

ASSESSMENT SERVICES MEMORANDUM OF UNDERSTANDING

THIS ASSESSMENT SERVICES MEMORANDUM OF UNDERSTANDING (“MOU”), is made as of April __, 2002, by and between BLUETOOTH SIG, INC., a Delaware not-for-profit corporation (“Bluetooth”), and EUROPEAN CO-OPERATION FOR ACCREDITATION, a not-for-profit organization incorporated in the Netherlands (“EA”).

WHEREAS, Bluetooth is a trade and technical association of developers and users engaged in establishing for Bluetooth’s Members (the “Members”) an open forum, which promotes the development and use of personal connectivity solutions based on Bluetooth™ wireless technology.

WHEREAS, Bluetooth has established a Qualification Program (the “Qualification Program”) to test and qualify products using Bluetooth™ wireless technology (“Products”) certified as Bluetooth compliant pursuant to the specifications for such Products as determined by Bluetooth.

WHEREAS, Bluetooth has assigned responsibility for administration of such Qualification Program to the Bluetooth Qualification Review Board, a standing committee organized under the auspices of Bluetooth (the “BQRB”).

WHEREAS, BQRB, as part of the Qualification Program and according to the Bluetooth Qualification Program Reference Document (the “PRD”), administers the recognition of Facilities (as defined below) as Bluetooth Qualification Test Facilities (BQTFs as defined below), based on accreditation by an EA-MLA-Member (as defined below).

WHEREAS, BQRB wishes to engage independent organizations to provide Assessment Services (as defined below) for such Facilities seeking recognition as BQTFs.

WHEREAS, EA is the cooperation of nationally recognized accreditation bodies in Europe and signs this MOU on behalf of the EA-MLA-Members.

WHEREAS, EA-MLA-Members are EA members whose competence has been evaluated by EA in accordance with the applicable standard of EN 45003 or ISO/IEC Guide 58 and who have signed a multilateral recognition agreement (MLA agreement) within EA.

WHEREAS, EA-MLA-Members are in the business of performing such Assessment Services and are willing to perform such Assessment Services as an independent third party on a non-exclusive basis, and at no cost to both parties on the terms and conditions set forth below.

NOW THEREFORE, for good and valuable consideration as hereinafter set forth, part of which is hereby acknowledged, the parties agree as follows:

1. Definitions.

“BQTF(s)” shall mean a Facility recognized by BQRB for the purpose of testing Product Compliance to the Bluetooth System Specification as part of the Qualification Program of Bluetooth.

“Evaluation Criteria” shall mean the technical and quality based criteria set forth in PRD, the BQTF Technical Check List both as may be amended from time to time by BQRB.

“Facility(-ies)” shall mean Member’s¹ laboratory(-ies) that seek accreditation or are accredited against the Evaluation Criteria by EA-MLA-Members for Bluetooth Conformance Testing and subsequent recognition as BQTF(s) by BQRB.

“Accreditation for Bluetooth Conformance Testing” shall mean the process where a facility demonstrates and is deemed competent according to ISO/IEC 17025 to perform to in compliance with the Evaluation Criteria

2. Consultation with Bluetooth. EA-MLA-Members undertake to maintain current knowledge of the PRD, the Evaluation Criteria and any other documents referenced under MOU. BQRB shall with appropriate notice provide to EA updates of the PRD, the Evaluation Criteria and any other documents referenced under this Agreement. In addition to all other consultation and reporting requirements contained in this MOU, EA-MLA members will consult with BQRB with respect to all relevant significant matters relating to the actual Assessment Services provided by EA-MLA members. .

3. Assessment Services. EA-MLA-Members agree to provide services to the benefit of Bluetooth according to the Evaluation Criteria:

(a) to impartially assess and evaluate in a professional and consistent manner relative to the accreditation scope, each Facility that seeks Accreditation for Bluetooth Conformance Testing;

(b) prior to undertaking the assessment of such Facility, to obtain the Facility’s express written consent authorizing the EA-MLA-Members to share with BQRB a recommendation regarding an accreditation decision, the assessment results and any information relating to such Facility with respect to such Facility’s assessment by the EA-MLA-Member;

(c) to promptly report to BQRB and Facility the results of the EA-MLA-Member’s assessment of a Facility, including any recommendations regarding the accreditation of such Facility (short description of company, the accreditation scope including the test coverage pertinent to the scope, a copy of the accreditation certificate names of assessors involved);

(d) to periodically audit BQTFs, according to EA’s surveillance requirements;

(e) to promptly inform BQRB whenever recommendations for continued accreditation by the EA-MLA-Members for a Facility or BQTF is suspended, terminated or revoked for any reason and to include the reasons for such suspension, termination or revocation. EA-MLA-Members further agree to promptly inform BQRB whenever

¹ There are no undue restrictions to Bluetooth membership. All laboratories are eligible for Bluetooth membership provided that they make the undertakings to Bluetooth as specified in the Bluetooth membership application process.

have any concern relating to the competency of a Facility or BQTF assessed by the MLA-Members and to include the reasons for such concerns;

(f) to investigate concerns expressed in writing to EA by BQRB relating to competency of a BQTF and to report to BQRB the findings and any actions being taken by EA-MLA-Members in connection with such BQTF;

(g) to cooperate with BQRB in periodic reviews of the Evaluation Criteria under control of the BQRB and to implement such changes in the Assessment Services may from time to time be required by BQRB;

(h) to supply BQRB with copies of the resumes of all assessors which EA-MLA-Members intend to use in connection with the Assessment Services performed here and to exclude from EA-MLA-Members' Assessment Services any assessors about whom EA receives written objection from BQRB within thirty (30) days of receipt of such resumes;

(i) to only use assessors in performing Assessment Services hereunder who possess sufficient knowledge² and technical expertise to fulfill EA-MLA-Members' obligations as stated under the MLA agreement and under this MOU; and

(k) to provide training to EA-MLA-Members' assessors as agreed in the MLA agreement and in connection with the Evaluation Criteria and to promote and monitor uniformity in the application of Assessment Services.

4. **Impartiality.** All correspondence between Bluetooth and EA or its EA-MLA-Members, including all recommendations regarding accreditation decisions and all reports set forth in this Memorandum of Understanding, shall be provided to BQRB by EA or its EA-MLA-Members with all information identifying a Facility or BQTF removed and replaced by an identification code for such Facility or BQTF to allow for impartial review of such documents by BQRB.

5. **Effect of EA-MLA-member Recommendation for Recognition as BQTF.** The parties understand that while BQRB will generally accept a recommendation by the EA-MLA-Member for recognition of a Facility, BQRB, at all times, reserves the right to reject such a recommendation by the EA-MLA-Member based on reasonable, identifiable and articulable technical and quality related concerns by BQRB of the competency of the EA-MLA-Member's Assessment Services or of the competency of a Facility recommended by the EA-MLA-Member for recognition by BQRB. BQRB agrees to provide a decision on the recognition of an accreditation of a Facility by the EA-MLA-member within thirty (30) days of receipt by BQRB of such recommendation.

6. Fees and Costs.

² Sufficient knowledge means that at least one trained and BQRB-recognized assessor is present on the assessment team.

(a) The parties agree that no party shall be charged any fees in connection with a BQRB recognition of a Facility assessed by an EA-MLA-member.

(b) Upon application by a Facility to be assessed for Accreditation for Bluetooth Conformance Testing, the Facility shall be charged a refundable fee, as set forth in the PRD, for subsequent recognition of such an accreditation and listing by BQRB of such Member's Facility as a BQTF on Bluetooth's website (the "Listing Fee"). The EA-MLA-Member shall be responsible for collection of the Listing Fee from the Facility.

(c) Upon recognition of the EA-MLA-member's accreditation of a Facility by BQRB, the EA-MLA-member shall remit the Listing Fee to Bluetooth within thirty days of a decision by BQRB to recognize the accreditation. In the event that a Member's Facility is not recognized by BQRB, such Listing Fee shall be remitted to such Member by the EA-MLA-member within thirty (30) days of a decision by BQRB not to recognize such Facility.

7. Confidential Information.

(a) EA and its EA-MLA-Members agree to maintain in confidence all proprietary and confidential information disclosed by Bluetooth or Members hereto ("Confidential Information") with at least the same degree of care that EA and its EA-MLA-Members use to protect its own confidential and proprietary information, but no less than a reasonable degree of care under the circumstances. EA and its EA-MLA-Members shall not use, disclose or copy the Confidential Information except as necessary for its employees or contractors with a need to know to perform Assessment Services contemplated under this Memorandum of Understanding. Under no circumstances shall EA and its EA-MLA-Members use the Confidential Information for any purposes other than for the provision of Assessment Services under this Memorandum of Understanding. EA and its EA-MLA-Members shall be responsible for compliance with this Memorandum of Understanding by its employees and contractors. EA and its EA-MLA-Members shall have no rights to any information, ideas or inventions stemming from disclosure of the Confidential Information by the disclosing party. EA and its EA-MLA-Members shall mark any copies of any material which include Confidential Information it makes "confidential", "proprietary" or with a similar legend and shall reproduce all copyright notices and disclaimers therein.

(b) Notwithstanding the foregoing, Confidential Information shall not include any information that: (i) was at the time obtained from Bluetooth or Members generally publicly known or thereafter becomes generally publicly known through no act or omission of EA and its EA-MLA-Members or its employees or agents; (ii) is lawfully received by EA and its EA-MLA-Members from a third party without any obligation of confidentiality to Bluetooth or Members; (iii) was in the possession of EA and its EA-MLA-Members prior to being obtained from Bluetooth or Members, as demonstrated by written records; or (iv) is independently developed by employees of EA and its EA-MLA-Members as demonstrated by written records and without reference in any manner to the Confidential Information.

Bluetooth agrees to maintain in confidence all proprietary and confidential information disclosed to it by EA or its MLA Members on the same basis as EA and its MLA Members undertake to maintain information in confidence pursuant to this Article.

8. Publicity and Intellectual Property. This Memorandum of Understanding does not grant EA and its EA-MLA-Members rights to any trademarks or other intellectual property of Bluetooth or Members. However, EA and its EA-MLA-Members shall have the right to accurately publicize the existence of this Memorandum of Understanding after approval of publicity by Bluetooth, which approval shall not be unreasonably withheld or delayed.

9. Injunction. In the event of a violation of Sections 7 and 8 and upon adequate proof of such violation, in addition to any other relief to which Bluetooth or Members may be entitled, Bluetooth and Members shall be entitled to temporary and permanent injunctive relief in accordance with applicable law.

10. Termination. Either party may terminate this Memorandum of Understanding, at any time, without cause upon six (6) months prior written notice to the other, and may terminate this Memorandum of Understanding by written notice following a material breach of this Memorandum of Understanding which is not cured within thirty (30) days after written notice thereof to the party in breach.

11. Assignability. The rights and obligations of the parties under this Memorandum of Understanding shall not be assignable by either party without the non-assigning party's written consent.

The EA-MLA-Members have agreed to abide by all the conditions of this Agreement and to indemnify Bluetooth and its Members according to the Codicil, attached to this Agreement as Exhibit A. The rights and obligations of EA as defined in this Agreement remain unchanged by this Codicil.

12. Compliance with Laws. EA and its EA-MLA members represent and warrant that at all times they will comply with all applicable laws and regulations in connection with the provision of Assessment Services under this Memorandum of Understanding.

13. Waiver. Any waiver of any provision of this MOU, shall be effective only if the same is in writing and signed by both parties and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. No failure on the part of any party hereto to exercise, and no delay in exercising, any right hereunder shall be considered as a waiver thereof. Single or partial exercise of any right hereunder shall not preclude any other or further exercise of such right or the exercise of any other right.

14. Modification. No modification or amendment to this Memorandum of Understanding shall be effective unless signed by both parties.

15. Indemnification. EA agrees to indemnify, and hold Bluetooth and its Members, directors, officers, employees, agents, successors and assigns harmless from and against any losses, damages and expenses (including counsel's fees, costs and expenses incurred in investigating and defending against the assertion of such liabilities) which may be suffered

incurred by Bluetooth or its Members, directors, officers, employees, agents, successors or assigns and which are related (i) to any breach by EA of its representations, warranties or covenants in this Agreement or (ii) to any of EA's errors or omissions under this Agreement

16. Waiver of Consequential Damages. In no event will either party be liable to the other party for lost profits, loss of use, loss of data or any incidental, consequential, indirect special damages, whether under contract, tort, warranty or otherwise, arising in any way out of this MoU or any related Agreement, whether or not such party had advance notice of the possibility of such damages.

17. Notice. Any notice, demand, request or other communication which a party here may be required or may desire to give hereunder shall be in writing, in English and shall be delivered, sent by facsimile, sent by electronic mail or sent by a reputable courier service, addressed as set forth below, and shall be effective upon actual receipt:

If to Bluetooth:

Bluetooth Qualification Review Board
c/o The Open Group, plc
Apex Plaza, Forbury Road
Reading, UK RG1 1AX
Email: bt-bqrb-c@bluetooth.org

With a copy to:

Sonnenschein, Nath & Rosenthal
Attention: Todd R. Eskelsen
Suite 600
Washington, D.C. 20005
Telephone: (202) 408-6424
Facsimile: (202) 408-6399
Email: tre@sonnenschein.com

If to EA:

European co-operation for Accreditation
c/o Comité Français d'Accréditation, COFRAC
Attention: Martine Simon
37, rue de Lyon
FR-75012 PARIS
FRANCE

18. Independent Contractors. The parties are independent contractors and shall not be deemed an employee, partner, joint venturer or legal representative of the other party hereunder for any purpose and neither party shall have the right, power, or authority to create any obligation or responsibility to any third party on behalf of the other party.

19. Governing Law. This MOU shall be construed and enforced in accordance with the laws of the State of New York, United States of America, without reference to conflict of laws principle, in the event that EA initiates any action or enforces its rights hereunder. In such event, the parties agree that all disputes arising in any way out of this Memorandum of Understanding shall be heard exclusively in, and all parties irrevocably consent to the jurisdiction and venue in the state and federal courts of the State of New York.. This MoU shall be construed and enforced in accordance with the laws of Netherlands, without reference to conflict of laws principle, in the event that Bluetooth initiates any action or enforces its rights hereunder. In such event, the parties agree that all disputes arising in any way out of this Memorandum of Understanding shall be heard exclusively in, and all parties irrevocably consent to the jurisdiction and venue in the courts of Netherlands.

20. Counterparts. This MOU may be executed in two counterparts, each of which shall be deemed an original, but both of which together shall constitute the same instrument.

21. Severability. If any provision of this MOU is held by a court of competent jurisdiction to be void or ineffective, then the parties agree to change such provision and use their best efforts to best accomplish the objectives of the original provision so as to fulfill the intent of the parties to the fullest extent allowed by law. The parties further agree that the remaining provisions of this MoU shall remain in full force and effect.

22. Entire Agreement. This Memorandum of Understanding shall have a binding effect upon signing of both parties and sets forth the entire understanding of the parties and supersedes all prior agreements and understandings relating thereto.

IN WITNESS WHEREOF, the undersigned have duly executed and delivered this Assessment Services Memorandum of Understanding as of the date first written above.

BLUETOOTH SIG, INC.

EUROPEAN CO-OPERATION FOR ACCREDITATION

By: _____

By: 15 th july 2002

Name: _____

Name: Daniel Pierre

Its: _____

Its: Chairman

