**Contributor License Agreement management**

ATT-OWIS-SC-2016-5

Version 1 of the Contributor License Agreement (“Agreement”, attached) requires that signed physical copies of the Agreement are sent to the OpenWIS Community Manager via the registered address of the OpenWIS Association and a countersigned copy returned to the contributor.

(*the relevant section of the Agreement is highlighted in yellow*)

Furthermore, each project operating within the OpenWIS® governance framework may assert a different open source license (as listed by the Open Source Initiative at <https://opensource.org/licenses/>). Each project will specify a particular license. For example, see clause (2) **Grant of Copyright License** in the Agreement below that specifies the use of [GPL3](http://www.gnu.org/copyleft/gpl.html). It is, therefore, inevitable that the OpenWIS Association will need to manage multiple Agreements and keep track of which Contributors have signed which Agreement.

The use of physically signed copies will likely dissuade potential Contributors; the expectation will be to complete such Agreements online! Also, the need to collate and return countersigned copies and manage multiple Agreements places an unnecessary burden on the OpenWIS Association.

Instead, we propose an automated mechanism of managing and tracking Agreements that uses GitHub’s identity management to authenticate Contributors when signing an agreement online.

CLA Assistant, an open source project from SAP (see <https://github.com/cla-assistant/cla-assistant>) that integrates CLA management with GitHub identifies and workflow, is provided as an example of such a system. A hosted instance of CLA Assistant is provided at <https://cla-assistant.io/>.

**Anticipated actions:**

1. Determine and implement suitable mechanism for online management of Contributor License Agreements.
2. Amend the Internal Rules; Rule 9.2 as outlined below.
3. Amend the Contributor License Agreement v1.0 (i) such that it is formatted in a manner suitable for the online system, (ii) reflects the appropriate procedure (e.g. no longer indicates the need to post copies and receive a countersigned copy), and (iii) includes URLs of the SC approved policies and the Internal Rules within clause ().
4. Based on the output of (c), create a template Contributor License Agreement that can be used by other OpenWIS® projects and append to the Internal Rules as Annex A.

Excerpt from Internal Rules (key- Additions and Deletions):

**TITLE 9:**

**Rule 9.2**

**SOFTWARE LICENSING**

For the purpose of Article 9.6 of the Articles of Association, each OpenWIS® project shall provide a that Contributor License Agreement that specifies the open source license under which the grant of copyright license is made (see Rule 9.1). The Contributor License Agreement shall be based on the template approved by the Steering Committee is annexed to these Internal Rules as Annex A.

Each OpenWIS® project shall provide a mechanism that enables persons or organizations wishing to contribute code to that OpenWIS® project to sign the pertinent Contributor License Agreement online.

Excerpt from Articles of Association (no change):

**ARTICLE 9:**

**9.7**

**Organizational Partners and Relationship with Other Third Parties**

Persons or organizations wishing to contribute code to OpenWIS® must sign a Contributor License Agreement in a form to be agreed by the Steering Committee and must comply with all the relevant policies approved by the Steering Committee.

**Contributor License Agreement (“Agreement”) v1.0**

Thank you for your interest in contributing to products owned or managed by the OpenWIS Association AISBL.

In order to clarify the intellectual property license granted with Contributions from any person or entity, the OpenWIS Association AISBL must have a Contributor License Agreement ("CLA") on file that has been signed by each Contributor, indicating agreement to the license terms below.

This license is for your protection as a Contributor as well as the protection of the OpenWIS Association AISBL and users of its products; it does not change your rights to use your own Contributions for any other purpose.

If you have not already done so, please complete, sign and send two original copies of this Agreement to: The OpenWIS Community Manager, Ringlaan 3, Avenue Circulaire, B1180, Brussels, Belgium. The Agreement will then be countersigned and one copy returned to you for your records.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| GitHub Profile Name: | |  | | |
| Full Name: |  | | E-Mail: |  |
| Mailing Address: |  | | Telephone: |  |
|  |  | | Facsimile: |  |
|  |  | | Country |  |

The OpenWIS Association AISBL will use and process your details collected for the purposes of contribution to products owned or managed by the OpenWIS Association AISBL. Your details will be processed in accordance with European Data Protection Law. Personal data processed by the OpenWIS Association AISBL will not be disclosed to third parties for marketing purposes, but may be disclosed to members of the OpenWIS Association AISBL for the purposes of managing your contributions.

Your GitHub profile name may be published on a public website. This will permit Developers of a product to ascertain that you have signed this agreement.

Please contact the OpenWIS Community Manager via email (<mailto:contact@openwis.io>) to request that your GitHub name to be removed from the website if you no longer wish to contribute to products owned or managed by the OpenWIS Association AISBL.

You accept and agree to the following terms and conditions for Your present and future Contributions submitted to the OpenWIS Association AISBL. In return, the OpenWIS Association AISBL shall not use Your Contributions in a way that is contrary to the interests of users of the products. Except for the license granted herein to the OpenWIS Association AISBL and recipients of software distributed by the OpenWIS Association AISBL, You reserve all right, title, and interest in and to Your Contributions.

1. **Definitions.**

"You" (or "Your") shall mean the copyright owner or legal entity authorized by the copyright owner that is making this Agreement with the OpenWIS Association AISBL. For legal entities, the entity making a Contribution and all other entities that control, are controlled by, or are under common control with that entity are considered to be a single Contributor.

For the purposes of this definition, "control" means (i) the power, direct or indirect, to cause the direction or management of such entity, whether by contract or otherwise, or (ii) ownership of fifty percent (50%) or more of the outstanding shares, or (iii) beneficial ownership of such entity.

"Contribution" shall mean any original work of authorship, including any modifications or additions to an existing work, that is intentionally submitted by You to the OpenWIS Association AISBL for inclusion in, or documentation of, any of the products owned or managed by the OpenWIS Association AISBL (the "Work"). For the purposes of this definition, "submitted" means any form of electronic, verbal, or written communication sent to the OpenWIS Association AISBL or its representatives or members, including but not limited to communication on electronic mailing lists, source code control systems, and issue tracking systems that are managed by, or on behalf of, the OpenWIS Association for the purpose of discussing and improving the Work, but excluding communication that is conspicuously marked or otherwise designated in writing by You as "Not a Contribution."

“OpenWIS Association AISBL” shall mean the OpenWIS Association Association Internationale Sans But Lucratif, a not-for-profit association established under the laws of the Kingdom of Belgium with its registered office at Ringlaan 3, Avenue Circulaire, B-1180, Brussels, Belgium.

“Parties” shall mean The OpenWIS Association AISBL and You.

“Working Day” shall mean a day other than a Saturday, Sunday or public holiday in Belgium when banks in Brussels are open for business.

“Data” shall have the same meaning as set out in the Belgian law on the protection of privacy in relation to the processing of personal data (*Wet tot bescherming van de persoonlijke levenssfeer ten opzichte van de verwerking van persoonsgegevens* / *Loi relative à la protection de la vie privée à l'égard des traitements de données à caractère personnel*)

2. **Grant of Copyright License.**

Subject to the terms and conditions of this Agreement, You hereby grant to the OpenWIS Association AISBL and to recipients of software distributed by the OpenWIS Association AISBL a perpetual, worldwide, non-exclusive, royalty-free, irrevocable copyright license to reproduce, prepare derivative works of, publicly display, publicly perform, sublicense, and distribute Your Contributions and such derivative works under the terms of the GNU General Public License Version 3 (“GPL”), the text of which may be found at:

<http://www.gnu.org/copyleft/gpl.html>

You agree and acknowledge that the OpenWIS Association AISBL and its licensees may sublicense and distribute your Contributions under any subsequent version of the GPL approved by the Free Software Foundation.

3. **Intellectual property infringement.**

If any third party makes any claim against You or any other entity, alleging that your Contribution, or the Work to which you have contributed, infringes the intellectual property rights of that third party, then You shall inform the OpenWIS Association AISBL within 5 Working Days of such claim in order for the OpenWIS Association AISBL to take all appropriate action it deems necessary in relation to the claim.

4. **Legal entitlement.**

You represent that you are legally entitled to grant the above license. If your employer(s) has rights to intellectual property that you create that includes your Contributions, you represent that you have received permission to make Contributions on behalf of that employer, or that your employer has waived such rights for your Contributions to the OpenWIS Association AISBL.

5. **Contribution of Your creation(s)**.

You represent that each of Your Contributions is Your original creation and that you have not assigned or otherwise given up your interest in the Contribution to any third party (see section 6 for submissions on behalf of others). You represent that Your Contribution submissions include complete details of any third-party licence or other restriction (including, but not limited to, related patents and trademarks) of which you are personally aware and which are associated with any part of Your Contributions.

6. **Contribution of creation(s) on behalf of a third-party**.

Should You wish to submit work that is not Your original creation, You may submit it to the OpenWIS Association AISBL separately from any Contribution, identifying the complete details of its source and of any license or other restriction (including, but not limited to, related patents, trademarks, and license agreements) of which you are personally aware, and conspicuously marking the work as "Submitted on behalf of a third-party: Third Party Name \_\_\_\_\_\_\_\_”

7. **Notification.**

You agree to notify the OpenWIS Association AISBL of any facts or circumstances of which you become aware that would make these representations inaccurate in any respect. You further agree to fully indemnify, and keep indemnified, the OpenWIS Association AISBL against any losses suffered as a result of any fraudulent or negligent misrepresentation made by you under Clauses 4 to 6 inclusive.

8. **Dispute resolution.**

The Parties shall attempt in good faith to negotiate a settlement to any dispute arising between them out of or in connection with this Agreement within 30 Working Days of the dispute arising.

If the dispute cannot be resolved, then the Parties shall attempt to settle it by mediation in accordance with the Belgian Centre for Arbitration and Mediation (“EPANI”) Model Mediation Procedure from time-to-time in force.

To initiate the mediation a party to the Agreement must give notice in writing (the “ADR Notice”) to the other party requesting mediation in accordance with this clause

9. **Mediation**.

The mediation is to take place not later than 30 Working Days after the ADR Notice. If there is any issue on the conduct of the mediation upon which the Parties cannot agree within 14 Working Days of the ADR Notice, then EPANI shall, at the request of either party, decide the issue for the Parties, having consulted with them.

Unless otherwise agreed, all negotiations connected with the dispute and any settlement shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings.

If the Parties reach agreement on the resolution of the dispute, the agreement shall be reduced to writing and shall be binding on the Parties once it is signed by both You and the OpenWIS Association AISBL.

If the Parties fail to reach agreement within 60 Working Days of the initiation of the mediation, or such longer period as may be agreed by the Parties, then any dispute or difference between them may be referred to the courts.

Nothing in this Agreement affects the right of You or the OpenWIS Association AISBL to apply to the court for urgent interim equitable relief (including, but not limited to, an injunction)

10. **Policies and procedures.**

Any person or organization wishing to contribute code to OpenWIS® projects shall abide by the Internal Rules of the OpenWIS Association [link] and the policies and procedures defined by the OpenWIS Association Steering Committee (“SC”) [link].

11. **General.**

1. For the purposes of clarity: this Agreement constitutes a contract for the grant of a license and not a contract of employment.
2. No waiver by either party of any of its rights under this Agreement shall release the other party from full performance of its other obligations stated herein.
3. Nothing in this Agreement shall be deemed to constitute, evidence, or comprise a partnership between the Parties or to constitute either party the agent of the other.
4. Neither party may assign its rights under this Agreement in whole or in part to any person, firm or company without the prior written agreement of the other party.
5. No amendment, waiver, or variation, of this Agreement, whether in whole or in part, shall be binding on the Parties unless set out in writing and signed by or on behalf of the Parties by their duly authorized representatives.
6. If any provision of this Agreement is held by a competent authority to be illegal, invalid, or unenforceable, whether in whole or in part, the validity of the remainder of the relevant provision and the remaining provisions shall not be affected or prejudiced.
7. Each party shall, at its own cost and expense, from time to time do or procure the execution of all documents as may be reasonably necessary in order to give effect to the provisions of this Agreement.
8. The Parties to this Agreement do not intend that any of its terms will be enforceable by any person not a party to it.
9. This Agreement shall be governed by and construed in accordance with the laws of the Kingdom of Belgium.

Signed on behalf of:

|  |  |
| --- | --- |
| Name: |  |
| Signature: |  |
| Title: |  |
| Date: |  |

Signed on behalf of the OpenWIS Association AISBL

|  |  |
| --- | --- |
| Name: |  |
| Signature: |  |
| Title: |  |
| Date: |  |