

Silver Membership Agreement 2002

Agreement dated this _____ day of _____, 2002

BETWEEN

The Open Group, L.L.C., a limited liability company organized under the laws of the State of Delaware, of 29B Montvale Avenue, Woburn, MA 01801, USA

And

_____/_____/_____
<Organisation> <Street Address> <City>

_____/_____/_____ ("Member")
<State> <ZIP> <Country>

WHEREAS, The Open Group has established various Programs/Forums ("Forums") for the benefit of its members, and

WHEREAS, Member wishes to join The Open Group and participate in such Forums as entitled by Silver Membership on the terms and conditions set out below, and

WHEREAS, by execution of the Agreement and payment of the applicable fee Member becomes a member of The Open Group.

IT IS HEREBY AGREED as follows:

1. In consideration of the payment by the Member of the applicable fee as set out in Schedule 1, to be paid upon execution of this Agreement, and on each anniversary hereof, Member shall become a member of The Open Group and the Forums indicated in Schedule 2.
2. Member shall be entitled to the entitlements set out in Schedule 2.
3. Member agrees to have its name added to The Open Group published list of members; to advocate The Open Group specification setting activities; have an authorized representative of Member attend meetings of the relevant Forums and work within the Forums per the terms of this Agreement.
4. The Open Group is required by the National Cooperative Research and Production Act (NCRPA) to notify the US Department of Justice and the Federal Trade Commission of new members. Member agrees that execution of this Agreement authorizes The Open Group to fulfill its reporting obligations on Member's behalf to U.S. Government as cited in the NCRPA.

5. Member agrees to the following obligations of confidentiality with respect to information received through participation in the Forum(s):
- (a) Any specifications, drawings, sketches, models, samples, data, computer programs or documentation or other technical or business information in written, graphic or other tangible or electronic form furnished or disclosed to The Open Group or any other party in the course of the Forums' activities and/or as a result of Member's use of any materials ("the Information") should be deemed the property of The Open Group, and shall be returned to The Open Group upon request. Member agrees to maintain all Information in confidence, using the same degree of care Member uses to protect its own proprietary information of like importance, but in no event less than a reasonable degree of care.
 - (b) Member agrees to disclose Information only to its employees and agents of Member with a need to know for purposes of advancing the work of the Forums and to require each such employee or agent to comply with the confidentiality terms set out in this Agreement.
 - (c) The provisions set out in this Section 5 shall not apply to Information which:
 - i) is or becomes a part of the public domain,
 - ii) is demonstrably known to Member prior to disclosure within the Forums,
 - iii) was independently developed by the Member outside of this Agreement,
 - iv) was rightfully obtained by Member from third parties with no obligation of confidentiality.
 - (d) The obligations of confidentiality set out above shall remain in effect for the duration of this Agreement and two years subsequent to termination thereof.
6. a) ALL MATERIALS AND INFORMATION ("MATERIALS") PROVIDED BY THE OPEN GROUP ARE PROVIDED "AS IS", AND THE OPEN GROUP MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL THE OPEN GROUP BE LIABLE FOR ANY LIABILITY WHETHER IN CONTRACT, TORT OR OTHERWISE FOR ANY LOSSES OR DAMAGE ARISING OUT OF OR RELATING TO THIS AGREEMENT. IN NO EVENT SHALL THE OPEN GROUP BE LIABLE FOR ANY INDIRECT OR CONSEQUENTIAL LOSSES INCLUDING, WITHOUT LIMITATION, ANY LOSS OF PROFITS, CONTRACTS, PRODUCTION OR USE.
- b) The Member acknowledges that because of the special nature of The Open Group it is reasonable for The Open Group to exclude liability as above and for the Member to take measures, including insurance where appropriate, to mitigate or prevent any potential losses that may arise (provided that such measures are not in breach of this Agreement).
 - c) If any third party makes or threatens to make any claim (or if, in the opinion of The Open Group such a claim is likely) that the use by the Member of any Materials or other information provided by The Open Group infringes any intellectual property right of such third party, The Open Group may, at its option, either secure the Member's right to continue using the Materials, make the Materials non-infringing or withdraw the Materials on one months written notice whereupon the Member shall not be authorized to make any further use

of the materials. This sub-clause states the entire responsibility of The Open Group concerning infringement of third party intellectual property rights.

7. Renewal. This Agreement shall automatically renew upon each anniversary date, unless terminated in accordance with Paragraph 8 below.
8. Termination. This Agreement may be terminated:
 - a) By either party giving to the other sixty (60) days notice in writing before any anniversary of the date hereof.
 - b) By The Open Group on written notice to the Member if the Member has committed any material breach of this Agreement and in the case of a breach capable of being remedied, has failed to remedy the breach, within 30 days after the receipt of a written request in writing from The Open Group notifying the Member of such breach.
 - c) By The Open Group on written notice to the Member if the Member fails to pay any sum(s) due to The Open Group under this Agreement and such sum(s) remain unpaid for thirty (30) days after written notice from The Open Group that such sum(s) have not been paid.
 - d) For the avoidance of doubt, termination of this Agreement for any reason shall not entitle the Member to any refund of the annual sum due under this Agreement.
9. This Agreement may be modified by the inclusion by The Open Group of additional requirements or terms on ninety (90) days written notice to the Member. In the event Member does not agree to such additional requirements, Member may resign from The Open Group upon thirty (30) days written notice. Member shall not be entitled to a refund of membership fees pursuant to such resignation.
10. If any provision of this Agreement is for any reason declared illegal in any country, all other provisions shall remain in full force and effect to the fullest extent permitted by such law.

For the avoidance of any doubt, any such finding of illegality in any country shall not affect the validity of any provisions of this Agreement in other countries.
11. This Agreement shall be governed by and interpreted in accordance with the laws of the Commonwealth of Massachusetts.

12. **Membership Type/Fees**

Please indicate type of Membership chosen [Check One]:

- | | | |
|---------------------|---|--------------------------|
| IT Buyer | Annual Revenue > \$100m | <input type="checkbox"/> |
| | Annual Revenue between \$25m and \$100m | <input type="checkbox"/> |
| | Annual Revenue < \$25m | <input type="checkbox"/> |
| Supplier/Integrator | Annual Revenue > \$100m | <input type="checkbox"/> |
| | Annual Revenue between \$25m and \$100m | <input type="checkbox"/> |
| | Annual Revenue < \$25m | <input type="checkbox"/> |
| Academic | Distinguished | <input type="checkbox"/> |
| | Regular | <input type="checkbox"/> |
| Government Agency | 200 or more employees | <input type="checkbox"/> |
| | <200 employees | <input type="checkbox"/> |
| Not -for-profit | | <input type="checkbox"/> |

Fees:

- | | | | |
|-------------------|-------------------|--------------------------|-------|
| Silver Membership | First Forum | <input type="checkbox"/> | _____ |
| | Additional Forums | <input type="checkbox"/> | _____ |
| Forum Buy-Out | | <input type="checkbox"/> | _____ |
| TOTAL | | <input type="checkbox"/> | _____ |

(Please reference Schedules 1 and 2 to this Agreement for information on membership fees and Forum choices.)

FOR AND ON BEHALF OF
The Member

FOR AND ON BEHALF OF
The Open Group

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Schedule 1 Silver Membership Fees

All fees are annual and in US (\$) dollars

Membership Type		Initial Forum	Additional Forum	Forum Buy-out **
IT Buyer	Annual Revenue > \$100m	\$12,500	\$9,375	\$31,250
	Annual Revenue between \$25m and \$100m	\$7,500	\$5,625	\$18,750
	Annual Revenue < \$25m	\$2,500	\$1,875	\$6,250
Supplier/Integrator	Annual Revenue > \$100m	\$20,000	\$15,000	\$50,000
	Annual Revenue between \$25m and \$100m	\$12,500	\$9,375	\$31,250
	Annual Revenue < \$25m	\$2,500	\$1,875	\$6,250
Government Agency	200 or more employees	\$7,500	\$5,625	\$18,750
	< 200 employees	\$2,500	\$1,875	\$6,250
Not-for-profit		\$7,500	\$5,625	\$18,750

** Forum Buy-Out provides Silver Membership entitlements in all of the Forums listed in Schedule 2.

Schedule 2

Membership Entitlements and Forum Choices

A. Silver Membership Entitlements

1. Publications
 - Receive a single-user CD-ROM containing all specifications and guides published up to December, 1996, and electronic copies of all Specifications and Guides published since January 1997 [available in HTML format from The Open Group website];
 - Member discounts on multi-user CD-ROM upgrades options and all Open Group publications at the then-current level;

2. Attendance at The Open Group Quarterly Conferences and Regional Meetings
 - Member can send unlimited participants to each conference or regional meeting at member rates.

3. Forum Entitlements
 - Member can participate in one Forum. (See Schedule 1 for 'Additional Forum' fee.)
 - Attend all Forum meetings.
 - Receive all papers of or from the Forum.
 - Vote in all decisions of the Forum.
 - Receive, and be entitled to participate in, all communication in electronic mail of or from the Forum.
 - Early access to snapshots, draft specifications, Technical Standards specifications and requirements documents as are produced by The Open Group.
 - Elected representation to The Open Group Governing Board and other bodies.

B. Forum Declaration

1. Member selects the following Forums:
 - Architecture Forum
 - BASE (UNIX) Working Group
 - Directory Interoperability Forum
 - Enterprise Management Forum
 - Electronic Messaging Association Forum
 - Mobile Management Forum
 - Quality of Service Forum
 - Real-Time & Embedded Systems Forum
 - Security & eCommerce Forum

The Forum Buy-out option provides Silver Membership entitlements in all of the Forums listed above.

Schedule 3 Silver Membership Information

Membership Information

1. Organization: (Please print)

Organization Name: _____

Principal Product/Service: _____

Please indicate whether your organization is an:

- IT Customer
 IT Supplier or Systems Integrator

Annual Sales* _____

Number of Employees _____ (Government agencies only)

VAT number** _____

*** Note:** If a Membership discount related to annual revenue is requested, please attach documentation substantiating your organization's revenue level. Any ONE of the following forms of revenue verification is acceptable: a letter from a certified public accountant, your company's Annual Report, Annual 10K or equivalent.

**Members from the European Union only

2. Membership Listing

The Open Group realizes that each organization places a very high value on its name and its use. To ensure the accuracy of our records, please indicate below the way in which your organization's name should appear in the membership listing:

_____ <Formal Organization Name, including classification (Trademark, Servicemark etc.)>

_____ <Acceptable shortened version of Organization Name>

The Open Group prints and distributes a "Member List" at industry events and as a part of general communications and presentation materials. This list will only contain the formal organization name of our members.

3. Web Address

The Open Group provides a list of Member organizations on our Web.

If you supply your Web address, we will link it to this listing.

<WEB site address>

4. Designated representative(s) (Please print)

	Primary Representative	Alternate Representative
Name:		
Title:		
Organization Name:		
Address		
Phone No:		
Fax No:		
Mobile Phone No:		
eMail Address:		
Dept./Division		

5. Billing Address (Please Print)

Contact Name:

Title:

Organization Name:

Address:

Dept./Division:

Mail Stop:

City:

State/Province:

Zip:

Country:

Telephone:

Fax:

Email: