

FDX Non-Member Contributor Intellectual Property Rights Agreement

Financial Data Exchange, Inc. (“**FDX**”), is a Delaware non-stock, non-profit corporation dedicated to identifying, defining and/or adopting a common, interoperable standard for secure consumer and business access to their financial records (“**Purpose**”). This FDX Non-Member Contributor Intellectual Property Rights Agreement (“**Agreement**”) governs Contributions made by non-members of FDX who have been invited by FDX to make Contributions to FDX or to a relevant Working Group. By entering into this Agreement (by execution, “click-through,” or other acknowledgement), each Non-Member Contributor acknowledges that their Contributions may be used by FDX in the same manner as contributions made by FDX members under the FDX Intellectual Property Rights Agreement, and each Non-Member Contributor agrees to be bound by the terms of this Agreement. A “**Party**” or “**Parties**” to this Agreement shall mean FDX and any or all Non-Member Contributors that are parties to this Agreement at a given time.

1. Definitions.

“**Adopter**” shall mean any Person that implements a Final Specification or Artifact.

“**Affiliate**” means, with respect to any Person, any other Person directly or indirectly Controlling, Controlled by, or under Common Control with, such other Person.

“**Artifact**” means any technical or standards output, other than a Final Specification, developed and adopted by FDX in furtherance of the Purpose, including but not limited to guidelines, frameworks, reference implementations, model policies, datasets, technical reports, API schemas, toolkits, and other materials published or adopted by FDX. A “Draft Artifact” means a version of an Artifact that has been submitted to or is under development by FDX or a Working Group but has not yet been adopted by FDX as a final output.

“**Control**” with respect to any Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, and the terms “Controlling” and “Controlled” have correlative meanings.

“**Final Specification**” means any Draft Specification adopted by FDX.

“**Compliance Requirement Documents**” means the document that specifies the requirements that must be met and the process that must be executed by Products for purposes of demonstrating that such Products comply with a Final Specification or Artifact. FDX may change or add to this document.

“Compliant Product Portion” means only those specific portions of Products that: (i) implement and are compliant with the actual Final Specification or Artifact, whichever the case may be, (ii) are qualified pursuant to the Product Qualification Process, (iii) are within the bounds of the Scope and (iv) meet the requirements set forth in the Compliance Requirement Documents.

“Contribution” means any written or electronic document submitted to FDX or to a relevant Working Group for inclusion into a Draft Specification, Draft Artifact, Final Specification, or Artifact by a Non-Member Contributor, unless explicitly stated in the submission as “NOT A CONTRIBUTION.” “Contribution” shall also mean any oral submission to FDX or to a relevant Working Group for inclusion into a Draft Specification, Draft Artifact, Final Specification, or Artifact by a Non-Member Contributor unless the Non-Member Contributor notifies FDX in writing within five (5) days of the oral submission that such submission is not a contribution.

“Draft Specification” means all versions of a document developed by a specific Working Group based on and within the scope of the given Working Group Directive, and all formal comments thereto provided by any FDX member or Non-Member Contributor within said Working Group, that are to be considered for inclusion in the Final Specification to be adopted by FDX to achieve the Purpose of this Agreement.

“Necessary Claims” means claims of a patent or patent application that (a) are owned or controlled by a Non-Member Contributor or its Affiliates (Licensor) now or at any future time while this Agreement remains in effect; and (b) are necessarily infringed by implementing those portions of a Final Specification or Artifact within the bounds of the Scope, wherein a claim is necessarily infringed only when it is not possible to avoid infringing it because there is no technically reasonable non-infringing alternative for implementing such portions of the Final Specification or Artifact within the bounds of the Scope. Notwithstanding the foregoing sentence, Necessary Claims do not include any claims (i) other than those set forth above even if contained in the same patent as Necessary Claims; (ii) that read solely on any implementations of any portion of the Final Specification or Artifact that are not within the bounds of the Scope; or (iii) that, if licensed, would require a payment of royalties by the Licensor to unaffiliated third parties.

“Non-Member Contributor” means a non-member Person that has been invited by FDX to make Contributions to FDX or to a relevant Working Group pursuant to this Agreement. For the avoidance of doubt, a Non-Member Contributor is not a member of FDX by virtue of entering this Agreement.

“Person” means any natural person, corporation, limited liability company, partnership, association, trust, or other legal entity.

“Products” means software or hardware products, or combinations thereof.

“Product Qualification Process” means the process created by FDX for qualifying Products.

“Scope” means the protocols, data formats, and technical requirements needed for the implementation of the Final Specification or Artifact. For clarification, the Scope shall not include (i) any enabling technologies that may be necessary to make or use any Product or portion thereof that complies with the Final Specification or Artifact, but are not themselves expressly set forth in the Final Specification or Artifact; or (ii) the implementation of other published specifications or artifacts developed elsewhere but explicitly referred to in the body of the Final Specification or Artifact; or (iii) any portions of any Product and any combinations thereof the purpose or function of which is not required for compliance with the Final Specification or Artifact.

“Working Group” means any body of individuals convened by FDX and given the task of creating a Final Specification, Artifact, or other output that meets the criteria of the applicable Working Group Directive. Working Groups are formed by FDX in accordance with FDX’s governance policies. Where this Agreement refers to “the relevant Working Group,” it means the Working Group, if any, to which a Non-Member Contributor has been invited to contribute, as identified in the invitation or other written communication from FDX to the Non-Member Contributor.

“Working Group Directive” means a range of intended uses for Compliant Product Portions, where a Final Specification or Artifact is to be prepared so as to specify implementations in accordance with those intended uses. A Working Group Directive may be part of a Working Group’s charter or directives specifically given to such Working Group by FDX.

2. Non-Confidentiality of Submissions.

Each Non-Member Contributor agrees that any Contributions shall be deemed to be made on a non-confidential basis and that FDX and its members shall be free to disclose these submissions for purposes of developing and adopting any Final Specification(s) or Artifact(s) and in connection with such activities.

3. Copyright License.

- a. Subject to Sections 2 and 5 hereof, each Non-Member Contributor hereby grants to FDX and to each FDX member who participates in a Working Group of FDX, a worldwide, royalty-free license under its copyrights in its Contributions to reproduce, distribute, display, perform and create derivative works for the purposes of developing any Draft Specifications, Draft Artifacts, Final Specifications, Artifacts, or derivative works thereof in furtherance of the Purpose of this Agreement.
- b. All Contributions submitted by a contributing Non-Member Contributor shall be licensed by the Non-Member Contributor to FDX and all Adopters under the grant specified in Section 4(b) hereof for all Final Specifications or Artifacts in which the Contributions become included, even if such Non-Member Contributor has withdrawn from or ceased participation under this Agreement.

4. License Grant.

- c. Effective upon the adoption by FDX of each Final Specification or Artifact, and subject to Section 5, each Non-Member Contributor and its Affiliates hereby grants to each Adopter a non-exclusive, royalty-free, perpetual, irrevocable, nontransferable, non-sublicensable, worldwide license under the Non-Member Contributor's Necessary Claims with respect to the Final Specification or Artifact solely to make, have made, use, import, offer to sell, sell and otherwise distribute and dispose of Compliant Product Portions; provided that such license need not extend to any part or function of a product in which a Compliant Product Portion is incorporated that is not itself part of the Compliant Product Portion.
- d. In addition, effective as of adoption of each Final Specification or Artifact, each Non-Member Contributor hereby grants to FDX and each Adopter a worldwide, royalty-free license under its copyrights in such Final Specification or Artifact to reproduce, distribute, display and create derivative works of such Final Specification or Artifact solely as necessary to make, have made, use, import, offer to sell, sell and otherwise distribute and dispose of Compliant Product Portions.
- e. In the event that a Non-Member Contributor ("Contributor A"), other than a Non-Member Contributor who has Necessary Claims that they are providing a license for under Section 4(a), or an Adopter, files suit against an FDX member or another Non-Member Contributor ("Respondent") for patent infringement arising from the Respondent's use or sale of products and systems that are compatible with the Final Specification(s) or Artifact(s), then the Respondent shall have the unilateral right to change the license grant set forth in Section 4(a) above under Necessary Claims, if any, from a royalty-free license to a reasonable royalty-bearing license with respect to Contributor A or the Adopter and be able to collect such royalty retroactively commencing on the date that Contributor A or the Adopter filing such suit is alleging the Respondent commenced the infringement which is the basis of the suit.
- f. For the purposes of this Section 4, a product or system is "compatible" with the Final Specification(s) or Artifact(s) if it actually implements or incorporates a Compliant Product Portion.
- g. Effective upon the entering this Agreement, each Non-Member Contributor hereby grants the licenses set forth in Sections 4(a) and 4(b) (License Grant) with respect to all Final

Specifications and Artifacts then in effect. Each Non-Member Contributor represents that it was provided the opportunity to review such Final Specifications and Artifacts then in effect and grants the licenses stated in the prior sentence whether or not such Non-Member Contributor actually reviewed them. Said license grant is effective as of the date such Non-Member Contributor entered this Agreement.

5. Adoption; Irrevocability of Contributions.

- h. Adoption of Final Specifications and Artifacts. Draft Specifications and Draft Artifacts will be deemed approved as Final Specifications or Artifacts, as applicable, when approved by two-thirds of the Board of Directors of FDX.
- i. Irrevocability of Contributions. Each Non-Member Contributor acknowledges and agrees that, upon submission of a Contribution to FDX or to the relevant Working Group, the license grants set forth in Sections 3 and 4 with respect to such Contribution are irrevocable and may not be withdrawn, rescinded, or objected to by the Non-Member Contributor for any reason, including with respect to any Final Specification or Artifact in which such Contribution is incorporated. No Non-Member Contributor may condition, limit, or challenge FDX's or any Adopter's exercise of the rights granted under this Agreement with respect to any Contribution once made. The submission of a Contribution constitutes the Non-Member Contributor's conclusive and unconditional acceptance of the licensing obligations set forth in this Agreement with respect to such Contribution.
- j. Deprecation and Withdrawal of Final Specifications and Artifacts. A Final Specification or Artifact may be deprecated or withdrawn after it has been adopted when the deprecation or withdrawal is approved by at least two-thirds of the FDX Board of Directors.

6. Confidentiality of Draft Specification and Draft Artifact.

Until FDX adopts each Final Specification or Artifact and makes it generally publicly available, each Non-Member Contributor will maintain all versions and revisions of Draft Specifications, Draft Artifacts, and any other information designated as confidential ("Confidential Material") 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 Material except as necessary for its employees or contractors with a need to know to evaluate and comment thereon. Each Non-Member Contributor shall mark any copies it makes "confidential," "proprietary" or with a similar legend and shall reproduce all copyright notices and disclaimers therein. Unless the parties agree otherwise, this obligation of confidentiality will expire two (2) years from the date of disclosure to such Non-Member Contributor. Notwithstanding the foregoing, Confidential Material shall not include any information that is (a) in the public domain other than by a breach of a duty to the disclosing party; (b) 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; or (e) generally made available to third parties by the disclosing party without restrictions on disclosure.

7. Withdrawal and Termination.

- k. Conditions and Procedure for Withdrawal. Upon withdrawal or termination of a Non-Member Contributor's participation under this Agreement, this Section 7 shall apply to all licenses granted to or by such Non-Member Contributor pursuant to this Agreement. The timing of such withdrawal or termination will determine the effect on such Non-Member Contributor's licensing obligations as specified in Section 7(b) below. The effective date of withdrawal shall be the date FDX receives written notice of withdrawal from the Non-Member Contributor, or, in the case of termination by FDX, the date specified in FDX's written notice of termination to the Non-Member Contributor.
- l. Effect of Withdrawal. Subject to Section 5(b) of this Agreement, if a Non-Member Contributor withdraws from or is terminated from participation under this Agreement:
- i. This Agreement shall continue in full force and effect for all remaining Non-Member Contributors;
 - ii. With respect to such Non-Member Contributor, Sections 2, 5(b), 6, 7 and 8 of this Agreement shall continue in full force and effect;
 - iii. With respect to Contributions from the withdrawing Non-Member Contributor which are included in any Final Specification or Artifact adopted after the effective date of withdrawal or termination, the license grants set forth in Sections 3 and 4 with respect to such Contributions are irrevocable pursuant to Section 5(b) and shall remain in full force and effect notwithstanding such withdrawal or termination. Such Non-Member Contributor shall be entitled to receive a license from all FDX members and other Non-Member Contributors regarding all such Final Specifications and Artifacts under the terms of Sections 3 and 4, but only if and when such Non-Member Contributor agrees to and grants a license under the terms of Sections 3 and 4 to all Adopters with respect to all such Final Specifications and Artifacts.
 - iv. Section 4 of this Agreement shall continue in full force and effect with respect to all Final Specifications and Artifacts adopted prior to the effective date of withdrawal or termination (the "Committed Output").
 - v. This Section 7 is not intended to authorize, permit or allow the survival (or co-incident licensing) of any unmodified portion of a Committed Output to be contained in any Final Specification or Artifact approved after a Non-Member Contributor's termination unless (i) the unmodified portion of the Committed Output is contained in a subsequent Final Specification or Artifact that only extends or corrects the Committed Output, or (ii) only if the withdrawing or terminated Non-Member Contributor is granted and accepts a reciprocal license commensurate with and of the same scope as set forth in Section 4 with respect to such subsequent Final Specification or Artifact incorporating the unmodified portion of the Committed Output.
 - vi. All other rights, licenses, obligations, terms and conditions of this Agreement shall terminate with respect to such withdrawing or terminated Non-Member Contributor, including those set forth in Section 4, except as set out in Sections 3(b), 7(b)(ii), (iii), (iv) and (v).

8. General.

- m. No Other Licenses. Except for the rights expressly provided by this Agreement, no Non-Member Contributor grants or receives, by implication, or estoppel, or otherwise, any rights under any patents or other intellectual property rights from any other Non-Member Contributor or from FDX.
- n. No Warranty. All parties acknowledge that all information provided under this Agreement, including as part of the Final Specification(s) or Artifact(s) development process and the Draft Specification(s), Draft Artifact(s), Final Specification(s), and/or Artifact(s) themselves, are all provided "AS IS" WITH NO WARRANTIES WHATSOEVER, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, AND THE PARTIES EXPRESSLY DISCLAIM ANY WARRANTY OF MERCHANTABILITY, NONINFRINGEMENT, FITNESS FOR ANY PARTICULAR PURPOSE, OR ANY WARRANTY OTHERWISE ARISING OUT OF ANY PROPOSAL (WHETHER PROVIDED IN WRITING OR ORALLY), SPECIFICATION, ARTIFACT, OR SAMPLE.
- o. Limitation of Liability. IN NO EVENT WILL ANY PARTY HERETO BE LIABLE TO ANY OTHER PARTY FOR THE COST OF PROCURING SUBSTITUTE GOODS OR SERVICES, LOST PROFITS, LOSS OF USE, LOSS OF DATA OR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, OR SPECIAL DAMAGES OF ANY PARTY INCLUDING THIRD PARTIES, WHETHER UNDER CONTRACT, TORT, WARRANTY OR OTHERWISE, ARISING IN ANY WAY OUT OF THIS AGREEMENT, WHETHER OR NOT SUCH PARTY HAD ADVANCE NOTICE OF THE POSSIBILITY OF SUCH DAMAGES. THE PROVISIONS IN THIS SECTION 8(c) SHALL ONLY APPLY TO CLAIMS ARISING OUT OF THE CONTRACTUAL PROVISIONS OF THIS AGREEMENT AND NOT TO ANY OTHER MATTERS, AGREEMENTS, CLAIMS (INCLUDING CLAIMS OF INFRINGEMENT), SUITS OR OTHER PROCEEDINGS BETWEEN OR AMONG THE PARTIES.
- p. Governing Law. This Agreement shall be construed and controlled by the laws of the State of Delaware without reference to conflict of laws principles.
- q. Notices. All notices hereunder shall be electronic or written and sent to the parties at such addresses as the Parties may specify by such notice to FDX. For purposes of this section, notice can include notice by written mail, electronic mail or by facsimile. Such notices shall be deemed served when received and acknowledged by addressee or, if delivery is not accomplished by reason of some fault of the addressee, when tendered for delivery. Any party may give notice of a change of address and, after notice of such change has been received, any notice or request shall thereafter be given to such party at such changed address.
- r. Good Faith Dealing. Each party hereby represents and warrants that it has the power to cause all patents owned or controlled by such party and its Affiliates to be licensed as set forth in this Agreement.
- s. Not Partners. The parties hereto are independent entities and are not partners or joint venturers with each other. Nothing in this Agreement shall be construed to create any

employment, agency, or joint venture relationship between FDX and any Non-Member Contributor.

- t. Complete Agreement; No Waiver. The provisions of this Agreement, including all documents incorporated herein by reference, constitute the entire agreement between the Parties with respect to the subject matter hereof and supersede all prior agreements and understandings relating thereto. No modifications or additions to or deletions from this Agreement shall be binding unless made in a written instrument agreed by both Parties, and the waiver of any breach or default will not constitute a waiver of any other right hereunder or any subsequent breach or default.
- u. No Rule of Strict Construction. If any provision of this Agreement is determined by a court to be unenforceable, the parties shall deem the provision to be modified to the extent necessary to allow it to be enforced to the extent permitted by law, or if it cannot be modified, the provision will be severed and deleted from this Agreement, and the remainder of the Agreement will continue in effect.
- v. Compliance with Laws. Anything contained in this Agreement to the contrary notwithstanding, the obligations of the parties hereto shall be subject to all laws, present and future, of any government having jurisdiction over the parties hereto, and to orders, regulations, directions or requests of any such government.
- w. Assignment. No Non-Member Contributor may assign this Agreement, or its rights and obligations hereunder, without the prior written consent of FDX. Any purported assignment in violation of this Section shall be null and void. This Agreement shall be binding upon, and inure to the benefit of, the Parties and their respective successors and permitted assigns.