

International Color Consortium Membership Agreement

The undersigned hereby agrees to become a Member of the International Color Consortium ("ICC") according to the terms of this Membership Agreement and to conform to all of the applicable terms and conditions set forth herein.

1.0. Purpose and Scope

The purpose of the ICC is to create, promote and encourage the standardization and evolution of an open vendor-neutral, cross-platform color management system architecture and components. Results of the work of the ICC shall be made available to the public and shall be submitted to appropriate international standards organizations.

2.0. Definitions

- 2.1. "**Agreement**" means this ICC agreement.
- 2.2. "**Chairperson**" means the elected chairperson of the ICC, who shall have the duties set forth in Section 5 of the Operating Procedures.
- 2.3. "**Fiscal Year**" means the fiscal year of the ICC, and which shall begin on January 1 during each calendar year.
- 2.4. "**Founding Member**" means an original Member of the ICC, as identified in Section 3.1 below.
- 2.5. "**Honorary Member**" means any Member who is not subject to payment of dues hereunder, and has no right to vote on matters before the ICC.
- 2.6. "**ICC**" means the International Color Consortium.
- 2.7. "**Member**" means a participant in the ICC.
- 2.8. "**Operating Procedures**" means the operating procedures attached hereto, including any changes that may be duly made by the Members by written amendment thereto.
- 2.9. "**Regular Member**" means a Member accepted by the Secretariat for a one (1) year term of participation in the ICC.
- 2.10. "**Secretariat**" means the organization that shall act as the secretary to the ICC hereunder. The Secretariat shall not be a Member. The current Secretariat is NPES The Association for Suppliers of Printing and Publishing Technologies ("NPES"). NPES' counsel is the law firm of Skadden, Arps, Slate, Meagher & Flom ("SASM&F"), and NPES may consult the firm in connection with matters arising from NPES' activities as Secretariat. Nothing in this Agreement is intended to or shall be construed to create an attorney-client relationship between SASM&F and any Member of the ICC, and each Member of the ICC hereby agrees not to provide confidential information to SASM&F or to assert in the future that SASM&F is prohibited from representing any other person (including a Member) in a matter adverse to a Member by virtue of SASM&F's association with NPES or the ICC.

- 2.11. "**Secretary**" means the secretary of the ICC, who shall be an NPES staff member appointed by the Secretariat and who shall have the duties set forth in Section 5 of the Operating Procedures.
- 2.12. "**Steering Committee**" means, collectively, (i) a delegate of each of the Founding Members, (ii) delegates elected from the number of the Regular Members needed to fill 16 seats, and (iii) the Technical Secretary.
- 2.13. "**Technical Secretary**" means the elected Technical Secretary of the ICC, who shall have the duties set forth in Section 5 of the Operating Procedures.
- 2.14. "**Vice Chairperson**" means the elected vice chairperson of the ICC, who shall have the duties set forth in Section 5 of the Operating Procedures.

3.0. Term and Termination of Membership and the ICC; Relationship between Secretariat and ICC.

- 3.1. Founding Members. The Founding Members of the ICC are Adobe Systems Inc., Agfa-Gevaert N.V., Apple Computer, Inc., Eastman Kodak Company, Forschungsgesellschaft Druck, FOGRA (an honorary member), Microsoft Corporation, Silicon Graphics, Inc., Sun Microsystems, Inc. and Taligent, Inc.
- 3.2. Adding Members to the ICC. The Secretariat may accept additional Members in the ICC, provided that such Members meet reasonably objective participation criteria to be established by the ICC, which shall include at a minimum: (i) commitment to the purposes of the ICC, (ii) willingness to support an ICC product on the Member's computer system or separate product, (iii) willingness to execute the then current form of the Agreement, and (iv) active participation, in the sense of regular attendance at meetings and participation in Working Groups.
- 3.3. Representation. Each Member shall be entitled to send at least one representative to each formally scheduled meeting of the ICC. At the Secretary's discretion, a limit may be set on the number of representatives Members may send to any meeting.
- 3.4. Term of Membership in the ICC. Regular Members may participate in the ICC for one (1) year terms, renewable in accordance with Section 4.0 of the Operating Procedures. Such Terms shall commence at the beginning of the Fiscal Year, provided, however, that Members may join at any time during a year and pay a membership fee prorated on the basis of the time remaining until the end of the Fiscal Year.
- 3.5. Duration of ICC. The ICC shall continue unless and until dissolved by a Super Majority vote of the Members.
- 3.6. Change in Secretariat. In the event that the ICC Members decide, by a Super Majority vote in accordance with Section 6.2(c) of the Operating Procedures, to transfer the Secretariat to a different organization, the ICC shall provide written notice thereof to the then-current Secretariat three (3) months prior to the end of the Secretariat's fiscal year. In such an event, the then-current Secretariat would have no residual duties and responsibilities to the ICC after its tenure.
- 3.7. Non-Voluntary Termination of Membership in the ICC. In the event of a material

default or breach of this Agreement by a Member, if such Member does not cure such default or breach within thirty (30) days after its receipt of written notice thereof from the Secretary, such Member's participation and membership in the ICC may be terminated by the Steering Committee at any time thereafter by written notice. The member may appeal this action to a vote of the full membership of the ICC. A terminated Member shall be responsible for payment of any amounts due to the ICC at the time of its termination.

- 3.8. Voluntary Termination of Membership. Any Member of the ICC may resign from the ICC and terminate its participation in the ICC at any time by providing written notice of resignation to the Secretary. Member acknowledges and agrees that ICC membership fees, if any, are non-refundable. A resigning Member shall be responsible for payment of any amounts due at the time of its resignation.

4.0. Costs, Expenses and Resources

Each Member shall be solely responsible for its own costs and expenses incurred in matters and activities related to the ICC or otherwise arising out of this Agreement. Each Member except the Secretariat and Honorary Members may be required to pay an annual ICC membership fee to the Secretariat to cover the administrative expenses of the ICC. This membership fee will cover the expenses that the ICC incurs in its normal operations or any other activity duly approved by the Members. Any extraordinary expense shall be approved by the Members in advance of expenditure and funded by an additional levy on the Members. Any membership fee funds in excess of twenty-five percent (25 %) of the aggregate yearly fees of the membership remaining after such ordinary expenses have been paid at the end of any Fiscal Year will be credited proportionately to the Members. Membership fees will be due and payable annually to the Secretariat, on or before the beginning of each yearly term of membership in the ICC. The Secretary will issue an invoice for the membership fee to each Member except Honorary Members not later than thirty (30) days before the end of each Fiscal Year. Any Member that does not pay such fee within 60 days after receipt of the invoice therefor will be in default of this Agreement, and its membership in the ICC may be terminated at any time thereafter by the ICC provided, however, that except as otherwise provided, such Member shall have no liability to the ICC or any Member for its failure to pay such fee.

5.0. General

- 5.1. Limitation of Liability. Members and officers of the ICC participate in the ICC voluntarily, solely to advance the purposes of the ICC set forth in Section 1.0 above. The results of the work of the ICC shall be promulgated on an "as is" basis, with no warranty whatsoever. A sample of the disclaimer to be used whenever the results of work of the ICC are incorporated in the products or the specifications of any of the Members is set forth in Attachment B hereto, which disclaimer shall be incorporated in all documents and any source code provided by the ICC to anyone. In no event shall any Member be liable to any other Member or the Secretariat for any indirect damages, including special, incidental, or consequential damages, including loss of profits.
- 5.2. Independent Action. Each Member shall remain free to design, develop, market, modify or distribute any non-ICC products or services without restriction, notwithstanding anything to the contrary herein. Participation in the ICC shall not be deemed to constitute a partnership, joint venture, or other joint activity. No Member authorizes any other Member to make any commitments or

representations on its behalf. Participation in the ICC shall not grant to any Member the right to use the name or trademarks of any other Member in any publicity or advertising without the other Member's prior written consent.

- 5.3. Compliance with Laws. The ICC shall not take any action whatsoever in violation of any federal, state, or local law or regulation, and it is the intention of the ICC and its members to comply with all such laws, including specifically antitrust laws. No Member shall have authority, actual or implied, to bind any other Member in any way, to make any commitments or representations on behalf of another Member, or to act as an agent of another Member. It shall be the responsibility of all Members to take such steps as necessary to ensure their compliance with all laws in connection with their participation in the ICC. No Member or its representative (s) shall take any action in connection with the ICC that is not in furtherance of the lawful objectives of the ICC.
- 5.4. Assignment. Neither this Agreement nor any rights or obligations under this Agreement, in whole or in part, are assignable or otherwise transferable without the prior written approval of the Secretariat and any attempted assignment or transfer shall be void and without effect, provided however, that this Agreement may be assigned to a purchaser of all, or substantially all, of a party's assets without such approval.
- 5.5. No Other Rights. No license, rights or title in or to any software or other intellectual property are provided hereunder, either expressly or by implication, estoppel or otherwise.
- 5.6. No Agency. The parties hereto are independent contractors, and nothing herein shall be construed to create an agency, joint venture, partnership or other form of business association between the parties hereto.
- 5.7. Complete Agreement. This Agreement and its Attachments constitutes the complete and exclusive statement of the Agreement between the parties, and supersedes all previous proposals, verbal or written, and all other communications or understandings between the parties relating to the subject matter of this Agreement. Each party acknowledges that it has not relied upon any representation or statement not contained herein. This Agreement shall not be modified, amended or in any way altered except by an instrument in writing signed by all parties hereto. This Agreement may be executed in counterparts, each of which shall constitute an original of this Agreement.

One of the following Membership levels must be checked:

- Founding Member
- Regular Member
- Honorary Member

COMPANY: _____

By: _____

NAME (PRINT OR TYPE)

TITLE

DATE

FINAL VERSION FEBRUARY 14, 1995

ATTACHMENT A

Operating Procedures of the International Color Consortium

1.0. Purpose

The following sets forth the Operating Procedures of the International Color Consortium ("ICC"), established for the purpose of providing rules for the regulation of the affairs of the ICC.

2.0. Definitions

Terms used herein (words having initial uppercase letters) not otherwise defined below shall have that meaning set forth in the International Color Consortium Membership Agreement.

- 2.1. **"Group Leader"** means a Member selected by a Simple Majority Vote of the Steering Committee to be the spokesperson and coordinator for a Working Group.
- 2.2. **"Simple Majority"** means, with respect to the voting on a proposal or issue brought before the ICC, any vote in which more than half of the non-abstaining, eligible Members (but in any event, not less than three eligible members) casts votes affirmatively on such proposal or issue.
- 2.3. **"Specification(s)"** means any technical specification approved by the Steering Committee for the ICC architecture and/or its components.
- 2.4. **"Super Majority"** means, with respect to the voting on a proposal or issue brought before the Members of the ICC, any such vote in which two-thirds (2/3) or more of the non-abstaining, eligible Members vote affirmatively, provided that the number of those eligible Members casting affirmative votes represents (i) at least one-third (1/3) of all eligible Members and (ii) not less than three eligible Members.
- 2.5. **"Voting Period"** means a fourteen (14) calendar day period during which the Secretary will accept votes submitted by eligible Members, for a ballot submitted to such Members by the Secretary, commencing on such submission.

- 2.6. **"Working Group"** means a collection of at least three Members, with a charter and Group Leader, established by a Simple Majority Vote of the Steering Committee.

3.0. Actions, Activities and Meetings of the ICC

- 3.1. Actions and Activities of the ICC. The general activities (as described in Section 1 of the Membership Agreement) of the ICC will include, but not be limited to, (i) promotion of Specifications on appropriate current and future computer system platforms, (ii) reviewing, considering, proposing and approving or disapproving future enhancements and additions to the Specifications, (iii) determining the requirements for ICC conformance testing, and (iv) proposing future meeting agenda items.
- 3.2. Meetings. The ICC shall hold regular meetings. There shall be a minimum of one (1) meeting annually of the Members, and a minimum of two (2) meetings annually of the Steering Committee. The Secretary shall provide a written notice to the Members of the schedule for such regularly scheduled meetings. The Secretary shall also provide to each Member, not less than fourteen (14) days prior to the scheduled date for each such meeting, a written plan for such meeting, stating the location, date, hour, and agenda of such meeting. The ICC may also call special meetings, in which case a notice thereof will be provided to each Member not less than seven (7) days before the scheduled date for such special meeting, stating, in addition to the aforementioned, the special purpose or purposes for which such meeting has called. Every member of the Steering Committee shall attend at least fifty percent (50%) of the Steering Committee meetings during each calendar year, provided that advance notice of such meetings had been given in accordance herewith. Meetings may be held in person and/or by teleconference.
- 3.3. Minute of Meetings. The Secretary shall be responsible for distribution of the minutes of all meetings of the ICC within thirty (30) days after each meeting has been held, and may distribute the minutes electronically, provided, however, that the Secretary shall provide a draft of Steering Committee meeting minutes to Steering Committee members for review and comment as to accuracy at least fourteen (14) days before distribution thereof to the general membership. The minutes published for meetings of both the general membership and of the Steering Committee will indicate the outcome of any votes taken during or since the last meeting.

4.0. Establishment of the Steering Committee and Working Groups; Election and Appointment of Officers of the ICC.

- 4.1. The Steering Committee. The Steering Committee shall be established annually at the first general meeting of each Fiscal Year, and shall consist of 16 members; one (1) delegate designated by each of the active Founding Members and a designate from the number of the Regular Members needed to fill 16 seats. Such Regular Members shall be determined by a general vote of the membership of the ICC, and will be the Regular Members receiving the highest cumulative number of votes in such vote. If two or more delegates receive the same number of votes for the final position in the Steering Committee, the Technical Secretary shall cast the deciding vote subject to Section 6.1.g. below. To be eligible to serve on the Steering Committee, a Member must have electronic mail addressable through the Internet. Until the first general meeting of the ICC, the Founding Members shall serve the Steering Committee.
- 4.2. Working Groups. Any Member may propose to the Chairperson or Technical Secretary that a Working Group be created to address an issue relevant to the ICC provided that such Member shall participate in any resultant Working Group. The proposal for such Working Group will be presented in the form of a written charter which will include a statement of purpose for the Working Group, a description of tasks to be completed, and a timeline for completion of a final report for delivery to the Technical Secretary. After a reasonable amount of discussion, the Steering Committee will determine whether a Working Group should be created to address such issue. If the Steering Committee so determines, the Secretary shall poll the Members to determine whether any Members other than the proposing Member is willing to participate in such Working Group. Provided that at least three (3) Members are willing to so participate, the Secretary shall declare such Working Group convened, and the Members in such Working Group shall elect a Group Leader to act as spokesperson for such Working Group. Appropriate issues may also be added to, or deleted from, the charter of existing Working Groups, upon approval of the Steering Committee. A Working Group may meet in person, at various times and places designated by the Group Leader, or by electronic means, and shall provide reports to the Technical Secretary on its activities at least quarterly. Working Groups shall be created for a specified term. Each Working Group's charter may be renewed by the approval of the Steering Committee.

- 4.3. Election of the Technical Secretary. The Technical Secretary shall be elected annually from and by the general membership.
- 4.4. Election of the Chairperson and Vice Chairperson. The Chairperson and Vice Chairperson shall be elected annually by the Steering Committee from its membership, at the first meeting of the ICC for each Fiscal Year, and immediately after the Steering Committee has been formed for such Fiscal Year. To be eligible to serve as Chairperson or Vice Chairperson, a Member must have electronic mail addressable through the Internet.
- 4.5. Appointment of Secretary. The Secretariat shall appoint an NPES staff member as Secretary for the ICC, provided, however, that such appointment may be changed by written notice provided by the Secretariat to the Steering Committee.

5.0. Duties of the Officers of the ICC

- 5.1. Duties of the Chairperson. The Chairperson is ultimately responsible for the technical work of the ICC, but may, with the consent of the Steering Committee, delegate topics to various Working Groups. Further, the Chairperson shall:
 - 5.1.1. Convene and chair meetings of the Steering Committee and of the members.
 - 5.1.2. Work with the Secretary to establish the agenda for meetings of the Steering Committee and of the general membership.
 - 5.1.3. Act as the Members' liaison to the Secretariat.
 - 5.1.4. Act as a conduit of ideas and suggestions from non-members into the Steering Committee.
- 5.2. Duties of the Secretary; The Secretary shall:
 - 5.2.1. Administer the general meetings of the ICC, including:
 - a. determining the time and locale of the meetings and informing the Members thereof;

- b. working with the Chairperson to establish agendas for meetings and distributing such agendas to the appropriate Members; and
 - c. producing and distributing minutes of meetings, within thirty (30) days after each meeting.
 - d. obtain legal review of agendas, minutes and other documents as NPES deems necessary.
- 5.2.2. Administer any balloting conducted by the ICC among the Members. Such duties shall include:
- a. working with Members to establish appropriate proposals and issues as subject matter requiring a decision by the Members, pursuant to the voting procedures set forth herein;
 - b. establishing each respective voting period;
 - c. announcing pending ballots, tallying votes, and announcing the results of votes completed; and
 - d. determining Member eligibility to vote on specific matters.
- 5.2.3. Be responsible for the establishment and maintenance of an FTP site for distributing information about the activities of the ICC and for distributing specifications.
- 5.2.4. Serve as treasurer of the ICC.
- 5.2.5. Determine on an annual basis and submit to the Steering Committee an annual budget and report of the activities of the ICC.
- 5.2.6. Register signatures for the ICC Specification.
- 5.2.7. Forward Specifications approved by the ICC to the appropriate international standards bodies in a timely manner.

- 5.2.8. Send out invoices for ICC membership to each Member (except the Honorary Members) not later than sixty (60) days before the end of the then-current Fiscal Year.
- 5.2.9. Maintain a list of the Members and their delegates, including contact points accessible by FAX, electronic mail, telephone, and regular mail.
- 5.2.10. Establish and maintain means for telecommunications with the ICC, such as FAX, telephone, and electronic mail. Such contact points will be staffed by persons fluent in such languages as the ICC deems appropriate. Initially, such languages shall minimally include English. Other languages may be added, subject to budgetary constraints, by the approval of the Steering Committee.
- 5.2.11. Act as a conduit of ideas and suggestions from non-Members into the Steering committee.
- 5.2.12. Provide a public relations and communications function for the ICC.
- 5.2.13. Recruit new members for the ICC.
- 5.2.14. Sign contracts, agreements and other legal documents on behalf of the ICC. The administrative secretary can sign for financial issues provided the funds are budgeted. Otherwise, funding requests need the approval of the steering committee before he can sign. Other issues will be decided by vote of the steering committee and, provided the issue is approved, the secretary will sign on behalf of the ICC.

5.3. Duties of the Technical Secretary; The Technical Secretary shall:

- 5.3.1. In the event of a tie during a ballot of the Steering Committee or the general membership, the Technical Secretary shall cast the deciding vote as specified in Section 6.1.g. below, provided that so doing would not violate the requirements of Section 6.1.i. below.

- 5.3.2. Collect written charters prepared in advocacy of the formation of a Working Group, and presentation of such charters to the Steering Committee.
- 5.3.3. Ensure that the work of each working group, and the work of the ICC as a whole, progresses in a timely manner.
- 5.3.4. Act as a technical expert to assist in the examination and evaluation of Specifications by international standards bodies.
- 5.3.5. Act as a conduit of ideas and suggestions from non-Members into the Steering Committee.
- 5.3.6. Assist the ICC in the recruitment of new Members.
- 5.4. Duties of the Vice-Chairperson. The Vice-Chairperson shall fulfill the duties of the Chairperson, should the Chairperson be unable to do so.
- 5.5. Addition of Other Official Positions to ICC. Any Member may make a formal proposal regarding the addition of official positions to the ICC, which proposal shall include a written description of the proposed duties and responsibilities of such official. Such proposals shall be subject to, and approved or disapproved by, the Steering Committee.
- 5.6. Functions outside the Purview of the Officers. The ICC and the Officers shall have no responsibility whatsoever for providing any of the following for any results of the work of the ICC: a "hot line" service, testing of Specifications, testing of any software the ICC produces, validation that products conform to ICC Specifications, or the like.
- 5.7. The ICC shall reimburse the Technical Secretary for all reasonable expenses incurred in the fulfillment of its duties, from the general fund of the ICC, pursuant to Section 4.0 of the ICC Membership Agreement.

6.0. **Voting Policies and Procedures of the ICC**

- 6.1. Voting Policies. The ICC shall use the following policies and procedures to make decisions on issues brought before the ICC.

- a. Each Member shall (i) submit the names of a primary and an alternate representative, reachable by electronic means, to the Secretary and (ii) each Founding and Regular Member shall be entitled to cast one (1) vote on each applicable issue, pursuant to Section 6.2.
- b. Votes will be taken on ballots distributed to the Members by the Secretary, which ballots shall state a description of the issues(s) being decided and a mechanism whereby the Member may indicate whether it casts its vote affirmatively or negatively, or abstains from voting, on each such issue. The Secretary may distribute such ballots to Members by electronic means.
- c. Each Member may cast its votes in person at meetings of the ICC, or in absentia by electronic or written notice to the Secretary. Votes shall be considered valid only if received by the Secretary during the Voting Period.
- d. A Member may not change a vote after it has cast such vote.
- e. The Secretary will notify the primary and alternate representatives of each Member whenever it submits a ballot to the Members, and shall provide to each representative a copy thereof. Each Member shall be solely responsible for determining which of its representatives shall submit a response to any ballot. The Secretary shall accept only the first ballot received from any Member. If the Secretary does not receive a Member's completed ballot during the Voting Period, such Member's vote will be tallied as abstaining.
- f. The Secretary may close voting before the end of the Voting Period, and determine results to be final, if the tallying of additional votes would not change the ultimate decision on an issue. The Secretary will announce when voting has been closed and the result thereof. The Secretary will also indicate the voting record of the Members.
- g. In the event of a tie vote in either the Steering Committee or the general membership, the Technical Secretary shall cast the tie-

breaking vote. The Technical Secretary shall not otherwise vote in either body. The Secretary shall not be eligible to vote.

- h. Steering Committee members shall vote on all items on the Steering Committee agenda provided by the Secretary.
- i. No two employees of a Member may vote on the same matter and no individual may vote twice on the same matter.

6.2. Voting Rights. The ICC will take the actions indicated below, only on an approval of Members in accordance with this Section 6.2 below, provided, however, that if there are three or fewer votes cast in any vote by non-abstaining Members in the ICC, decisions regarding all of the matters set forth in this Section 6.2 below will require a unanimous approval vote of the eligible Members:

- a. **Upon Simple Majority Vote of the Steering Committee:** (i) creation of a Working Group; renewal of the charter of a Working Group, (ii) acceptance of agenda items for future meetings, (iii) adoption and amendment of the annual budget, which shall be proposed by the Secretary, (iv) approval of the use and support of additional languages for ICC communications, (v) consent to delegation of a duty of the Secretary, and (vi) approval of promotional activities subject to budgetary constraint.
- b. **Upon Super Majority Vote of the Steering Committee:** (i) adoption of, or modification or addition to, a version of a Specification, (ii) designation of a release of a version of a Specification as a new Version or Revision and (iii) approval of a proposal by a Member regarding the addition of an official position to the ICC.
- c. **Upon a Super Majority Vote of the Members:** (i) modification of the duties of the officers, (ii) dissolution or reformation of the ICC, and (iii) all other matters not specified in Section 6.2.a, b, or d.
- d. **Upon a Super Majority Vote of the Steering Committee, and a Simple Majority Vote of the Members:** adoption of, or modification or addition to, supplementary Operating Procedures

to govern the operation and activities of the ICC, provided that such Operating Procedures do not conflict with Sections 5.1, 6.5, 7.1, 7.3, 9.0 of these Operating Procedures or Section 3.0 of the Agreement.

7.0. Relationship of the ICC with the Secretariat

- 7.1. Relationship of the ICC to the Secretariat. The ICC shall retain the services of a Secretariat.
- 7.2. Appointment of the Secretary. The Secretariat shall provide a Secretary to the ICC. The Secretary shall fulfill the duties specified in Section 5 above or shall designate an alternate within the Secretariat to do so.
- 7.3. Participation of the Secretariat in the ICC. The Secretariat shall not be a member of the ICC. The Secretariat shall be permitted to participate in proceedings of the ICC to the extent necessary to fulfill its obligations to the ICC, including the provision of a Secretary.

8.0. Information Exchange Procedures

- 8.1. Generally, the meetings of the ICC and Working Groups of the ICC shall be conducted by members on a non-confidential basis. All disclosure of information relating to ICC matters shall be deemed to be non-confidential unless specifically disclosed pursuant to a separate written non-disclosure agreement(s) between the discloser and the individual recipients(s).
- 8.2. Specifications produced by the ICC and the work-in-progress of the working groups are intellectual property of the ICC and its members.

9.0. Owner of Intellectual Property

- 9.1. Specifications produced by the ICC and the work-in-progress of the working groups are intellectual property jointly owned by the Founding and Regular Members. Such Specifications may incorporate or be based upon some or all of the original Specifications furnished to the ICC by Apple Computer, Inc. ["Apple"]. No Member shall have any obligation to account to any other Member or to the ICC with respect to any use or revenues derived from Specifications, the work-in-progress, or any derivative works thereof.

- 9.2. All original Specifications furnished to the ICC by Apple ["Original Apple Specifications"] are proprietary to Apple and subject to the provisions of this Section 9. All right, title and interest in any of the Original Apple Specifications shall remain with Apple. The Original Apple Specifications are furnished to the ICC by Apple on an "as is" basis. In furnishing the Original Apple Specifications to ICC, Apple expressly excludes all warranties including warranties of merchantability and fitness of purpose.
- 9.3. Apple hereby grants to the ICC an irrevocable, nonexclusive, perpetual, worldwide, royalty-free license to use the Original Apple Specifications in developing Specifications for all purposes consistent with the purpose and scope of the ICC Membership Agreement as set forth in Paragraph 1.0 thereof and with the Operating Procedures of the International Color Consortium. Such grant by Apple to ICC shall include all enumerated rights under the Copyright Act, including transmission by electronic network or otherwise and the right to sublicense any of the foregoing rights.
- 9.4. No use of the ICC specifications by the ICC, its members, agents, independent contractors or any other party receiving or making use of the Specifications shall be deemed to be in derogation of Apple's copyright interest in the Original Apple Specifications.
- 9.5. This Section 9 shall survive the non-voluntary or voluntary termination of membership in the ICC pursuant to Paragraphs 3.7 and 3.8 of the ICC Membership Agreement.

10.0. Press Releases and the Like

Members shall not misrepresent the activities of the ICC or their role in the ICC in press releases or other public announcements concerning the ICC. Members shall not issue press releases or other announcements concerning the activities of other Members without first obtaining such Member's specific written permission. This Section does not apply to information, data and materials already in the public domain at the time of disclosure, use, press release or public announcement, or to information, data and materials disclosed by the ICC without any obligations of confidentiality or to any disclosure, use, press release, or public announcement required by law.

ATTACHMENT B

LEGEND FOR SPECIFICATIONS

The following message shall be attached to all specifications and any software and associated documentation produced by the International Color Consortium:

Copyright © [year] International Color Consortium

Permission is hereby granted, free of charge, to any person obtaining a copy of this Specification (the "Specification") to exploit the Specification without restriction including, without limitation the rights to use, copy, modify, merge, publish, distribute, and/or sublicense, copies of the Specification, and to permit persons to whom the Specification is furnished to do so, subject to the following conditions:

[ALTERNATIVE #1: WHERE NO THIRD PARTY IP RIGHTS ARE RAISED:]

Elements of this Specification may be the subject of intellectual property rights of third parties throughout the world including, without limitation, patents, patent application, utility, models, copyrights, trade secrets or other proprietary rights ("Third Party IP Rights"). Although no Third Party IP Rights have been brought to the attention of the International Color Consortium (the "ICC") by its members, or as a result of the publication of this Specification in certain trade journals, the ICC has not conducted any independent investigation regarding the existence of Third Party IP Rights. The ICC shall not be held responsible for identifying Third Party IP Rights that may be implicated by the practice of this Specification or the permissions granted above, for conducting inquiries into the applicability, existence, validity, or scope of any Third Party IP Rights that are brought to the ICC's attention, or for obtaining licensing assurances with respect to any Third Party IP Rights.

ALTERNATIVE #2: WHERE THIRD PARTY IP RIGHTS ARE RAISED:

It has been brought to the attention of the International Color Consortium (the "ICC") [by one of its members] [by a member of the public, following the publication of this Specification in draft form in certain trade journals,] that the practice of this Specification may be covered by the claims of its [patent(s)] number(s) _____, concerning _____, issued in subclass ____, [other IP Rights]. The ICC takes no position concerning the applicability, existence, scope, or validity of this patent(s) [other IP Rights]. However, the holder of this patent(s) has filed a statement with the ICC that it is willing to negotiate licenses under its patent and like rights, on a non-discriminatory basis, and on reasonable terms and conditions. Further information may be obtained from the rights holder, whose contact information is available through the ICC by contacting: ICC Secretary, c/o NPES, 1899 Preston White Drive, Reston, VA 20191, Att: Kip Smythe; By e-mail: Ksmythe@NPES.org; By facsimile: (703) 620-0994.

Elements of this Specification may be the subject of patents or other proprietary rights of third parties throughout the world, including without limitation, patents and patent applications, utility models, copyrights, trade secrets or other proprietary rights ("Third Party IP Rights"), in addition to the patent described above. Although no Third Party IP Rights (other than those set forth above) have been brought to the attention of the ICC by its members, or as a result of the publication of this Proposed Specification in certain trade journals, the ICC has not conducted any independent investigation regarding the existence of Third Party IP Rights. The ICC shall not be held responsible for identifying Third Party IP Rights that may be implicated by the practice of this Proposed Specification or the permissions granted above, for conducting inquiries into the applicability, existence, validity or scope of any Third Party IP Rights that are brought to the ICC's attention, or for obtaining licensing assurances with respect to any Third Party IP Rights.

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FINAL VERSION FEBRUARY 17, 1995
REVISED—February 16, 2005

1. Section 2.4 was revised to reduce the required number of affirmative votes from 50% to 33%.
2. Attachment B was updated to include more types of intellectual property and the possibility of third party infringement.
3. The duties of the ICC Secretary were revised to add the authority to sign contracts on behalf of the ICC—Added on May 29, 2003.
4. The description of Section 4.1, The Steering Committee, was changed to stipulate that the Steering Committee shall be comprised of 16 members.—change was approved on February 16, 2005