

**WAVENIS OPEN STANDARD ALLIANCE, INC.**  
**INTELLECTUAL PROPERTY RIGHTS POLICY**

As approved on August 20, 2008

**1. IPR Generally**

**1.1 Purpose**

Wavenis Open Standard Alliance, Inc. ("Wavenis") has adopted this Intellectual Property Rights Policy (the "Policy") and related rules of procedure (the "Rules of Procedure") in order to minimize the possibility of inadvertent infringement of the IPR of Members and third parties using or implementing any Wavenis Standards.

**1.2 Applicability**

All Members, all Member Representatives, and all third parties attending any technical process meeting are subject to this Policy and the Rules of Procedure.

**2. Definitions**

<b><u>Term</u></b>	<b><u>Definition</u></b>
Call for Patents	See Section 3.4 below
Draft Specification	A technical specification or other material that is produced by a Project that could, if used or implemented as intended, infringe a claim(s) under an issued patent or a patent application anywhere in the world.
Implementers	Those Members that desire to use or implement a Specification.
IPR	An abbreviation of "Intellectual Property Rights". As used in this Policy, IPR means claims in patents and patent applications and copyrights, trademarks and trade secrets.
License	Either (a) an agreement to license Necessary Claim(s) to any Implementer, on a perpetual, non-exclusive and worldwide basis, and other wise upon RAND terms with or without compensation (as the context requires), with such license permitting the Implementer to make, have made, use, reproduce, market, import, offer to sell and sell, and to otherwise distribute products that implement such Necessary Claim(s), or (b) if the Member is willing to make its Necessary Claims available without compensation, a binding, perpetual, irrevocable commitment, in a form acceptable to Wavenis,

	not to assert Necessary Claim(s) against any Implementer of the Specification, or user of a product implementing such Specification, to which such commitment relates.
Member	A Wavenis member of any class
Necessarily Infringed	Unavoidable infringement by an implementation of a Required Element of a Specification, there being no reasonable alternative way to implement that element of the Specification without resulting in such infringement.
Necessary Claims	Those claims under patents and/or patent applications anywhere in the world that would be Necessarily Infringed by the implementation of the Required Elements of a Specification.
Other Work Product	Any Project deliverable that is not a Draft Specification or Specification. Unless the context otherwise requires, any reference to the adoption of Other Work Product shall also be deemed to apply to the adoption of an amendment to that Other Work Product as well.
Owned	With respect to any Necessary Claim(s), the word "Owned" includes any Necessary Claim(s) that are (a) Owned by the Member in question or any of its Related Parties, and/or (b) controlled but not Owned by it or any of its Related Parties, provided that the Member in question or such Related Party is (i) entitled to sublicense such Necessary Claim(s), and (ii) would not incur an obligation to pay any royalty or other compensation to the true owner of such Necessary Claim(s) in connection with a sublicense.
Participant	Any Member that enrolls to take part in a Project that has not withdrawn from such Project within 60 days of the date upon which that Project was chartered.
Project	A formally chartered Wavenis technical process that is intended to produce a Specification or Other Work Product.
RAND	Reasonable and Non-discriminatory
Reasonable	License terms relating to IPR included in a Specification that are not more onerous (including as to price) than could be obtained by the owner of such IPR in the open market absent its inclusion in a Specification. It is acknowledged that Reasonableness can not be established with precision.
Related Party	Any entity that is directly or indirectly controlled by, under common control with, or that controls the subject party. For this purpose, "control" means beneficial ownership or the right to exercise more than 50% of the voting power for the entity. Any Member or potential Member that believes that the application of this definition would result in unfairness, as applied in its unique circumstances, may apply for a limited and fact-specific exemption on such

	form as Wavenis may from time to time make available for that purpose.
Representative	Any individual that acts on behalf of a Member in connection with a Project, or in the completion of any form to be delivered to Wavenis pursuant to the Policy or the Rules of Procedure.
Required Element	Any element of a Draft Standard or Standard, including without limitation any element that has been designated as "optional," "alternate" or otherwise.
Specification	A Draft Specification that has been formally adopted by Wavenis. Unless the context otherwise requires, any reference to the adoption of a Specification shall also be deemed to apply to the adoption of an amendment to a Specification as well.
Submission	An affirmative and knowing contribution of IPR with the intention that such IPR be considered for inclusion in a Specification or Other Work Product. A Submission, in written or electronic form, may occur: as a result of an unsolicited offer to Wavenis of existing technology by a Member or third party; in response to a general Wavenis request for proposals; or from a Participant at any time during a technical process.
Submitter	Both a Member as well as any representative(s) of a Member, and any other person or entity making a Submission.
Technical Committee	At any relevant time, the most senior technical committee involved in the technical process.

### 3. Patent Claims

Any Member, by becoming a Member, shall be deemed by taking such action, to have agreed to grant a License to Implementers, (a) without compensation and otherwise on a RAND basis, with respect to all Necessary Claims Owned by it and each of its Related Parties under the Wavenis Open Standard Alliance Standard as it existed at the time of Submission to Wavenis by Coronis Systems S.A., on the same basis, on August 20, 2008, and (b) with or without compensation, as declared below, with respect to all Necessary Claims Owned by it and each of its Related Parties, under all new and amended text in such Specification, and with respect to all Necessary Claims Owned by it and each of its Related Parties under all other Draft Specifications and Specifications.

#### 3.1 Obligations of Submitters

(a) Any Submitter making a Submission must elect one of the following on behalf of itself and all of its Related Parties at the time of making a Submission:

- i. Royalty Free RAND License. Agree that if the Draft Specification in connection with which the Submission is made is finally approved by Wavenis, the Submitter and each of its Related Parties will provide a License to all Necessary Claims Owned by it and such Related Parties included in such Submission that become Necessary Claim(s), without compensation and otherwise on a RAND basis; or
- ii. RAND License with Royalty. Agree to the same terms, but reserving the right to charge a royalty or other compensation on RAND terms.

(b) Every Submission shall be accompanied by a completed, signed election form in the form of **Appendix A** to this Policy.

### **3.2 Obligations of all Participants**

(a) Any Participant must, at the time that a Draft Specification is posted for final Participant comments, elect one of the following:

- i. Royalty Free RAND License. Agree that if the Draft Specification is finally approved by Wavenis, the Participant and each of its Related Parties will provide a License to all Necessary Claim(s) Owned by it or such Related Parties, without compensation and otherwise on a RAND basis; or
- ii. RAND License with Royalty. Agree to the same terms, but reserving the right to charge a royalty or other fee on RAND terms.

**[Note:** A Participant may elect option i. or ii. as to some Necessary Claim(s), and this option as to other Necessary Claim(s)].

Provided, however, that an election form returned pursuant to this Section 3.2 by a Participant that was a Submitter shall only apply to those portions of a Draft Specification that do not derive from such Participant's Submission, and the Submitter's original undertakings under Sections 3 and 3.1 above shall continue to be binding as to the balance of the Draft Specification.

(b) No elections under this Section 3.2 may be required to be made in less than 45 days from the date that a Draft Specification has been posted for final Participant comments, and electronic notification of such posting has been sent to each Participant. All elections by Participants shall be made pursuant to a completed, signed declaration in the form of **Appendix B** to this Policy. No vote of a Participant shall be accepted with respect to the Draft Specification under consideration at, or after, this point in the adoption process unless such a duly completed and executed form as been submitted on a timely basis.

### **3.3 Member Elections at Time of Final Adoption Vote**

(a) If the Draft Specification is submitted to a vote of all Members (including those that were not Participants in the development of such Draft Specification), then at the time that a non-Participant Member exercises the right to vote upon the adoption of such Draft Specification, it must make one of the elections set forth in Section 3.2(a) of this Policy, and make any disclosures required by 3.2(b).

(b) No elections under this Section 3.3 may be required to be made in less than 60 days from the date that a Draft Specification has been proposed for adoption, and electronic notification of such proposal has been sent to each Member. All elections by non-Participant Members shall be made pursuant to a written election in the form of **Appendix B** to this Policy, and no vote shall be accepted unless accompanied by such a duly completed and executed form, submitted on a timely basis.

### **3.4 Patent Calls**

At the beginning of every in-person meeting and teleconference that occurs as a part of the technical process, and at any other appropriate time in the course of electronic collaboration as may be provided for under the Rules of Procedure, a Patent Call shall be made. The text to be employed in making Patent Calls is set forth in **Appendix C** to this Policy.

### **3.5 Consequences of a Failure to Respond or of Knowingly Withholding IPR**

(a) In the event that:

- i. any Representative knowingly and willfully fails to respond to a Patent Call with respect to all Necessary Claims that are personally known to such Representative and are Owned by such Representative, his/her employer, or any of such employer's Related Parties, or
- ii a Participant fails to timely return a signed and completed election form as required by Section 3.2(b) above with the intention of avoiding disclosure of any Necessary Claim(s) Owned by it, or
- iii a Participant or Non-Participant Member (x) does return a signed and completed election form, but it or one of its Related Parties later asserts a Necessary Claim(s) against an Implementer of the Specification in question, and (y) it can be shown that such Member knowingly and willfully withheld disclosure of such Necessary Claim(s) at the time of returning such election form;

then such Participant or non-Participant Member and each of its Related Parties (or the Member represented by the Representative referred to in i. above, or

such Member's Related Party, as the case may be), shall be deemed to have elected to License all of its Necessary Claims under the Specification in question (in the case of i. or ii. above), or the Necessary Claim(s) in question (in the case of iii. above), without compensation and otherwise on a RAND basis. In the event that such Participant, non-Participant Member or Related Party shall later bring an infringement action against any Implementer with respect to such a Necessary Claim(s), Wavenis shall have no obligation to intervene, but such Implementer shall be entitled to claim protection, and assert a complete defense against such action, under this Section 3.5 as a third party beneficiary.

### **3.6 Ownership of Collaborative Work Product**

As regards any portion of a Draft Specification that is collaboratively created in a Project (i.e., a portion that was not a formal Submission), the following rules shall apply:

(a) Each Member that was a Participant in a Project agrees that if: (i) the Draft Specification of that Project is finally approved by Wavenis, (ii) any Representative of such a Participant in such Project is named as an inventor in any patent anywhere in the world, where such patent contains a Necessary Claim(s) under such finally adopted Specification and that claim was not preexisting on the date that the Member became a Participant in the Project, but came into existence as a result of the collaboration between Participants in the Project; then such Participant will not assert such Necessary Claim(s) anywhere in the world against any Implementer with respect to its implementing of such Specification, or any user of a product implementing such Specification. For the avoidance of doubt, subject to the other terms of this Policy, the Participant shall still be able to assert any patent claims preexisting on the date that it became a Participant of the Project that later become Necessary Claims against an Implementer with respect to its implementation of such Specification, or any other product implementing such Specification.

(b) In the event that any such inventor or Participant shall breach the foregoing obligation, Wavenis shall have no obligation to intervene, but such Implementer shall be entitled to claim protection, and assert a complete defense against such action, under this Section 3.6 as a third party beneficiary.

### **3.7 Document Notations**

#### **3.7.1 Notation when no Necessary Claims have been Identified**

All Draft Specifications that are subject to public comment and all Specifications shall include the following introductory language:

"Recipients of this document are requested to submit, with their comments, notification of any relevant patent claims or other intellectual

property rights of which they may be aware that might be infringed by any implementation of the specification set forth in this document, and to provide supporting documentation."

All Specifications shall additionally include the following introductory language:

"THIS SPECIFICATION IS BEING OFFERED WITHOUT ANY WARRANTY WHATSOEVER, AND IN PARTICULAR, ANY WARRANTY OF NON-INFRINGEMENT IS EXPRESSLY DISCLAIMED. ANY USE OF THIS SPECIFICATION SHALL BE MADE ENTIRELY AT THE IMPLEMENTER'S OWN RISK, AND NEITHER WAVENIS, NOR ANY OF ITS MEMBERS OR SUBMITTERS, SHALL HAVE ANY LIABILITY WHATSOEVER TO ANY IMPLEMENTER OR THIRD PARTY FOR ANY DAMAGES OF ANY NATURE WHATSOEVER, DIRECTLY OR INDIRECTLY, ARISING FROM THE USE OF THIS SPECIFICATION."

### **3.7.2 Notation when Necessary Claims or other IPR are Identified**

(a) When Necessary Claims have been identified for Draft Specifications, or thereafter with respect to already published Specifications, where the Owner of such Necessary Claim(s) is willing to provide a License relating to such Necessary Claim(s), such Draft Specification or Specification shall include a notice substantially as follows in the introductory language:

"Wavenis draws attention to the fact that it is claimed that compliance with this specification may involve the use of a patent ("IPR") concerning [section of Specification]. Wavenis takes no position concerning the evidence, validity or scope of this IPR.

"The holder of this IPR has assured Wavenis that it is willing to license all IPR it owns and any third party IPR it has the right to sublicense which might be infringed by any implementation of this specification to Wavenis and those licensees (members and non-members alike) desiring to implement this specification. Information may be obtained from:

[Name of Holder of Right]  
[Address]

"Attention is also drawn to the possibility that some of the elements of this specification may be the subject of IPR other than those identified above. Wavenis shall not be responsible for identifying any or all such IPR.

"THIS SPECIFICATION IS BEING OFFERED WITHOUT ANY WARRANTY WHATSOEVER, AND IN PARTICULAR, ANY WARRANTY OF NON-INFRINGEMENT IS EXPRESSLY DISCLAIMED. ANY USE OF THIS SPECIFICATION SHALL BE MADE ENTIRELY AT THE

IMPLEMENTER'S OWN RISK, AND NEITHER WAVENIS, NOR ANY OF ITS MEMBERS OR SUBMITTERS, SHALL HAVE ANY LIABILITY WHATSOEVER TO ANY IMPLEMENTER OR THIRD PARTY FOR ANY DAMAGES OF ANY NATURE WHATSOEVER, DIRECTLY OR INDIRECTLY, ARISING FROM THE USE OF THIS SPECIFICATION."

(b) In the event that the Owner of any IPR has asserted that infringement would result from the implementation of a Draft Specification or Specification, and such Owner has refused to grant a License under the terms of this Policy, then the second paragraph of the above notice shall be replaced or supplemented, as appropriate, with the following:

"The holder of such IPR has refused a request by Wavenis that it agree to make a license available for the purpose of implementing this specification. Information may be obtained from:

[Name of Holder of Right]  
[Address]"

### **3.8 Patent Searches**

In no event shall Wavenis, or any Representative, Participant or non-Participant Member be obligated to conduct any patent searches regarding any Necessary Claims that may be infringed by any implementation of a Draft Specification or Specification.

### **3.9 Patent Claims Revealed After Publication**

In the event that a Necessary Claim is first revealed by a Member or third party following adoption and publication of a Specification (other than a Necessary Claim subject to an obligation under Section 3.5 above), such holder will be asked to License the Necessary Claim in the manner outlined in Section 3.1 above. If such request is refused, the Specification in question shall be referred back to the Technical Committee for further consideration, as appropriate.

## **4. Copyrights**

### **4.1 Copyright in Specifications**

The copyright for all Specifications and Other Work Product shall belong to Wavenis.

### **4.2 Contributions of Copyrighted Materials**

Each Submitter that contributes copyrighted materials to Wavenis shall retain copyright ownership of its original work, while at the same time granting Wavenis a non-exclusive, irrevocable, worldwide, perpetual, royalty-free license under the Submitter's copyrights in its Submission to reproduce, distribute, publish, display, perform, and create derivative works of the Submission based on that original work for the purpose of developing a Draft Specification, Specification or Other Work Product under Wavenis's own copyright.

## **5. Trade Secrets**

Participants and other Members will not be expected to reveal trade secret information in the course of participation in any Wavenis activity, nor will they be asked by Wavenis to sign non-disclosure agreements. Wavenis will not be held responsible for the disclosure of any Member's or non-Member's trade secrets, regardless of the circumstances.

## **6. Trademarks**

### **6.1 Wavenis Trademarks**

Trademarks created by Wavenis, registered or otherwise, are the property of Wavenis. Use of Wavenis trademarks shall be governed by such policies, procedures and guidelines as may be established and approved by Wavenis from time to time, and applicable law.

### **6.2 Non-Wavenis Trademarks**

Wavenis's use of third-party trademarks, registered or otherwise, shall be governed by such policies, procedures and guidelines as may be established and approved by the owners of such trademarks, and applicable law.

**Appendix A**

**WAVENIS OPEN STANDARD ALLIANCE, INC.**

**SUBMISSION OF TECHNOLOGY FORM**

**NOTE:** All blanks must be completed in order for this Submission to be given consideration. This submission is subject to the Intellectual Property Rights Policy (the "IPR Policy") of Wavenis Open Standards Alliance ("Wavenis") and such documents specifying process and procedures as Wavenis may from time to time have in force (collectively, both such documents being referred to below as the "Policies and Procedures"). ***All capitalized terms used in this form are intended to have the meanings given to them in Exhibit A attached to this form.***

<b>Name of Submitter:</b>	
<b>Name of Representative Completing this Form on Behalf of Submitter:</b>	
<b>Mailing Address of Representative:</b>	
<b>Email Address of Representative:</b>	
<b>Draft Specification and RFP (if any) to which this Submission relates:</b>	

A The Representative hereby represents the following on behalf of him/herself and the Submitter, as the context requires:

1. The Representative is authorized to make the Submission attached hereto as **Exhibit B** on behalf of the Submitter, and to make the following representations and warranties.
2. The Submitter has reviewed the Policies and Procedures and agrees that its Submission is being made in full compliance with the same.
3. The Submitter hereby irrevocably agrees that if its Submission is incorporated, either in whole or in part, into the Draft Specification referenced above and such Draft Specification becomes a Specification, that on request it will License all Necessary Claims relating to such Specification Owned by it and its Related Parties on the following terms (**Note: A Submitter must elect one of the following**):

\_\_\_\_\_ Without compensation and otherwise on a RAND basis, to all Implementers; **or**

\_\_\_\_\_ On RAND terms, reserving the right to charge a royalty or other fee on RAND terms with respect to certain Necessary Claim(s) identified on **Exhibit C-1**, together with the portion of the Draft Specification, in its current form, that would Necessarily Infringe such Necessary Claims.

4. The Submitter hereby agrees that Wavenis may copy, distribute and otherwise make available this Submission for the purpose of evaluation, and that in the event that the Submission is accepted, in whole or in part, that Wavenis will own the copyright in the resulting Specification and all rights therein, including the rights of distribution. This agreement shall not in any way deprive the Submitter of any patent claims or other IPR relating to the technology to which its Submission relates.

5. The Submitter is not aware of any Necessary Claim(s) or other IPR of any third party that might be infringed by the implementation of the Draft Specification referenced above as a result of the incorporation of the Submission therein, whether in whole or in part. If the Submitter is aware of any such potential infringement, then the Submitter has described such Necessary Claim(s) or other IPR on **Exhibit C-2**, together with any supporting documentation that may be readily available to the Submitter.

B. Wavenis, in accepting this Submission, acknowledges the following:

1. The representation required in paragraph A.5 above is being solicited purely for informational purposes, and Wavenis will not be relying on such representation or otherwise holding the Representative or Submitter responsible for its completeness or accuracy.

2. EXCEPT AS SPECIFICALLY PROVIDED FOR ABOVE, THIS SUBMISSION IS BEING OFFERED WITHOUT ANY WARRANTY WHATSOEVER, AND IN PARTICULAR, ANY WARRANTY OF NON-INFRINGEMENT IS EXPRESSLY DISCLAIMED, EXCEPT TO THE EXTENT OF KNOWING FALSITY IN ANY STATEMENT MADE ABOVE. ANY IMPLEMENTATION OF ANY SPECIFICATION INCORPORATING THIS SUBMISSION IN WHOLE OR IN PART SHALL BE MADE ENTIRELY AT THE IMPLEMENTER'S OWN RISK, AND THE SUBMITTER SHALL HAVE NO LIABILITY WHATSOEVER TO ANY IMPLEMENTER OR THIRD PARTY FOR ANY DAMAGES OF ANY NATURE WHATSOEVER DIRECTLY OR INDIRECTLY ARISING FROM SUCH IMPLEMENTATION, EXCEPT AS A RESULT OF ANY KNOWING FALSITY IN ANY STATEMENT MADE ABOVE.

This submission has been made on \_\_\_\_\_, 200\_.

\_\_\_\_\_  
Name of Submitter

By: \_\_\_\_\_  
Signature of Representative  
Name: \_\_\_\_\_

**Exhibit Index:**

- A: Defined Terms**
- B: Submission**
- C-1: Necessary Claims (if any)**
- C-2: Third Party IPR (if any)**

## Exhibit A

### DEFINED TERMS

<b><u>Term</u></b>	<b><u>Definition</u></b>
Draft Specification	A technical specification or other material that is produced by a Project that could, if used or implemented as intended, infringe a claim(s) under an issued patent or a patent application anywhere in the world.
Implementers	Those Members that desire to use or implement a Specification.
IPR	An abbreviation of "Intellectual Property Rights". As used in this Policy, IPR means claims in patents and patent applications and copyrights, trademarks and trade secrets.
License	Either (a) an agreement to license Necessary Claim(s) to any Implementer, on a perpetual, non-exclusive and worldwide basis, and other wise upon RAND terms, with or without compensation (as the context requires), with such license permitting the Implementer to make, have made, use, reproduce, market, import, offer to sell and sell, and to otherwise distribute products that implement such Necessary Claim(s), or (b) if the Member is willing to make its Necessary Claims available without compensation, a binding, perpetual, irrevocable commitment, in a form acceptable to Wavenis, not to assert Necessary Claim(s) against any Implementer of the Specification, or user of a product implementing such Specification, to which such commitment relates.
Member	A Wavenis member of any class
Necessarily Infringed	Unavoidable infringement by an implementation of a Required Element of a Specification, there being no reasonable alternative way to implement that element of the Specification without resulting in such infringement.
Necessary Claims	Those claims under patents and/or patent applications anywhere in the world that would be Necessarily Infringed by the implementation of the Required Elements of a Specification.
Other Work Product	Any Project deliverable that is not a Draft Specification or Specification. Unless the context otherwise requires, any reference to the adoption of Other Work Product shall also be deemed to apply to the adoption of an amendment to that Other Work Product as well.
Owned	With respect to any Necessary Claim(s), the word "Owned" includes any Necessary Claim(s) that are (a) Owned by the Member in question or any of its Related Parties, and/or (b) controlled but not Owned by it or any of its Related Parties, provided that the Member in question or such Related Party is (i) entitled to sublicense such Necessary Claim(s), and (ii) would not incur an obligation to pay any royalty or other compensation to the true owner of such Necessary Claim(s) in connection with a sublicense.
Participant	Any Member that enrolls to take part in a Project that has not withdrawn from such Project within 60 days of the date upon

	which that Project was chartered.
Project	A formally chartered Wavenis technical process that is intended to produce a Specification or Other Work Product.
RAND	Reasonable and Non-discriminatory
Reasonable	License terms relating to IPR included in a Specification that are not more onerous (including as to price) than could be obtained by the owner of such IPR in the open market absent its inclusion in a Specification. It is acknowledged that Reasonableness can not be established with precision.
Related Party	Any entity that is directly or indirectly controlled by, under common control with, or that controls the subject party. For this purpose, "control" means beneficial ownership or the right to exercise more than 50% of the voting power for the entity. Any Member or potential Member that believes that the application of this definition would result in unfairness, as applied in its unique circumstances, may apply for a limited and fact-specific exemption on such form as Wavenis may from time to time make available for that purpose.
Representative	Any individual that acts on behalf of a Member in connection with a Project, or in the completion of any form to be delivered to Wavenis pursuant to the Policy or the Rules of Procedure.
Required Element	Any element of a Draft Standard or Standard, including without limitation any element that has been designated as "optional," "alternate" or otherwise.
Specification	A Draft Specification that has been formally adopted by Wavenis. Unless the context otherwise requires, any reference to the adoption of a Specification shall also be deemed to apply to the adoption of an amendment to a Specification as well.
Submission	An affirmative and knowing contribution of IPR with the intention that such IPR be considered for inclusion in a Specification or Other Work Product. A Submission, in written or electronic form, may occur: as a result of an unsolicited offer to Wavenis of existing technology by a Member or third party; in response to a general Wavenis request for proposals; or from a Participant at any time during a technical process.
Submitter	Both a Member as well as any representative(s) of a Member, and any other person or entity making a Submission.
Technical Committee	At any relevant time, the most senior technical committee involved in the technical process.

**Exhibit B**

**SUBMISSION**

Insert description of Submission in such detail as may from time to time be required under the Policies and Procedures

**Exhibit C-1**

**SUBMITTER NECESSARY CLAIMS**

List here all Necessary Claim(s) Owned by you

<b>Patent Number</b>	<b>Necessary Claim</b>	<b>Effected Portion of Specification</b>

**Exhibit C-2**

**THIRD PARTY IPR**

List here all Necessary Claim(s) Owned by third parties, to the extent of your knowledge.

<b>Patent Number</b>	<b>Necessary Claim</b>	<b>Effected Portion of Specification</b>

**Appendix B**

**WAVENIS OPEN STANDARD ALLIANCE, INC.**

**INTELLECTUAL PROPERTY RIGHTS ELECTION FORM**

**NOTE:** All blanks must be completed in order for this election form to be given consideration. This election form is subject to the Intellectual Property Rights Policy (the "IPR Policy") of Wavenis Open Standards Alliance ("Wavenis") and such documents specifying process and procedures as Wavenis may from time to time have in force (collectively, both such documents being referred to below as the "Policies and Procedures"). ***All capitalized terms used in this form are intended to have the meanings given to them in Exhibit A attached to this form.***

<b>Name of Member:</b>	
<b>Name of Representative Completing this Form on Behalf of Member:</b>	
<b>Mailing Address of Representative:</b>	
<b>Email Address of Representative:</b>	
<b>Draft Specification to which this Election Form relates:</b>	

A. The Representative hereby represents the following on behalf of him/herself and the Member, as the context requires:

1. The Representative is authorized to complete and submit this Election Form on behalf of the Member, and to make the following representations and warranties.
2. The Representative and the Member have each reviewed the Policies and Procedures, and agree that this Election Form is being completed and submitted in full compliance with the same.
3. The Member hereby irrevocably agrees that if the Draft Specification referenced above becomes a Specification, that on request it will License all Necessary Claims relating to such Specification Owned by it and its Related

Parties on the following terms (Note: A Member must elect one of the following):

\_\_\_\_\_ Without compensation and otherwise on a RAND basis, to all Implementers; **or**

\_\_\_\_\_ On RAND terms, reserving the right to charge a royalty or other fee on RAND terms with respect to certain Necessary Claim(s) identified on **Exhibit B-1**, together with the portion of the Draft Specification, in its current form, that would Necessarily Infringe such Necessary Claims.

4. The Representative is not aware of any Necessary Claim(s) or other IPR of any third party that might be infringed by the implementation of the Draft Specification referenced above. If the Representative is aware of any such potential infringement, then the Representative has described such Necessary Claim(s) or other IPR on **Exhibit B-2**, together with any supporting documentation that may be readily available to the Representative.

B. Wavenis, in accepting this Election Form, acknowledges that the representation required in paragraph A.4 above is being solicited purely for informational purposes, and Wavenis will not be relying on such representation or otherwise holding the Representative or Member responsible for its completeness or accuracy.

This Election Form has been submitted on \_\_\_\_\_, 200\_.

\_\_\_\_\_  
Name of Participant or  
Non-Participant Member

By: \_\_\_\_\_  
Signature of Representative

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

**Exhibit Index:**

- A: Defined Terms**
- B-1: Withheld IPR (if any)**
- B-2: Third Party IPR (if any)**

## Exhibit A

### DEFINED TERMS

<b><u>Term</u></b>	<b><u>Definition</u></b>
Draft Specification	A technical specification or other material that is produced by a Project that could, if used or implemented as intended, infringe a claim(s) under an issued patent or a patent application anywhere in the world.
Implementers	Those Members that desire to use or implement a Specification.
IPR	An abbreviation of "Intellectual Property Rights". As used in this Policy, IPR means claims in patents and patent applications and copyrights, trademarks and trade secrets.
License	Either (a) an agreement to license Necessary Claim(s) to any Implementer, on a perpetual, non-exclusive and worldwide basis, and other wise upon RAND terms, with or without compensation (as the context requires) with such license permitting the Implementer to make, have made, use, reproduce, market, import, offer to sell and sell, and to otherwise distribute products that implement such Necessary Claim(s), or (b) if the Member is willing to make its Necessary Claims available without compensation, a binding, perpetual, irrevocable commitment, in a form acceptable to Wavenis, not to assert Necessary Claim(s) against any Implementer of the Specification, or user of a product implementing such Specification, to which such commitment relates.
Member	A Wavenis member of any class
Necessarily Infringed	Unavoidable infringement by an implementation of a Required Element of a Specification, there being no reasonable alternative way to implement that element of the Specification without resulting in such infringement.
Necessary Claims	Those claims under patents and/or patent applications anywhere in the world that would be Necessarily Infringed by the implementation of the Required Elements of a Specification.
Other Work Product	Any Project deliverable that is not a Draft Specification or Specification. Unless the context otherwise requires, any reference to the adoption of Other Work Product shall also be deemed to apply to the adoption of an amendment to that Other Work Product as well.
Owned	With respect to any Necessary Claim(s), the word "Owned" includes any Necessary Claim(s) that are (a) Owned by the Member in question or any of its Related Parties, and/or (b) controlled but not Owned by it or any of its Related Parties, provided that the Member in question or such Related Party is (i) entitled to sublicense such Necessary Claim(s), and (ii) would not incur an obligation to pay any royalty or other compensation to the true owner of such Necessary Claim(s) in connection with a sublicense.
Participant	Any Member that enrolls to take part in a Project that has not withdrawn from such Project within 60 days of the date upon

	which that Project was chartered.
Project	A formally chartered Wavenis technical process that is intended to produce a Specification or Other Work Product.
RAND	Reasonable and Non-discriminatory
Reasonable	License terms relating to IPR included in a Specification that are not more onerous (including as to price) than could be obtained by the owner of such IPR in the open market absent its inclusion in a Specification. It is acknowledged that Reasonableness can not be established with precision.
Related Party	Any entity that is directly or indirectly controlled by, under common control with, or that controls the subject party. For this purpose, "control" means beneficial ownership or the right to exercise more than 50% of the voting power for the entity. Any Member or potential Member that believes that the application of this definition would result in unfairness, as applied in its unique circumstances, may apply for a limited and fact-specific exemption on such form as Wavenis may from time to time make available for that purpose.
Representative	Any individual that acts on behalf of a Member in connection with a Project, or in the completion of any form to be delivered to Wavenis pursuant to the Policy or the Rules of Procedure.
Required Element	Any element of a Draft Standard or Standard, including without limitation any element that has been designated as "optional," "alternate" or otherwise.
Specification	A Draft Specification that has been formally adopted by Wavenis. Unless the context otherwise requires, any reference to the adoption of a Specification shall also be deemed to apply to the adoption of an amendment to a Specification as well.
Submission	An affirmative and knowing contribution of IPR with the intention that such IPR be considered for inclusion in a Specification or Other Work Product. A Submission, in written or electronic form, may occur: as a result of an unsolicited offer to Wavenis of existing technology by a Member or third party; in response to a general Wavenis request for proposals; or from a Participant at any time during a technical process.
Submitter	Both a Member as well as any representative(s) of a Member, and any other person or entity making a Submission.
Technical Committee	At any relevant time, the most senior technical committee involved in the technical process.

**Exhibit B-1**

**WITHHELD IPR**

List here all Necessary Claim(s) Owned by you for which Section 3.2(a)i. or ii. Licenses will not be supplied.

<b>Patent Number</b>	<b>Necessary Claim</b>	<b>Effected Portion of Specification</b>

**Exhibit B-2**

**THIRD PARTY IPR**

List here all Necessary Claim(s) Owned by third parties, to the extent of your knowledge.

<b>Patent Number</b>	<b>Necessary Claim</b>	<b>Effected Portion of Specification</b>

## **Appendix C**

### **PATENT CALL TEXT**

Please be aware that this meeting is being held under the Intellectual Property Rights Policy adopted by Wavenis. If you do not have a copy of this policy, please see me during this meeting. You may also view and download a copy of that policy at the \_\_\_\_\_ section of Wavenis website.

At this time, I would ask that anyone in attendance inform me if they are personally aware of any claims under any patent applications or issued patents that would be likely to be infringed by an implementation of the specification or other work product which is the subject of this meeting. You need not be the inventor of such patent or patent application in order to inform us of its existence, nor will you be held responsible for expressing a belief that turns out to be inaccurate.