



Municipal Information Systems Association (Ontario Chapter)

September 16, 2011

Maurice Gallant
President
MISA/ASIM Canada

Re: Ownership and Licensing of MRM

This letter is intended to set out the general terms and conditions that have been agreed to by Municipal Information Systems Association, an Ontario corporation ("MISA Ontario") and the Municipal Information Systems Association of Canada/Association Des Systemes D'Information Municipale Du Canada ("MISA/ASIM Canada") relating to the ownership and licensing of various iterations of the product known as the Municipal Reference Model (the "MRM") as further described below.

In entering into this letter of agreement, each of the parties acknowledge the following:

- (a) MISA Ontario together with the Public Roads Tri-Committee (Ontario) Association (the "Tri-Committee") formed a Joint Venture on August 3, 1992 (the "Joint Venture"), for purposes of: (i) participating in the development of an initial version of the MRM, "MRMv1", as defined below; and (ii) raising funding from the membership of MISA Ontario to support this development;
- (b) ownership of the intellectual property in the MRMv1 was assigned to MISA Ontario upon dissolution of the Joint Venture;
- (c) municipalities and other governments in Canada have continued to use and derive value from the intellectual property rights in and to MRMv1, as further outlined below;
- (d) with the agreement of MISA Ontario, MISA/ASIM Canada undertook, in 2006, to further develop further releases or versions of the MRM (the "MRMv2"), as further described below, for the benefit of municipalities across Canada and raised funding from its membership across Canada to support this development;
- (e) MISA/ASIM Canada acknowledges that the MRMv2 incorporates the intellectual property contained in the MRMv1 as an essential component of the MRMv2;
- (f) MISA Ontario wishes to acknowledge the grant to MISA/ASIM Canada of the royalty-free rights and licenses to the MRMv1 intellectual property described in greater detail below, so that MISA/ASIM Canada can continue to develop, provide and support the MRMv2, in accordance with this letter agreement;

Based on the foregoing acknowledgements, the parties agree as follows:



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1. Description of MRM

For purposes of this letter of agreement, the “Municipal Reference Model” or the “MRM” consists of all programs, documentation and other materials, in printed or electronic form, which set out a common language for describing the programs, services, processes, resources, outputs and outcomes of municipalities. The two components of the MRM are the “MRM Metamodel” and the “MRM Reference Profiles”.

The MRM Metamodel consists of the schema specifying municipal concepts (e.g. programs, services, etc.) and attributes (e.g. description, output type, target group, efficiency and effectiveness measures, etc.) and the relationships between them. The MRM Reference Profiles consists of the catalogues of common vocabularies and definitions used in and by municipalities (e.g. a beautiful city program, a solid waste disposal service, etc.) based on the MRM Metamodel.

2. Ownership of the MRM up to the Effective Date

The parties acknowledge that the MRM has been under development for a period of time dating back to the early 1990s. By the execution of this letter of agreement, the parties confirm that to the best of their knowledge and belief, all intellectual property rights (including all copyright, patent rights, and trade secrecy rights) in and to all versions or releases of the MRM, in existence up to January 1, 2006 the (“Effective Date”) (which versions or releases are herein referred to as the “MRMv1”) belong to MISA Ontario. The parties further acknowledge and agree that all intellectual property rights in and to the MRMv1 shall continue to belong exclusively to MISA Ontario, and neither party shall take any action to challenge such claim of ownership.

For further clarity, the intellectual property contained in the MRMv1 is as described in various documents produced in connection with the MRMv1 project up to the Effective Date, including:

- (a) Municipal Reference Model Volume 1: User Guide, copyright 1993 (prepared by Joint Venture)
- (b) Municipal Reference Model Course Book 1: Manager and Implementer Training Session, copyright 1993 (prepared by Joint Venture)
- (c) Municipal Reference Model User Manual, copyright August 1996

Copies of these documents are available from MISA Ontario and have also been provided to MISA/ASIM Canada

3. Rights to the MRM as and from Effective Date

The parties acknowledge that as and from the Effective Date, all developments, modifications and enhancements to the MRM have been undertaken by and on behalf of MISA/ASIM Canada. The parties further acknowledge and confirm, as and from the Effective Date, the grant by MISA Ontario to MISA/ASIM Canada of the following



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rights and licenses, all of which MISA/ASIM Canada shall be entitled to exercise on an exclusive basis during the period commencing as of the Effective Date and continuing during the period that such licenses remain in force, as set forth below:

- (a) To prepare any enhancements and modifications to the MRM, and to create new adaptations, versions and releases of the MRM containing any such enhancements and modifications. For purposes of this letter of agreement, references herein to the MRMv2 mean all adaptations, versions, and releases of the MRM made at any time following the Effective Date, whether made by MISA/ASIM Canada alone or in conjunction with any other parties, including any party with whom MISA/ASIM Canada enters into any contract from time to time pursuant to paragraph 3(b) below;
- (b) To enter into such agreements as MISA/ASIM Canada determines may be necessary or advisable with any third party in connection with preparing any further modifications or enhancements, and creating new adaptations, versions or releases forming part of the MRMv2, made at any time after the Effective Date, whether as stand-alone products, or in conjunction with certain other products. Without limiting the foregoing, the parties acknowledge the right of MISA/ASIM Canada to enter into a Relationship Agreement with IBM Canada Limited ("IBM") as of September 30, 2009, as modified or amended from time to time, to provide for the development of a MRMv2 package that combines the MRMv2 with certain software licensed by IBM;
- (c) Subject to paragraph 10 below, to make such arrangements as MISA/ASIM Canada determines in its discretion may be necessary or advisable to allow any municipalities or other public sector or private sector organizations, in Canada and in any other countries, either directly or through third parties, to use the MRMv2, either alone or in conjunction with any other products with which the MRMv2 is incorporated or integrated, provided however, that any agreement granting any such rights or licenses shall be subject to such terms and conditions as may be reasonably necessary to protect the respective rights of each of MISA Ontario and MISA/ASIM Canada in the MRMv1 and the MRMv2;
- (d) To authorize or permit any persons or entities to make further modifications and enhancements to the MRMv2, whether as part of any support services provided by MISA/ASIM Canada or any third party or otherwise; and
- (e) To use, and to grant to any other person the right to use, the names "Municipal Reference Model", "MRM" or any derivation thereof, but only in conjunction with the exercise by MISA/ASIM Canada or any other person of any rights granted hereunder, and subject to such conditions as may



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be reasonably prescribed to MISA Ontario to protect its rights in and to any such names.

4. Intellectual Property Rights

The parties acknowledge that without limiting or restricting the exclusive ownership by MISA Ontario of all intellectual property rights in and to the MRMv1, MISA/ASIM Canada, shall be, as between MISA/ASIM Canada and MISA Ontario, the sole owner of all intellectual property rights in and to all modifications and enhancements that form part of the MRMv2.

5. Royalties

MISA/ASIM Canada shall not be required to pay any royalties or license fees to MISA Ontario as consideration for the licenses granted by MISA Ontario to MISA/ASIM Canada as set forth herein.

6. Term of Licenses

The licences granted by MISA Ontario to MISA/ASIM Canada, as set forth herein, shall be for a perpetual term, unless earlier terminated as set forth in section 7 below.

7. Termination of Licenses

Notwithstanding section 6 above, MISA Ontario shall be entitled, upon immediate written notice to MISA/ASIM Canada, to terminate the licenses granted to MISA/ASIM Canada, as set out in this letter agreement, upon the occurrence of one or more of the following events:

- (a) MISA/ASIM Canada violates any of the terms of this letter of agreement, or otherwise uses the MRMv1 in any manner not authorized or permitted under this letter of agreement, provided, however, that MISA Ontario may terminate the licenses for any such violation or breach under this paragraph 7 (a) only if MISA Ontario provides written notice to MISA/ASIM Canada, setting out in reasonable detail the nature of the alleged violation or breach, and MISA/ASIM Canada does not cure the same within thirty (30) days following such notice;
- (b) MISA/ASIM Canada fails to continue with any further development, support or marketing of the MRMv2. If MISA Ontario has reasonable grounds to believe that the provisions of this paragraph 7(b) apply, MISA Ontario may provide a notice to this effect to MISA/ASIM Canada, and if MISA/ASIM Canada either fails to respond to such notice, or fails to provide reasonable documentation to demonstrate to the reasonable satisfaction of MISA Ontario that the provisions of this section 7(b) do not apply, in each case within thirty (30) days following receipt of such notice, then MISA Ontario may terminate the licenses granted hereunder on immediate written notice to MISA/ASIM Canada; or



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- (c) If MISA/ASIM Canada ceases to carry on business in the normal course, or otherwise becomes insolvent or bankrupt, or makes any application for protection from creditors, then in any such case, the licenses granted hereunder may be terminated by MISA Ontario on immediate written notice provided to MISA/ASIM Canada.

8. Consequences of Termination

- (a) The termination, in accordance with the provisions of paragraph 7 above, of any licenses granted hereunder by MISA Ontario to MISA/ASIM Canada shall not affect the exclusive ownership by MISA Ontario of all intellectual property rights in and to the MRMv1.
- (b) The termination of the licenses granted hereunder in and to the MRMv1 shall not affect the ownership by MISA/ASIM Canada of all intellectual property rights in and to any modifications and enhancements to the MRM contained in the MRMv2, that otherwise belong to MISA/ASIM Canada as set out in paragraph 4 above. However, upon the request of either party, the other party will enter into discussions with a view to reaching agreement on commercially reasonable terms as to the disposition by MISA/ASIM Canada of all right, title and interest in and to any components of the MRMv2 belonging to MISA/ASIM Canada, so as to give effect, to the extent practicable, to the intent and purpose of this letter agreement. Such arrangement shall reflect the respective contributions made by any member organization of MISA/ASIM Canada, including any such contribution made by MISA Ontario. The parties acknowledge that they may, from time to time, enter into a further agreement setting out the terms and conditions governing the disposition of the rights and interests of MISA/ASIM Canada in any components of the MRMv2 belonging to MISA/ASIM Canada upon the termination of the licenses granted hereunder.

9. Confidentiality

Each party acknowledges that the MRMv1 contains confidential proprietary information of MISA Ontario, and that the MRMv2 contains confidential proprietary information of both MISA Ontario and MISA/ASIM Canada. Each party shall enter into such agreements and take such other measures as may be reasonably necessary to protect any such information from any unauthorized use or disclosure. Each party shall promptly report to the other party any such unauthorized use or disclosure of which it becomes aware, and shall take such steps as may be reasonably necessary to limit the scope and any adverse consequences of such use or disclosure.

10. Exclusion of Warranties and Limits of Liability

Neither party makes any representation, warranty or covenant to the other party as to:



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- (i) the capabilities or features of any iteration or release of the MRM;
- (ii) whether any such release or iteration will be marketable or otherwise meet the needs of any person or entity to whom it may be provided;
- (iii) the merchantability or fitness for any purpose of the MRM; or
- (iv) whether the MRM or any documentation relating thereto may infringe the intellectual property rights of any person, provided however, that neither party shall wilfully or intentionally infringe the intellectual property rights of any third party, and shall use commercially reasonable efforts to ensure that the MRM does not infringe any such rights.

Except in the case of any claim brought by either party for bodily injury or damage to real property or tangible personal property caused by the other party's negligence, each party's liability for any claims arising out of or in connection with this letter agreement shall be limited to the sum of \$100,000.

11. Assignment

Neither party shall assign its rights or obligations under this Agreement, including its respective rights and interests in the MRMv1 or the MRMv2, without the prior written consent of the other party.

12. Notices

Any notices required or permitted to be given by other party to the other party under this letter agreement shall be given by personal delivery or by e-mail as follows:

[Insert contact details for each party]

Any such notices shall be effective on the first business day after the date of personal delivery or delivery by e-mail. Either party may change the person to whom any notices are to be given at any time.

13. Governing Law

This agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

14. Further Agreements

Each of the parties will enter into such further agreements and take such other steps as may be necessary, or as may be reasonably requested by the other party, to clarify their respective rights and responsibilities relating to the MRM or otherwise to give effect to the terms and conditions of this letter of agreement, but except to the extent that any



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further agreement expressly amends the terms hereof, this letter of agreement shall be binding on the parties hereto.

If you are in agreement with the terms and conditions set forth above, please indicate your acceptance by executing and returning a duplicate copy of this letter.

Yours very truly,

Title: President

Date: September 16 2011

We accept and agree to the foregoing.

**Municipal Information Systems Association
Of Canada/ Association Des Systemes
D'information Municipale Du Canada**

By: _____

Title: _____

Date: _____