License Agreement for Saxon-SA

IMPORTANT! READ CAREFULLY: THIS IS A LEGAL AGREEMENT. BY DOWNLOADING, INSTALLING, COPYING, SAVING ON YOUR COMPUTER, OR OTHERWISE USING THIS SOFTWARE (AS DEFINED BELOW), YOU (AS DEFINED BELOW) ARE BECOMING A PARTY TO THIS AGREEMENT AND YOU ARE ACCEPTING AND CONSENTING TO BE BOUND BY ALL THE TERMS AND CONDITIONS OF THIS AGREEMENT.

IF YOU DO NOT AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, THEN YOU SHOULD NOT DOWNLOAD, INSTALL OR USE THE SOFTWARE. IF YOU HAVE ALREADY DOWNLOADED OR INSTALLED THE SOFTWARE YOU SHOULD REMOVE THE SOFTWARE FROM YOUR SYSTEM AND DESTROY ALL COPIES.

Upon Your acceptance of this License Agreement (the "Agreement"), Saxonica grants to You a non-exclusive and non-transferable license to use the Software, upon and provided that You agree to the following terms:

1. PARTIES

"Saxonica" means Saxonica Limited, a Company registered in England and Wales with its registered office located at Chiltern Chambers, 9 St Peter's Avenue, Reading, United Kingdom RG4 7DH.

"You" means any individual or legal entity exercising rights or purporting to exercise rights under, and complying with all of the terms of, this Agreement. For legal entities, "You" includes any entity that controls, is controlled by, or is under common control with You. For purposes of this definition, "control" means (a) the power, directly or indirectly, to control the direction or management of such entity, whether by contract or otherwise, and/or (b) ownership of fifty percent (50%) or more of the outstanding shares or beneficial ownership of such entity.

2. DEFINITIONS

"Software" means the executable code of Saxon-SA, together will all data files and documentation files that are distributed by Saxonica in the same package as the executable code.

3. GRANT OF LICENSE

The Software is the property of Saxonica or its suppliers. The Software is licensed, not sold. Title and copyright to the Software, in whole and in part and all copies thereof, and all modifications, enhancements, derivatives and other alterations of the Software regardless of who made any modifications, if any, are, and will remain, the sole and exclusive property of Saxonica and its suppliers.

The Software is protected by copyright law in England and by international treaty provisions. Further, the structure, organisation, and code embodied in the Software are valuable and confidential trade secrets of Saxonica and its suppliers and are protected by intellectual property laws and treaties. You agree to abide by the copyright law and all other applicable laws including, but not limited to, export control laws.

You may:

(i) save and use the number of copies of the Software for which the corresponding fee has been paid, in perpetuity unless terminated under the specific provisions of this Agreement;

(ii) make one copy of the Software for archival purposes.

You may not:

(i) sell, redistribute, encumber, give, lend, rent, lease, sublicense, or otherwise transfer the Software, or any

portions of the Software, to anyone without the prior written consent of Saxonica;

(ii) reverse engineer, decompile, disassemble, modify, translate, make any attempt to discover the source code of the Software, or create derivative works from the Software;

(iii) install and run the Software from a network server, or use the Software on different computers, except to the extent that multiple user licenses have been purchased.

This Agreement entitles You to use the Software on one computer, or on multiple computers if they are all used exclusively by the same individual. You may purchase an additional user license entitling You to make the Software available on an additional computer or computers operated by or on behalf of the same legal entity, under the same conditions as this Agreement. You are responsible for ensuring that all copies of the Software are used in accordance with these conditions, and you agree to provide such information to Saxonica or its agents as may reasonably be required to demonstrate your compliance with these conditions.

This Agreement entitles you to install in place of the Software any product classified by Saxonica as an upgrade of the original Software, provided that the upgrade product is published by Saxonica within 12 months after the date of the original purchase. Saxonica has absolute discretion whether to classify any new software as an upgrade of the original Software, and to decide whether and when to publish any such software. Use of upgraded software may be subject to amended terms and conditions. Saxonica also has absolute discretion to cease distribution of any software product or version at any time.

5. RESTRICTED USE DURING EVALUATION PERIOD

You have a non-exclusive, non-transferable, non-renewable license to

load and execute an evaluation copy of the Software for a period of thirty (30) days (the "Evaluation Period"), or such other period as defined by Saxonica. This evaluation license allows the Software to be used for evaluation and testing purposes only and not for any commercial use.

You must pay a license fee for the Software to obtain the right to use the Software for commercial use or for a period beyond the Evaluation Period, whereupon the license will become perpetual.

By paying a license fee you agree that you have evaluated the Software to your satisfaction and you agree that no refund of the license fee is available except as specifically provided by this Agreement.

The evaluation copy of the Software contains a feature that will automatically disable the Software at the end of the Evaluation Period. Saxonica will have no liability to you if the Software is disabled by this feature. You must not disable, destroy, remove or circumvent this feature of the Software, and any attempt to do so will terminate your license and rights under this Agreement.

You agree that on request during or after completion of the Evaluation Period, you will inform Saxonica of the criteria You are or were using to evaluate the Software, and of the outcome of your evaluation of the Software against those criteria.

6. PATENT AND COPYRIGHT INDEMNITY

Saxonica will defend and indemnify You against all costs (including reasonable attorney's fees) arising from a claim that Software furnished and used within the scope of this Agreement infringes a UK copyright or UK patent provided that:

      (i) You notify Saxonica in writing within 30 days of the claim;

      (ii) Saxonica has sole control of the defence and all related

settlement negotiations; and

(iii) You provide Saxonica with the assistance, information, and authority necessary to perform the above.

Saxonica will have no liability for any claim of infringement based on:

(i) code contained within the Software which was not created by Saxonica; or

(ii) use of a superseded or altered release of the Software, except for such alteration(s) or modification(s) which have been made by Saxonica or under Saxonica's direction, if such infringement would have been avoided by the use of a current, unaltered release of the Software that Saxonica provides or has offered to You; or

(iii) the combination, operation, or use of any Software furnished under this Agreement with programs or data not furnished by Saxonica if such infringement would have been avoided by the use of the Software without such programs or data.

In the event the Software is held to infringe or is believed by Saxonica to infringe, or Your use of the Software is enjoined, Saxonica will have the option, at its expense, to:

(i) modify the Software to cause it to become non-infringing; or

(ii) obtain for You a license to continue using the Software; or

(iii) substitute the Software with other Software reasonably suitable to You; or

(iv) if none of the foregoing remedies are commercially feasible, terminate the license for the infringing Software and refund any license fees paid for the Software, prorated over a three-year term from the effective date of the Agreement. This Section states Saxonica's entire liability for infringement.

7. LIMITED WARRANTY

If You have paid a license fee for the Software, then for a period of ninety (90) days from the date of receipt of the Software, Saxonica warrants the Software against any defects resulting from the electronic transmission process, and any Software media supplied by Saxonica will be free from defects in materials and workmanship.

Saxonica's, and its suppliers' and resellers', entire liability and Your exclusive remedy shall be, at Saxonica's option, either (i) return of the price paid, or (ii) repair or replacement of the Software that does not meet Saxonica's Limited Warranty. This Limited Warranty is void if failure of the Software has resulted from accident, abuse, or misapplication. Any replacement Software will be warranted for an additional ninety (90) days. Neither these remedies nor any product support services offered by Saxonica are available without proof of purchase from an authorized source.

EXCEPT FOR THE FOREGOING, THE SOFTWARE IS DELIVERED TO YOU "AS IS" AND SAXONICA MAKES NO WARRANTY AS TO ITS USE OR PERFORMANCE. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, SAXONICA, AND ITS SUPPLIERS AND RESELLERS, DISCLAIM ALL OTHER WARRANTIES AND CONDITIONS, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE EVEN IF THAT PURPOSE HAS BEEN NOTIFIED BY YOU TO SAXONICA, TITLE, AND NON-INFRINGEMENT, WITH REGARD TO THE SOFTWARE, AND THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT SERVICES. THIS

LIMITED WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS. YOU MAY HAVE OTHERS, WHICH VARY FROM STATE/JURISDICTION TO STATE/JURISDICTION.

PRODUCT SPECIFICATIONS PUBLISHED BY SAXONICA, INCLUDING STATEMENTS REGARDING THE CONFORMANCE OF THE PRODUCT TO EXTERNALLY PUBLISHED SPECIFICATIONS, ARE MADE IN GOOD FAITH BUT DO NOT CONSTITUTE PART OF ANY CONTRACT.

8. DISCLAIMER OF DAMAGES

IN NO EVENT SHALL SAXONICA OR ITS SUPPLIERS OR RESELLERS BE LIABLE TO YOU UNDER ANY THEORY FOR ANY DAMAGES SUFFERED BY YOU OR ANY USER OF THE SOFTWARE, OR FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, OR SIMILAR DAMAGES (INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, OR ANY OTHER PECUNIARY LOSS) ARISING OUT OF THE USE OR INABILITY TO USE THE SOFTWARE, OR THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT SERVICES, EVEN IF SAXONICA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED.

IN ANY CASE, SAXONICA'S ENTIRE LIABILITY UNDER ANY PROVISION OF THIS AGREEMENT SHALL BE LIMITED TO THE AMOUNT ACTUALLY PAID BY YOU FOR THE SOFTWARE. BECAUSE SOME STATES AND JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY, THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

9. TERMINATION

If You fail to comply with the terms and conditions of this Agreement, Saxonica may terminate this Agreement and Your right and license to use the Software. You may terminate this Agreement at any time by

notifying Saxonica. Upon the termination of this Agreement for any reason, You must delete the Software from Your computer and archives.

YOU AGREE THAT UPON TERMINATION OF THIS AGREEMENT FOR ANY REASON, SAXONICA MAY TAKE ACTIONS SO THAT THE SOFTWARE NO LONGER OPERATES.

10. MARKETING

You agree, unless you notify Saxonica in writing to the contrary, to be identified as a customer of Saxonica and You agree that Saxonica may refer to You by name, trade name and trademark, if applicable, and may briefly describe Your business in Saxonica's marketing materials and web site. You hereby grant Saxonica a license to use Your name and any of Your trade names and trademarks solely in connection with the rights granted to Saxonica pursuant to this marketing section.

11. THIRD PARTY COMPONENTS

The Software includes components that are redistributed under terms and conditions defined by third parties. A list of these components is provided at Schedule A. You agree to the obligations placed on You as a user of these components by those terms and conditions.

12. GENERAL

Saxonica reserves the right at any time to cease the support of the Software and to alter prices, features, specifications, capabilities, functions, licensing terms, release dates, general availability or other characteristics of the Software.

This Agreement constitutes the entire agreement between the parties concerning Your use of the Software, and supersedes any and all prior or contemporaneous oral or written representations, communications, or advertising with respect to the Software. No purchase order, other

ordering document or any hand written or typewritten text which purports to modify or supplement the printed text of this Agreement or any schedule will add to or vary the terms of this Agreement unless signed by both You and Saxonica.

A waiver by either party of any term or condition of this Agreement or any breach thereof, in any one instance, shall not waive such term or condition or any subsequent breach. The provisions of this Agreement which require or contemplate performance after the expiration or termination of this Agreement shall be enforceable notwithstanding said expiration or termination.

Titles are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement. If any provision of this Agreement is held invalid, the remainder of this Agreement will continue in full force and effect.

Either Saxonica or You may assign this Agreement in the case of a merger or sale of substantially all of its respective assets to another entity. This Agreement shall be binding upon and shall inure to the benefit of the parties, their successors and assigns.

This Agreement will be governed by the laws of England. Any disputes arising in relation to this Agreement shall be subject to the exclusive jurisdiction of the English Courts.

SCHEDULE A: THIRD PARTY COMPONENTS

A.1 Saxon

Saxon-SA includes as a component the executable code of the open-source Saxon product published at http://saxon.sf.net/. Saxon is released under the Mozilla Public License version 1.0 found at http://www.mozilla.org/MPL/.

In relation to Saxon, Saxon-SA is a "Larger Work" as defined in Section 3.7 of the Mozilla Public License. Saxonica's obligations under that License in respect of Covered Code are met by virtue of the publication of the open source Saxon product at http://saxon.sf.net/, which includes all Covered Code (including all modifications made to Covered Code by Saxonica) in source form.

The open source Saxon product contains individual modules, together comprising less than 1% of the total Software, which were originally published under different open-source licenses and which are redistributed under the terms of those licenses. These modules and their origin are identified within the product source code.

A.2 Apache

Saxon-SA includes two modules, XMLChar and XSLTProcessorApplet, that were developed by the Apache Software Foundation. These are distributed (with minor modifications) under the Apache Software License, reproduced below:

> The Apache Software License, Version 1.1
>
> Copyright (c) 1999-2002 The Apache Software Foundation. All rights reserved.
>
> Redistribution and use in source and binary forms, with or without modification, are permitted provided that the following conditions are met:
>
> 1. Redistributions of source code must retain the above copyright notice, this list of conditions and the following disclaimer.
>
> 2. Redistributions in binary form must reproduce the above copyright notice, this list of conditions and the following disclaimer in the documentation and/or other materials provided with the distribution.
>
> 3. The end-user documentation included with the redistribution, if any, must include the following acknowledgment: "This product

includes software developed by the Apache Software Foundation (http://www.apache.org/)." Alternately, this acknowledgment may appear in the software itself, if and wherever such third-party acknowledgments normally appear.

4. The names "Xerces" and "Apache Software Foundation" must not be used to endorse or promote products derived from this software without prior written permission. For written permission, please contact apache@apache.org.

5. Products derived from this software may not be called "Apache", nor may "Apache" appear in their name, without prior written permission of the Apache Software Foundation.

THIS SOFTWARE IS PROVIDED "AS IS" AND ANY EXPRESSED OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE DISCLAIMED. IN NO EVENT SHALL THE APACHE SOFTWARE FOUNDATION OR ITS CONTRIBUTORS BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; LOSS OF USE, DATA, OR PROFITS; OR BUSINESS INTERRUPTION) HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, STRICT LIABILITY, OR TORT (INCLUDING NEGLIGENCE OR OTHERWISE) ARISING IN ANY WAY OUT OF THE USE OF THIS SOFTWARE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

This software consists of voluntary contributions made by many individuals on behalf of the Apache Software Foundation and was originally based on software copyright (c) 1999, International Business Machines, Inc., http://www.apache.org. For more information on the Apache Software Foundation, please see http://www.apache.org/.

A.3 Castor

Saxon-SA includes executable components originally derived from parts

of the open-source Castor product available at http://www.exolab.org/. These components (which have been heavily modified) are distributed under the terms reproduced below:

Redistribution and use of this software and associated documentation ("Software"), with or without modification, are permitted provided that the following conditions are met:

1. Redistributions of source code must retain copyright statements and notices. Redistributions must also contain a copy of this document.

2. Redistributions in binary form must reproduce the above copyright notice, this list of conditions and the following disclaimer in the documentation and/or other materials provided with the distribution.

3. The name "Exolab" must not be used to endorse or promote products derived from this Software without prior written permission of Intalio, Inc. For written permission, please contact info@exolab.org.

4. Products derived from this Software may not be called "Exolab" nor may "Exolab" appear in their names without prior written permission of Intalio, Inc. Exolab is a registered trademark of Intalio, Inc.

5. Due credit should be given to the Exolab Project (http://www.exolab.org/).

THIS SOFTWARE IS PROVIDED BY INTALIO, INC. AND CONTRIBUTORS "AS IS" AND ANY EXPRESSED OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE DISCLAIMED. IN NO EVENT SHALL INTALIO, INC. OR ITS CONTRIBUTORS BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; LOSS OF USE, DATA, OR PROFITS; OR BUSINESS INTERRUPTION) HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, STRICT

LIABILITY, OR TORT (INCLUDING NEGLIGENCE OR OTHERWISE) ARISING IN ANY WAY OUT OF THE USE OF THIS SOFTWARE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

Copyright 1999-2003 (C) Intalio, Inc. All Rights Reserved.

END OF SCHEDULE A