **3.8 Contractor Representations and Warranties**

Contractor hereby represents and warrants that: (a) Khronos Work Products will be original work of Contractor or based on Khronos Materials and any third parties will have executed assignment of rights and Contractor must receive written approval from Khronos that these assignments are reasonably acceptable to Khronos; (b) to the best of Contractor's knowledge neither Khronos Work Products nor any element thereof will infringe the Intellectual Property Rights of any third party; (c) neither Khronos Work Products nor any element thereof other than those based on Khronos Materials will be subject to any restrictions or to any mortgages, liens, pledges, security interests, encumbrances or encroachments; (d) Contractor will not grant, directly or indirectly, any rights or interest whatsoever in Khronos Work Products to third parties; (e) Contractor has full right and power to enter into and perform this Agreement without the consent of any third party;

(f) Contractor will take all necessary precautions to prevent injury to any persons (including employees of Khronos) or damage to property (including Khronos' property) during the Term; (g) should Khronos permit Contractor to use any of Khronos' equipment, tools, or facilities during the Term, such permission shall be gratuitous and Contractor shall be responsible for any injury to any person (including death) or damage to property (including Khronos' property) arising out of use of such equipment, tools or facilities, whether or not such claim is based upon its condition or on the alleged negligence of Khronos in permitting its use. REPRESENTATIONS AND WARRANTIES SET FORTH HEREIN SHALL CONSTITUTE CONTRACTOR'S ENTIRE REPRESENTATIONS AND WARRANTIES UNDER THIS AGREEMENT. EXCEPT FOR THE WARRANTIES EXPRESSLY STATED ABOVE, CONTRACTOR MAKES NO OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED, TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE WORK PRODUCTS, DELIVERABLES AND ANY SERVICES PROVIDED UNDER THIS AGREEMENT.

## 4. TRADE SECRETS

### 4.1 No Conflict of Interest

Contractor agrees during the Term not to accept work or enter into a contract or accept an obligation, inconsistent or incompatible with Contractor's obligations under this Agreement or the scope of services rendered for Khronos. Contractor warrants that to the best of its knowledge, there is no other existing contract or duty on Contractor's part inconsistent with this Agreement, unless a copy of such contract or a description of such duty is attached to this Agreement in Exhibit C. Contractor further agrees not to disclose to Khronos, or bring onto Khronos' premises, or induce Khronos to use any confidential information that belongs to anyone other than Khronos or Contractor.

### 4.2 Disclosure of Work Products

Contractor agrees to disclose promptly in writing to Khronos, or any person designated by Khronos, all Khronos Work Products. Contractor represents that any Work Product relating to Khronos' business or any project which Contractor has made, conceived or reduced to practice at the time of signing this Agreement ("**Prior Work Product**") has been disclosed in writing to Khronos and attached to this Agreement in Exhibit C. If disclosure of any such Prior Work Product would cause Contractor to violate any prior confidentiality agreement, Contractor understands that it is not to list such Prior Work Product in Exhibit C but it will disclose a cursory name for each such invention, a listing of the parties to whom it belongs, and the fact that full disclosure as to such Prior Work Product has not been made for that reason.

### 4.3 Ownership of Work Products

Contractor shall specifically describe and identify in Exhibit C all Background Technology which Contractor intends to use in performing under this Agreement. Contractor agrees that any and all inventions conceived, written, created or first reduced to practice in the performance of work under this Agreement shall be the sole and exclusive property of Khronos.

### 4.4 Assignment of Khronos Work Products

Except for Contractor's rights in the Background Technology which may be licensed under specific terms in Exhibit C, Contractor irrevocably assigns to Khronos all right, title and interest worldwide in and to Khronos Work Product and all applicable intellectual property rights related to the Khronos Work Product, including without limitation, copyrights, trademarks, trade secrets, patents, moral rights, contract and licensing rights (the "**Proprietary Rights**"). Except as set forth below, Contractor retains no rights to use Khronos Work Product and agrees not to challenge the validity of Khronos' ownership in Khronos Work Product. Contractor hereby grants to Khronos a non-exclusive, royalty-free, irrevocable and world-wide right, with rights to sublicense, to reproduce, make derivative

works of, publicly perform, and publicly display in any form or medium, whether now known or later developed, distribute, make, use and sell Background Technology and any Prior Work Product incorporated or used in the Khronos Work Product for the purpose of developing and marketing Khronos products, but not for the purpose of marketing Background Technology or Prior Work Products separate from Khronos products.

#### **4.5 Work Made for Hire**

Contractor further acknowledges and agrees that the Khronos Work Product shall be considered Work Made For Hire on behalf of Khronos as such term is defined under the copyright laws of the United States. As the Khronos Work Product or any portion thereof is completed by the Contractor, all right, title and interest therein shall automatically vest in Khronos, Khronos shall be the sole and unlimited owner thereof and of all rights therein throughout the world forever, and Khronos shall be entitled to the copyright therein, including statutory copyright and all renewals and extensions thereof, as copyright author and proprietor. To the extent that the Khronos Work Product, or any portion thereof, may not qualify as a Work Made For Hire, Contractor hereby grants, transfers, and assigns all right, title, and interest in and to the Khronos Work Product to Khronos, including, without limitation, all copyright, trademark, and any and all other proprietary rights therein, worldwide and in perpetuity for use in any and all media now known or hereinafter developed.

#### **4.6 Waiver of Assignment of Other Rights**

If Contractor has any rights to the Khronos Work Product that cannot be assigned to Khronos, Contractor unconditionally and irrevocably waives the enforcement of such rights, and all claims and causes of action of any kind against Khronos with respect to such rights, and agrees, at Khronos' request and expense, to consent to and join in any action to enforce such rights. If Contractor has any right to the Khronos Work Product that cannot be assigned to Khronos or waived by Contractor, Contractor unconditionally and irrevocably grants to Khronos during the term of such rights, an exclusive, irrevocable, perpetual, worldwide, fully paid and royalty-free license, with rights to sublicense through multiple levels of sublicensees, to reproduce, create derivative works of, distribute, publicly perform and publicly display by all means now known or later developed, such rights.

#### **4.7 Assistance**

Contractor agrees to cooperate reasonably with Khronos or its designee(s), both during and after the Term, in the procurement and maintenance of Khronos' rights in Khronos Work Product and to execute, when requested, any other documents deemed necessary by Khronos to carry out the purpose of this Agreement.

#### **4.8 Enforcement of Proprietary Rights**

Contractor will assist Khronos in every proper way to obtain, and from time to time enforce, United States and foreign Proprietary Rights relating to Khronos Work Product in any and all countries. To that end Contractor will execute, verify and deliver such documents and perform such other acts (including appearances as a witness) as Khronos may reasonably request for use in applying for, obtaining, perfecting, evidencing, sustaining and enforcing such Proprietary Rights and the assignment thereof. In addition, Contractor will execute, verify and deliver assignments of such Proprietary Rights to Khronos or its designee. Contractor's obligation to assist Khronos with respect to Proprietary Rights relating to such Work Product in any and all countries shall continue beyond the termination of this Agreement, but Khronos shall compensate Contractor at a reasonable rate after such termination for the time actually spent by Contractor at Khronos' request on such assistance.

#### **4.9 Execution of Documents**

In the event Khronos is unable for any reason, after reasonable effort, to secure Contractor's signature on any document needed in connection with the actions specified in the two preceding sections, Contractor hereby irrevocably designates and appoints Khronos and its duly authorized officers and agents as its agent and attorney in fact, which appointment is coupled with an interest, to act for and in its behalf to execute, verify and file any such documents and to do all other lawfully permitted acts to further the purposes of the preceding paragraph with the same legal force and effect as if executed by Contractor. Contractor hereby waives and quitclaims to Khronos any and all claims, of any nature whatsoever, which Contractor now or may hereafter have for infringement of any Proprietary Rights assigned hereunder to Khronos.

### **5. INDEMNIFICATION**

Contractor will indemnify and hold harmless Khronos, its officers, directors, employees, sublicensees, customers and agents from any and all claims, losses, liabilities, damages, expenses and costs (including attorneys' fees and court costs) arising from any act or omission which result or arise, directly or indirectly, from a breach or alleged breach of any representation or warranty of Contractor (a "**Claim**") set forth in this Agreement, provided that Khronos gives Contractor written notice of any such Claim and Contractor has the right to participate in the defense of any such Claim at its expense. From the date of written notice from Khronos to Contractor of any such Claim, Khronos shall have the right to withhold from any payments due Contractor under this Agreement the amount of any defense costs, plus additional reasonable amounts as security for Contractor's obligations under this Section.

### **6. TERMINATION**

#### **6.1 Termination by Khronos**

Khronos may terminate this Agreement at its convenience and without any breach by Contractor upon thirty (30) days' prior written notice to Contractor. Upon any such termination, Khronos shall be responsible for paying Contractor for any and all Services and expenses accrued or incurred prior to the effective date of termination as stated in this Agreement. Khronos may also terminate this Agreement immediately in its sole discretion upon any material breach of Agreement by Contractor

#### **6.2 Termination by Contractor**

Contractor may terminate this Agreement at any time that there is no uncompleted Project Assignment in effect upon thirty (30) days' prior written notice to Khronos.

#### **6.3 Non-interference with Business**

During and for a period of two (2) years immediately following termination of this Agreement by either party, Contractor agrees not to solicit or induce any employee or independent contractor to terminate or breach an employment, contractual or other relationship with Khronos.

#### **6.4 Return of Khronos Property**

Upon termination of the Agreement or earlier as requested by Khronos, subject to all fees being paid to Contractor, Contractor will deliver to Khronos any and all tangible copies of drawings, notes, memoranda, specifications, devices, formulas, and documents, together with all copies thereof, and any other material containing or disclosing any Khronos Work Product and destroy all intangible copies of same information. Contractor further agrees that any property situated on Khronos' premises and owned by Khronos, including disks and other storage media, filing cabinets or other work areas, is subject to inspection by Khronos personnel at any time with or without notice.

## **6.5 Survival**

The rights and obligations set forth in sections relating to Confidential Information, Trademarks, No Warranty, Limitation of Liability and Khronos Group Contractor Intellectual Property Rights Policy will survive termination of this Agreement.

## **7. CONFIDENTIAL INFORMATION**

### **7.1 Contractor's Contributions Not Confidential**

Contractor's Contributions are not confidential and Members are free to use these Contributions for any purpose and disclose such Contributions to each other and any third parties. Contributions, once accepted by Khronos, may not be withdrawn. Prior to any Contribution being incorporated into a Draft Specification, Contractor grants to Khronos a license under that Contractor's trade secrets and copyrights incorporated in that Contribution, to use that Contribution to develop Draft Specifications for which the Contractor made the Contribution.

### **7.2 Confidentiality Obligation**

Contractor will not use Confidential Information in any manner or for any purpose not expressly set forth in this Agreement and will maintain all Confidential Information in confidence with at least the same degree of care that it uses to protect its own confidential and proprietary information, but no less than a reasonable degree of care under the circumstances and will not use, disclose or copy the Confidential Information (other than the Contractor's Contributions) except as necessary for its employees with a need to know to evaluate and comment thereon. Contractor will mark any copies it makes of such Confidential Information "Khronos Confidential," "Khronos Proprietary" or with a similar legend and shall reproduce all copyright notices and disclaimers contained in the Confidential Information. Unless the parties agree otherwise, this obligation of confidentiality will expire two (2) years from the date of disclosure to Contractor.

### **7.3 Third Party Information**

Each party understands that the other party may have received and may in the future receive from third parties confidential or proprietary information ("**Third Party Information**") subject to a duty on such party's part to maintain the confidentiality of such information and use it only for certain limited purposes. Each party agrees to hold Third Party Information in confidence and not to disclose to anyone (other than personnel who need to know such information in connection with their work for the party) or to use, except in connection with this Agreement, Third Party Information unless expressly authorized in writing by an officer of the disclosing party.

### **7.4 Residuals**

Contractor is free to use for any purpose the Residuals resulting from access to or work with the Confidential Information provided that it maintains the confidentiality of the Confidential Information as provided herein. Contractor has no obligation to limit or restrict the assignment of persons with access to Confidential Information or to pay royalties for any work resulting from the use of the Residuals. However, the foregoing does not grant a license to any patents or copyrights held by Khronos or Members.

## **8. TRADEMARKS**

### **8.1 Non-assertion of Rights in Marks**

Contractor agrees not to assert against Khronos or any Member any trademark, trade name, or similar rights it may have now or may obtain in the future in the names Khronos, Khronos Group, OpenVG, OpenMAX, OpenGL ES and any other marks obtained by Khronos in the future, provided that Khronos applies for such future marks in good faith and not to the detriment of Contractor ("**Marks**"). Member will not use or adopt any trademarks for any product, service, or specification likely to cause confusion with the Marks.



## **8.2 Use of Trademarks**

Contractor agrees to comply with any trademark usage guidelines that Khronos may issue from time to time, including restrictions of use of Marks for products to be tested for compliance with Ratified Specifications with conformance tests defined by Khronos.

## **8.3 SGI Marks**

Silicon Graphics, Inc. ("**SGI**") owns all right, title, and interest to the marks "OpenML", "OpenGL," and "OpenGL ES" and has registered or has filed an application to register "OpenGL" in numerous countries worldwide including the United States, and has registered "OpenML" with the U.S. Patent and Trademark Office. Members may use the marks "OpenML", "OpenGL" and "OpenGL ES" in reference to its products compliant with the Final Specification subject to the terms of a collateral trademark license agreement to such effect, by and between SGI and the related Member, the form of which trademark license agreement is available on the Khronos web-site and is made a part hereof by this reference.

# **9. GENERAL**

## **9.1 Assignment**

Neither this Agreement nor any rights or obligations under this Agreement, in whole or in part, are assignable or otherwise transferable by the Contractor without the prior written approval of Khronos, provided however that Contractor may assign this Agreement to any person or entity acquiring its business and assets in entirety.

## **9.2 No Other Rights**

No license, rights or title in or to any software or any intellectual property are provided hereunder, either expressly or by implication, estoppel or otherwise, except as expressly provided in this Agreement.

## **9.3 No Agency**

The parties hereto are independent parties, and nothing herein shall be construed to create an agency, joint venture, partnership or other form of business association between the parties hereto.

## **9.4 Notices**

Any notices under this Agreement shall be sent by: a) registered mail; b) tracked overnight carrier or c) email transmission where the recipient specifically replies to acknowledge receipt.

## **9.5 Governing Law**

This Agreement shall be governed by and interpreted in accordance with the laws of the State of California, excluding its choice of laws rules. The parties hereby agree that any dispute regarding the interpretation or validity of, or otherwise arising out of, this Agreement shall be subject to the exclusive jurisdiction of the California state courts of Santa Clara County, California (or, if there is federal jurisdiction, the United States District Court for the Northern District of California, San Jose), and the parties agree to submit to the personal and exclusive jurisdiction and venue of these courts.

## **9.6 Complete Agreement**

This Agreement constitute the complete and exclusive statement of the agreement between the parties, and supersedes all previous agreements, proposals, oral or written, and all other communications or understandings between the parties relating to the subject matter of this Agreement. Each party acknowledges that it has not relied upon any representation or statement not contained herein. This Agreement shall not be modified, amended or in any way altered except by an instrument in writing signed by the Contractor and Khronos hereto.

### **9.7 No Warranty**

CONTRACTOR ACKNOWLEDGES THAT ALL INFORMATION PROVIDED BY KHRONOS UNDER THIS AGREEMENT, INCLUDING ANY SPECIFICATIONS AND CONTRIBUTIONS, ARE PROVIDED "AS IS" WITH NO WARRANTIES OR CONDITIONS WHATSOEVER, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, AND KHRONOS EXPRESSLY DISCLAIMS ANY WARRANTY OR CONDITION OF MERCHANTABILITY, SECURITY, SATISFACTORY QUALITY, NONINFRINGEMENT INCLUDING NON-INFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS, FITNESS FOR ANY PARTICULAR PURPOSE, ERROR-FREE OPERATION, OR ANY WARRANTY OR CONDITION OTHERWISE ARISING OUT OF ANY PROPOSAL, SPECIFICATION, OR SAMPLE.

### **9.8 Limitation of Liability**

IN NO EVENT WILL ANY PARTY BE LIABLE TO ANY OTHER PARTY FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL OR EXEMPLARY DAMAGES, WHETHER UNDER CONTRACT, TORT, WARRANTY, CONDITION OR OTHERWISE, ARISING IN ANY WAY IN RELATION TO THIS OR ANY OTHER RELATED AGREEMENT, WHETHER OR NOT SUCH PARTY HAD ADVANCE NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.

### **9.9 Injunctive Relief**

A breach of any of the promises or agreements contained in this Agreement may result in irreparable and continuing damage to Khronos for which there may be no adequate remedy at law, and Khronos is therefore entitled to seek injunctive relief as well as such other and further relief as may be appropriate.

### **9.10 Severability**

In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the other provisions of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. If any one or more of the provisions contained in this Agreement shall for any reason be held to be excessively broad as to duration, geographical scope, activity or subject, it shall be construed by limiting and reducing it, so as to be enforceable to the extent compatible with the applicable law as it shall then appear.

### **9.11 Waiver**

No waiver by either party of any breach of this Agreement shall be a waiver of any preceding or succeeding breach. No waiver by either party of any right under this Agreement shall be construed as a waiver of any other right. Neither party shall be required to give notice to enforce strict adherence to all terms of this Agreement.

### **9.12 Authority to Sign**

The person signing on behalf of Contractor hereby represents and warrants that he/she has the appropriate authorization to bind the Contractor in this Agreement.

# KHRONOS CONTRACTORS AGREEMENT SIGNATURE PAGE

<p><b>Khronos Group</b> 14525 SW Millikan Way #45043, Beaverton, OR 97005-2343, USA</p> <hr/> <p>Authorized signature in behalf of Khronos Group Inc.</p> <hr/> <p>Printed name of Khronos Representative</p> <hr/> <p>Title of Khronos Representative</p> <hr/> <p>Email address for Khronos Representative</p> <hr/> <p>Date of signature</p>	<p style="text-align: right;">_____ <b>Contractor</b></p> <hr/> <p>Street address of Contractor</p> <hr/> <p>City, State, ZIP, of Contractor</p> <hr/> <p>Authorized signature in behalf of Contractor</p> <hr/> <p>Printed name of Contractor</p> <hr/> <p>Title of Contractor</p> <hr/> <p>Email address for Contractor</p> <hr/> <p>Date of signature</p>
---	--

# ATTACHMENT A

## KHRONOS GROUP CONTRACTOR INTELLECTUAL PROPERTY ("IP") RIGHTS POLICY

### 1. DEFINITIONS

**"Affiliate"** means any entity that directly or indirectly Controls, is Controlled by, or is under common Control with a party to this agreement, so long as such Control exists.

**"Compliant Portion"** means a portion of a product, where such portion is fully compliant with all relevant portions of a Ratified Specification. Any portion of a product that is not fully compliant with all relevant portions of a Ratified Specification shall not constitute a Compliant Portion.

**"Control"** means direct or indirect ownership of or the right to exercise (a) greater than fifty percent (50%) of the outstanding shares or securities entitled to vote for the election of directors or similar managing authority of an entity; or (b) greater than fifty percent (50%) of the ownership interest representing the right to make the decisions for such entity.

**"Necessary Patent Claims"** means claims of a patent or patent application, other than design patents and design registrations, issued or filed in any country, to which Contractor or its Affiliates has the right to grant licenses in accordance with the terms and conditions of this Attachment A at any time during the term of the Agreement, and which are necessarily infringed by any Compliant Portion. Necessary Patent Claims do not include any claims (i) other than those set forth above even if contained in the same patent or patent application as Necessary Patent Claims; (ii) that read solely on (1) any implementation of any portion of the Ratified Specification that is not a Compliant Portion, or (2) any Compliant Portion that is not within the bounds of the Scope; or (iii) that it is possible to avoid infringing because there is a commercially plausible non-infringing alternative for implementing such portions of the Ratified Specification.

**"Reciprocal License"** means the perpetual, royalty-free, fully paid, worldwide, nonexclusive license under any Necessary Patent Claims to make, have made, use, import, offer to sell and sell Compliant Portions, together with the right without royalty or fee to sublicense to third parties (a) the right to distribute Compliant Portions through the normal tiers of distribution to end users or to resellers, distributors, dealers and authorized manufacturers and others in the distribution channel, and (b) the right to reproduce Compliant Portions solely in connection with the distribution permitted under paragraph (a) of this definition, provided, however, that the royalty-free provisions shall not apply to Necessary Patent Claims that, if licensed would require payment by licensor to unaffiliated third parties.

**"Contractor"** means any entity that has signed the Khronos Contractors Agreement to which this Attachment A is attached.

**"Scope"** means the application program interfaces and data structures solely to the extent disclosed with particularity in a Ratified Specification where the sole purpose of such disclosure is to enable products to interoperate, interconnect, or communicate as defined within a Ratified Specification. Notwithstanding the foregoing, the Scope does not include: (a) any enabling technologies that may be necessary to make or use any product or portion of any product that complies with the Ratified Specification, but are not themselves expressly set forth in the Ratified Specification (e.g. semiconductor manufacturing technology, hardware architecture, processor architecture or microarchitecture, compiler technology, object oriented technology, basic operating system technology, compression technology, algorithms, and so on); or (b) the implementation of other published specifications developed elsewhere but referred to in the body of the Ratified Specification; or (c) any portions or combinations of any product whose purpose is not required for

compliance with the Ratified Specification. For purposes of this definition, the Ratified Specification will include only interconnection requirements and will not include any implementation examples or any information pertaining to the architecture, design or operating principles of any implementations unless such implementation examples or information are expressly identified as being included as part of the Ratified Specification, and provided that the Contractor or Khronos Members submitting the Contributions including such implementation examples or information provide their consent to such identification.

## **2. LICENSES**

### **2.1 Copyright License**

Contractor grants to Khronos a worldwide, irrevocable, non-exclusive, non-transferable, royalty free copyright license for any Draft Specification on the date of Ratification to reproduce, create derivative works, distribute, display, perform and sublicense the rights to reproduce, distribute, display and perform the Contributions of Contractor solely for the purposes of developing, publishing and distributing Ratified Specifications and related materials, as well as products based on such documents.

### **2.2 Grant of Limited Patent License**

For any Contributions that are incorporated into a Ratified Specification, Contractor, and its Affiliates, agrees to grant to each of Khronos and Khronos Members that are not excluded from entering into a license for Ratified Specification according to the Khronos Participation Agreement ("**Licensees**") and any Licensee Affiliates, a Reciprocal License on the date of Ratification. Such Reciprocal License is granted whether or not the any licensor ever had any knowledge of the existence of such Necessary Patent Claims.

### **2.3 Reciprocal Grant**

This grant of the Limited Patent License to any individual Licensee is subject to the Contractor receiving in return a Reciprocal License from the Licensee and its Affiliates.

### **2.4 Defensive Suspension**

Any licensor shall have the right to suspend any Reciprocal License granted by that licensor to any other Licensee ("**Plaintiff**") in the case that the Plaintiff initiates any lawsuit or other legal proceeding against the licensor alleging patent infringement within the Scope.

## **3. DISCLOSURE**

### **3.1 No Khronos Disclosure Necessary**

Khronos shall not be responsible for identifying patent rights for which a license may be required, or for conducting inquiries into the legal validity or scope of those patents that are brought to its attention.

### **3.2 No Member Disclosure Necessary**

A Contractor is not required to disclose a Necessary Patent Claim if the Contractor commits to license such Necessary Patent Claim according to the terms and conditions of the Reciprocal License.

# EXHIBIT B PROJECT ASSIGNMENT

## 4. DESCRIPTION OF SERVICES AND DELIVERABLES

Contractor shall complete the COLLADA Conformance Suite and submit the suite for approval to the COLLADA Working Group.

### 4.1 Task List

The work for this contract is broken down into the following tasks:

1. Develop a list of all test cases currently in the Test Suite. Provide a spreadsheet description of the functionality tested and COLLADA spec elements covered. Document the test verification type: visual, textual compare and the test procedure. Document the comparison function used (Image, Document(Exact XPATH, Functional Equivalent, Document Structure) and how it will distinguish whether an implementation passes or fails the test.

A test case is:

COLLADA documents that represent the source data for the test

A compare function(image, textual, xml using test framework tools)

0 or more blessed images

0 or more blessed comparison documents

Compare function that is integrated into the framework(python)

Test procedure(workflow)

example: import, render, export, import, render, compare renders

2. Add needed conformance test cases for COLLADA 1.4 Conformance. Provide needed tests so that there is at least two test cases for basic, intermediate and advanced tests denoted in attached spreadsheet. The developed tests must be approved by the COLLADA Working Group. Some elements may need more than two tests for good coverage. The contractor shall work with the working group to determine the minimum acceptable level. Contractually at least two tests per element per badge is required.
3. Review all current test cases for correctness. The test should pass XML Schema validation and it should be semantically correct according to the COLLADA 1.4.1 Specification (Second Edition). Insure that all visual tests that require a blessed image have at least one image and verify the provided images are correct for the test case. Any blessed images that are created should be in the png format at 512x512 pixels with no loss on image encoding. Any tests which have the old 300x300 format will need to have their images regenerated. All tests shall be submitted to the COLLADA Working Group for validation. Contractor will correct tests based on feedback from the working group.
4. Work with the first beta test vendors to test the conformance program. Fix any bugs discovered in the conformance suite. Validate new images submitted for the suite. Submit images for COLLADA Working Group approval.
5. Propose and develop any new comparison functions. There currently exists an image and document comparator in the suite. The contractor shall validate, add or improve as needed so that an appropriate image comparison function is used for each visual test as necessary. The contractor shall validate, add or improve as needed so that appropriate document comparison function is used for each

document test. Any proposed compare functions require prior approval from the contract manager before work is started.

6. Develop specification release notes. Document all specification issues discovered during the development and validation of tests. Each issue shall be entered into the COLLADA Bugzilla and the contractor will answer all clarification questions.
7. Create an adopter's package. Work with the COLLADA Working Group to develop the Adopter's Package. Insure it fits within the Khronos Adopters Package Guidelines. Develop a porting guide for the suite. This guide will detail the integration requirements for applications under test. It will show how to connect software to the test suite. The contractor shall work with beta testers to validate the correctness of the guide.

Items 1-3 should be at least 50% of the contracted effort.

## **4.2 Schedule**

### **Milestone 1 (Basic and Intermediate Badges)**

Expected Date: April 15, 2009

Khronos will pay \$20,000 USD for the completion of the following tasks:

- Task 1 – Complete
- Task 2 – Basic, Intermediate Badges Complete for WG Review at Meeting
- Task 3 - Basic, Intermediate Badges Complete for WG Review at Meeting
- Task 5 – Progress report on Task 5 and implementation plan for new comparators
- Task 6 - Basic, Intermediate Badges Complete for WG Review at Meeting

Contractor is required to lead a conformance presentation at a COLLADA Working Group teleconference to review developed tests.

### **Milestone 2 (Advanced Badge)**

Expected Date: June 15, 2009

Khronos will pay \$20,000 USD for the completion of the following tasks:

- Task 2 – Advanced Badge Developed. Task Completed for WG Review
- Task 3 - Advanced Badge Developed. Task Completed for WG Review
- Task 5 – Complete
- Task 6 - Advanced Badge Developed. Task Completed for WG Review

Attendance at the COLLADA Face-Face in the UK on May 11-15 is requested. Contractor is required to lead, in person or via teleconference, a conformance presentation at the face to face to review developed tests.

### **Milestone 3 (Beta testing and Adopters Package)**

Expected Date: August 15, 2009

Khronos will pay \$20,000 USD for the completion of the following tasks

- Task 4 – Complete
- Task 7 – Complete

Contractor is required to lead a conformance presentation at a COLLADA Working Group teleconference to review completed project and deliverables.

## 5. BILLING

Contractor shall invoice Khronos on reception of Deliverables.

## 6. TERMS

Payment shall be made within thirty (30) days after receipt date of each invoice. Khronos reserves the right to setoff against Contractor any amount owed by Contractor to Khronos.

## 7. EXPENSES

Khronos will reimburse Contractor for any reasonable expenses incurred in connection with the performance of the services under this Independent Contractor Services Agreement that have been approved in advance by Khronos.

## 8. CONTACTS

Contractor's principal Khronos contact is:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Email: \_\_\_\_\_

Khronos' principal Contractor contact is:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Email: \_\_\_\_\_

## 9. GOVERNING AGREEMENT

This Project Assignment is governed by the terms of the Independent Contractor Services Agreement in effect between Khronos and Contractor, to which this Assignment, is an attachment. Any item in this Project Assignment, which is inconsistent with that Agreement, is invalid.

Signed: \_\_\_\_\_  
For Khronos

\_\_\_\_\_  
For Contractor

Dated: \_\_\_\_\_

\_\_\_\_\_



# EXHIBIT C CONTRACTOR DISCLOSURES

## 1. CONFLICTS OF INTEREST DISCLOSURE

- No conflicts of interest
  - See below:
- < INSERT AS NECESSARY >

## 2. PRIOR WORK PRODUCT DISCLOSURE

The following is a complete list of all Prior Work Product that have been made or conceived or first reduced to practice by Contractor alone or jointly with others prior to engagement by Khronos:

- No Prior Work
  - See below:
- < INSERT AS NECESSARY >

## 3. BACKGROUND TECHNOLOGY DISCLOSURE

The following is a list of all Background Technology, which Contractor intends to use in performing under this Agreement:

< INSERT AS NECESSARY >

## 4. KHRONOS MATERIALS

The following is a list of all Khronos Materials, which Contractor intends to use in performing under this Agreement:

Khronos Conformance Tests supplied by Khronos under the Khronos Conformance Test Source License

< INSERT AS NECESSARY >

## 5. GOVERNING AGREEMENT

This Disclosure is governed by the terms of the Independent Contractor Services Agreement in effect between Khronos and Contractor, to which this Assignment, is an attachment. Any item in this Project Assignment, which is inconsistent with that Agreement, is invalid.

Signed: \_\_\_\_\_  
For Khronos

\_\_\_\_\_  
For Contractor

Dated: \_\_\_\_\_

\_\_\_\_\_