OPENJDK VULNERABILITY GROUP
NON-DISCLOSURE AND LICENSE AGREEMENT v1.0

This OpenJDK Vulnerability Group Non-Disclosure and License Agreement (the **"Agreement"**) is made by and among Oracle America, Inc. (**"Oracle"**) and each of the **Members**, as defined below. It is expressly intended that upon signature by a Member and a counter-signature by Oracle, the terms of the Agreement shall be binding on and enforceable by and against, every party to this Agreement.

The parties hereby agree as follows:

I.   DEFINITIONS

1.1   "**Affiliates**" shall mean an entity that owns or controls, is owned or controlled by, or is under common control or ownership with a party, where "control" is the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities, by contract or otherwise.

1.2   "**Confidential Information**" shall have the meaning set forth in Section 4.1 below.

1.3   "**Designated Confidential List**" shall mean that mailing list(s) designated from time to time by the Group Lead for confidential communication among members.

1.4   "**Designated Java Technology**" shall mean any open-source code hosted in the OpenJDK Community and any other Java Technology, including any Source Code, Object Code and/or Reference Materials specifically designated in writing from time to time by the Group Lead, and approved by Oracle, as being the subject of the terms and conditions of this Agreement.

1.5   "**Feedback**" shall mean any input from a Member regarding a Java Technology vulnerability issue, including, without limitation, disclosure of and changes and/or modifications relating to a potential security vulnerability in the Designated Java Technology and any code or other information necessary or appropriate to implement such changes or modifications.

1.6   "**Group Lead**" shall mean that Member appointed by Oracle from time to time as the Group Lead for the OpenJDK Vulnerability Group.

1.7   "**Intellectual Property Rights**" shall mean all patent, copyright, trade secret, trademark, and other proprietary and intellectual property rights, including moral rights.

1.8   "**Members**" shall mean, individually and collectively, the organizations and Individuals who are bound by and have executed the terms of this Agreement, and Oracle. A current list of the Members may be found at _____. "Members" includes the Affiliates of an organization, provided that the Affiliate is bound by the terms of this Agreement and the organization and its Affiliates are individually and collectively liable for any breach of this Agreement.

1.9   "**Object Code**" shall mean materials in machine-executable form, including all computer programming code, substantially or entirely in binary form, which is executable directly by a computer after suitable processing, but without the intervening steps of compilation or assembly, and all help, message, and overlay files.

1.10   "**Open JDK Vulnerability Group**" or the "**Group**" shall mean the group of Members subject to this Agreement.

1.11   "**Public Announcement**" shall mean an official announcement from the Group Lead or their designate.

1.12   "**Purpose**" shall have the meaning set forth in Section 2.2.

1.13 **"Reference Materials"** shall mean documentation, specifications and other materials related to the Designated Java Technology.

1.14 **"Source Code"** shall mean the complete human-readable programming code from which Object Code is compiled. Source Code shall include any electronically readable source documentation, design documents, data models, help materials, tutorial programs, or debug code.

II. DESIGNATED JAVA TECHNOLOGY

2.1 Scope
The Group Lead, subject to approval by Oracle, may from time to time designate certain Java technology as being Designated Java Technology subject of the terms and conditions of this Agreement.

2.2 Purpose
Members shall use the Confidential Information, subject to the terms and conditions of this Agreement, for the sole purpose of identifying and fixing vulnerabilities in the Designated Java Technology (the "Purpose"). This section is not intended to limit other authorized uses of Confidential Information that may have been provided under other agreements.

2.3 Third Party Technology
The Designated Java Technology may be provided to Members with third party technology or derivatives of third party technology (**"Third Party Technology"**). Oracle may provide certain notices to Member in program documentation, readmes, or otherwise in connection with such Third Party Technology. Third Party Technology will be licensed to member either under the terms of this Agreement, or, if specified in the documentation, readmes, or otherwise, under separate license terms (**"Separate Terms"**) and not under the terms of this Agreement (**"Separately Licensed Third Party Technology"**). Member's rights to use such Separately Licensed Third Party Technology under the Separate Terms are not restricted or modified in any way by this Agreement.

III. LICENSES

3.1 Members' Right to Use Designated Java Technology. In addition to any other rights Members may have in any Designated Java Technology from separate licenses, Oracle hereby grants Members the right during the Term applicable to such Member, to use and modify the Designated Java Technology and to distribute such modifications to Members via the Designated Confidential List solely as reasonably necessary to accomplish the Purpose, subject, however, to the then-current use restrictions for such Designated Confidential List, which will be as reasonably necessary to maintain the structural security and confidentiality of distributions via such Designated Confidential List, and the restrictions set forth in Section 4.1 (Confidentiality). Use restrictions for the Designated Confidential List will be made available to Members and, to the extent reasonable, will be provided in advance of implementation. Any such modifications so distributed, and any derivatives thereof, shall be deemed to be Feedback.

3.2 License to All Members to Use Feedback for Purpose. Each Member and Oracle hereby grants to every other Member a royalty-free, perpetual, worldwide, non-exclusive, and non-sublicensable right and license under the Member's Intellectual Property Rights to use Feedback that such Member makes available, or authorizes to be made available, on the Designated Confidential List as reasonably necessary to accomplish the Purpose; subject, however, to the then-current use restrictions for such Designated Confidential List and the restrictions set forth in Section 4.1 (Confidentiality). Such use of Feedback includes, without limitation, modifying the Feedback and distributing the modifications via the Designated Confidential List for further evaluation, comment and/or modification by Members. This license to use the Feedback further includes the right to use information gleaned from the Feedback to modify the Member's products subject to compliance with the confidentiality obligations set forth herein. It is expected that Members will receive the same distribution license rights to the code associated with each vulnerability fix as the public at large once the fix is released. For clarity, the preceding sentence is not intended to modify any rights with respect to such vulnerability fixes a Member may have under a separate commercial agreement. Notwithstanding the foregoing, if the Feedback is a modification of Separately Licensed Third Party Technology whose Separate Terms require that modifications be licensed under specified terms, the relevant Feedback shall be provided to each Member and Oracle under such Separate Terms in lieu of, or, if permitted by the Separate Terms, in addition to, contribution under the OCA (defined below).

3.3   Feedback Contributed to Project. Each Member agrees that all Feedback is intended to be a contribution under the terms of the Oracle Contribution Agreement or its equivalent ("the OCA") unless such Feedback is a modification of Separately Licensed Third Party Technology whose Separate Terms prohibit contribution of the Feedback under the OCA, in which case the Feedback shall be provided under the Separate Terms.

3.4   Moral Rights. Each Member agrees that with respect to any "moral" or equivalent rights (including, without limitation, rights of attribution, integrity, disclosure, and withdrawal) Member hereby: (i) assigns such rights to Oracle, (ii) waives such rights, and (iii) agrees never to assert such rights or to institute or maintain any action against Oracle or Members relative to any such rights in Member's Feedback. To the extent that such rights cannot be assigned or waived by operation of law, Member grants to Oracle a royalty-free, perpetual, irrevocable and worldwide license to fully exercise all such rights akin to ownership, with rights to sublicense through multiple levels of sublicensees and Member further consents to Oracle's use sufficient to allow Oracle to exercise the rights granted herein.

3.5   Patent and other License Obligations. With respect to finally released vulnerability fixes, in addition to the patent and other licenses granted in connection with the Member's Feedback, and notwithstanding any other terms in this Agreement other than those relating to Feedback required to be provided under Separate Terms, each Member expressly agrees that the vulnerability fixes shall be deemed part of "Output" for all relevant Java Specification Requests and that they shall be subject to all obligations relating to Output as may be defined in agreements governing participation in the Java Community Process, including, without limitation the Java Specification Participation Agreement as such agreements are in effect at the time of the Members contribution of Feedback and/or release of the Output.

IV.   FEEDBACK AND CONFIDENTIALITY

4.1   Confidentiality; No Public Announcements by Members
"Confidential Information" shall mean, except as set forth in the next paragraph, all Feedback, all information disclosed on the vuln-dev@openjdk.java.net list _____(or such successor list as may be designated by the Group Lead), and all information relating to any security vulnerability in Java Technology exchanged between any Members. Notwithstanding their rights in any particular Feedback, each Member and Oracle agrees that they will not release or disclose any Feedback other than as set forth in Section 4.2.

Confidential Information shall not include information which: (a) is or becomes public knowledge through no fault of Members or as a result of disclosure under Section 4.2; (b) was in Member's lawful possession before receipt from the relevant other Member; (c) is rightfully received by Member from a third party without any duty of confidentiality; (d) is independently developed by Member; or (e) must be disclosed in accordance with an order of a court of competent jurisdiction, provided that Member gives other Members such notice as is reasonable in the circumstances or as is permitted to give them the opportunity to seek a protective court order or take such other legal steps to protect relevant interests in the Confidential Information.

Notwithstanding the foregoing exclusions, the fact that information about security vulnerabilities in Designated Java Technology or other code, including without limitation, closed source Java technology, that would otherwise be confidential, is reported by a non-Member ("Original Discloser") shall not necessarily cause such information to be deemed "public knowledge."

During the term of this Agreement and for a period of five (5) years after termination of the Agreement with respect to such Member, each Member agrees not to disclose Confidential Information to any parties who are not then Members. Within a Member's organization disclosure of Confidential Information received from other Members shall be limited to only those with a need to know.

Further at no time, either before or after release of any vulnerability fix, may any public announcements regarding the work of the OpenJDK Vulnerability Group, Feedback or about the vulnerability fixes generally, be made by a Member, other than the Group Lead or a Member designated by the Group Lead. This obligation is not intended to restrict any Member from making an announcement of the availability or application of the vulnerability fix to its own products, but the announcement of such a product fix must follow the announcement of the original source-code fix by the OpenJDK Vulnerability Group. However, it is understood and agreed that release of a vulnerability fix, or other authorized communications as set forth in Section 4.2, does not remove the confidentiality obligations with respect to Confidential Information as between Members, including specific discussions regarding the relevant vulnerability, including, but not limited to, information about how the vulnerability was detected and how the vulnerability fix was produced.

Notwithstanding the foregoing, any Member may release a work-around or patch that addresses a vulnerability disclosed to them as Confidential Information provided that the release and information made public, either explicitly or implicitly, in association with such release does not disclose any then-Confidential Information. Thus, a Member having learned of a particular vulnerability not generally known to the public could release a patch for their own products that addressed the vulnerability before announcement or release of a vulnerability fix by the OpenJDK Vulnerability Group, provided that the Member does not otherwise disclose the existence of the vulnerability and that the release of the patch does not result in the disclosure of the existence of the vulnerability.

4.2   Release of Vulnerability Fixes; Communication with Disclosers
Upon approval of a vulnerability fix (which may include Feedback from Members, such as, without limitation, software and information in modified or unmodified form) in accordance with the then-current rules governing the OpenJDK Vulnerability Group, the Group Lead, or another Member designated by the Group Lead, may announce such fix and arrange for such fix to be made available, subject to the licenses set forth in this Agreement. Further, the Group Lead may, in its reasonable discretion, release, or designate another Member to release, Confidential Information related to the vulnerability to the Original Discloser or external security organizations as deemed necessary to effect a vulnerability fix or other resolution and/or to prevent premature disclosure of the vulnerability.

4.3   No Third Party Materials in Feedback
Each Member expressly represents that their Feedback is and will be an original work of authorship to which they can legally grant the rights set out in this Agreement; to the best of their knowledge, such Feedback does not violate any third party's copyrights, trademarks, patents, or other intellectual property rights. To the extent such Feedback is modification or addition to another party's Feedback or materials in the Designated Java Technology, the Member providing the Feedback makes this representation only with respect to their modifications and additions.

V.   TERM

5.1   Term and Termination
This Agreement shall become effective with respect to an individual member on the Effective Date and shall remain in effect until terminated as specified in this Section 5.1 (**"Term"**). Any Member may terminate this Agreement as between itself and all other Members, including Oracle, upon thirty (30) days written notice to Oracle. Oracle may terminate this Agreement as between itself and any Member upon thirty (30) days written notice to such Member.

Upon termination all licenses granted to such terminated Member by Oracle and all other Members under this Agreement shall immediately cease. .and within ten (10) days of such termination such Member shall certify in writing to Oracle that Member has taken all reasonable steps to ensure that the Feedback and all copies thereof that the Member is not otherwise authorized to possess have been destroyed.

5.2   Survival
The following rights and obligations shall survive termination of the Agreement: Article III with respect to all rights and licenses granted by Member and Member's obligations to other Members, and Articles IV (Feedback and Confidentiality), V (Term), VI (Disclaimers) and VII (Miscellaneous).

VI.   DISCLAIMERS
EXCEPT AS EXPRESSLY SET FORTH HEREIN, INFORMATION AND FEEDBACK ARE DELIVERED "AS IS", AND ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, INCLUDING FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, AND NON-INFRINGEMENT ARE HEREBY DISCLAIMED. NO PARTY SHALL BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES BY REASON OF ANY ALLEGED BREACH OF THIS AGREEMENT BASED ON ANY THEORY OF LIABILITY.

VII.   MISCELLANEOUS

7.1   Governing Law and Venue
This Agreement shall be governed by the substantive and procedural laws of the State of California. Member and Oracle agree to submit to the exclusive jurisdiction of, and venue in, the courts in San Francisco or Santa Clara counties in California in any dispute arising out of or relating to this Agreement.

7.2   No Assignment
Except for assignment by Oracle, Members may not assign this Agreement to another individual or entity.

7.3   Export
The parties agree to fully comply with export laws and regulations of the United States and any other applicable export laws (**"Export Laws"**) to assure that neither the Java Technology, Confidential Information, nor any direct product thereof are: (a) exported, directly or indirectly, in violation of this Agreement or Export Laws; or (b) used for any purposes prohibited by the Export Laws, including, without limitation, nuclear, chemical, or biological weapons proliferation, or development of missile technology.

7.4   Relationship Between the Parties
Members are independent contractors and the parties agree that no partnership, joint venture, or agency relationship exists between them. Each party will be responsible for paying its own employees, including employment related taxes and insurance.

7.5   Entire Agreement
Except where specifically stated otherwise herein, this Agreement constitutes the complete agreement between the parties and supersedes all prior or contemporaneous agreements or representations, written or oral, concerning the subject matter of this Agreement

If any term of this Agreement is found to be invalid or unenforceable, the remaining provisions will remain effective and such term shall be replaced with a term consistent with the purpose and intent of this Agreement. This agreement may not be modified and the rights and restrictions may not be altered or waived except in a writing signed by authorized representatives of Oracle and Members.

If Member is located in the province of Quebec, Canada, the following clause applies: The parties hereby confirm that they have requested that this Agreement and all related documents be drafted in English. Les parties ont exigé que le present contrat et tous les documents connexes soient rediges en anglais.

The effective date of this Agreement (**"Effective Date"**) is _____. (DATE TO BE COMPLETED BY ORACLE)

MEMBER   **ORACLE AMERICA, INC.**

_____   _____
Authorized Signature   Authorized Signature

_____   _____
Printed Name   Printed Name

_____   _____
Title   Title

_____   _____
Date   Date

_____
Full Company Name (if any)

_____
Address

_____
City, State/Province, Zip/Postal Code

_____
Country