

## GENIVIA, INC., SOURCE CODE LICENSE AGREEMENT FOR COMMERCIAL USE

**Rationale:** This source code license for commercial use shall replace the gSOAP public license and GPL license for Customer's use of the Software, thereby permanently replacing the terms and conditions imposed by the gSOAP public license and GPL license, as set forth in this Agreement. This license covers the entire gSOAP source distribution, including, but not limited to, the runtime library, compiler, WSDL importer, example applications, and documentation.

THIS SOURCE CODE LICENSE AGREEMENT ("Agreement") is made and entered into as of the last date executed by the parties below (the "Effective Date") by and between GENIVIA, INC., a Florida corporation having a principal place of business at 3178 Shamrock East, Tallahassee, Florida 32309, USA, ("Genivia"), and \_\_\_\_\_, a \_\_\_\_\_ corporation having a principal place of business at \_\_\_\_\_ ("Customer").

The parties agree as follows:

### 1. DEFINITIONS.

"**Original Code**" means Source Code of computer software code which is described in the Source Code notice required by **Exhibit A** as Original Code.

"**Modifications**" means any addition to or deletion from the substance or structure of either the Original Code or any previous Modifications. When Covered Code is released as a series of files, a Modification is: (i) any addition to or deletion from the contents of a file containing Original Code or previous Modifications; (ii) any new file that contains any part of the Original Code, or previous Modifications.

"**Covered Code**" means the Original Code, or Modifications or the combination of the Original Code, and Modifications, in each case including portions thereof.

"**Software**" means the Covered Code and accompanying documentation and support files referenced in section 1 of **Exhibit A**, including Updates (if any).

"**Updates**" means any patches, bug fixes, upgrades, and new versions of the Software made generally available by Genivia during the term of this Agreement.

"**Source Code**" means computer programming code in human readable form that is not suitable for machine execution without the intervening steps of interpretation or compilation, meaning the preferred form of the Covered Code for making modifications to it, including all modules it contains, plus any associated interface definition files, scripts used to control compilation and installation of an Executable Object Code, or source code differential comparisons against the Original Code. The Source Code can be in a compressed or archival form, provided the appropriate decompression or de-archiving software is widely available for no charge.

"**Executable Object Code**" means the computer programming code in any other form than Source Code that is not readily perceivable by humans and suitable for machine execution without the intervening steps of interpretation or compilation.

"**Authorized Site**" means the specific address of Customer's facility consisting of a single building or multiple buildings on a contiguous campus as specified in **Exhibit A**.

"**Project**" means a concerted undertaking by an identified Customer development team to design or produce a Target Application.

"**Run-Time Module**" means the Executable Object Code derived from compiling the Software to be incorporated into a Target Application as inseparably embedded code.

"**Target Application**" means an end-user item, such as a software product that is possibly replicated in identical form and offered for sale or licensed to third parties, or a device or system developed by Customer pursuant to a Project that contains a Run-Time Module, or any portion thereof, as specified in **Exhibit A** and any Updates made during the term of this Agreement.

## **2. SOURCE CODE LICENSE.**

Subject to Customer's compliance with the terms and conditions of this Agreement and payment of any applicable fees, Genivia hereby grants to Customer a non-transferable, non-exclusive, worldwide, perpetual, royalty-free, paid-up license: (i) to reproduce and use the Software solely at the Authorized Site in connection with the Project; (ii) to make backup copies at the Authorized Site for the purpose of this Agreement; (iii) to store the Software in a source code repository; (iv) to create Modifications and other derivative works of the Software, solely to the extent necessary to support the development of the Target Application; (v) to compile the Software, including any Modifications and derivative works thereof, into Run-Time Modules; (vi) to reproduce an unlimited number of Run-Time Modules for physical incorporation into the Target Application; and (vii) to market, sell, and distribute the Target Application.

## **3. RESTRICTIONS.**

Customer shall reproduce and include any and all copyright notices and proprietary rights legends, as such notices and legends appear in the original Software, on any copy of the Software, or portion thereof, with the exception of the gSOAP public license and GPL license notices.

The Software shall be handled, used and stored, solely at the Authorized Site identified in **Exhibit A**. The Software may be used from a single machine, a set of machines, or a network file server, but there shall be no access to the Software from any external network not located at the Authorized Site.

A function of the Software is to create Run-Time Modules for incorporation into Target Applications. Except as set forth in Section 2 above, no license is granted hereunder to reproduce or distribute the gSOAP soapcpp2 compiler and wsdl2h importer as part of such Target Application.

## **4. OWNERSHIP.**

Genivia represents and warrants to Customer that Genivia has all rights in the Software necessary to grant the rights and license granted to Customer in this Agreement.

Without limiting the foregoing, Genivia represents and warrants that Genivia has acquired an assignment of all intellectual property rights in and to all portions of the Software delivered to Customer under this Agreement.

Customer shall not have any obligation to provide, assign, or disclose to Genivia or any other party any Modifications. Notwithstanding the foregoing, Genivia and its licensors shall retain exclusive ownership of all worldwide Intellectual Property Rights in and to the Software. Customer acknowledges that this Agreement does not grant to Customer any Intellectual Property Rights in or to the Software other than the limited rights with respect to the Software as set forth in Section 2.

## **5. DELIVERY AND PAYMENT.**

Immediately following the Effective Date, Genivia grants Customer the right to download the Software from the Approved Software Download Site specified in **Exhibit A**, and install the Software at the Authorized Site and use the Software as set forth in Section 2 subject to the restrictions listed in Section 3. Notwithstanding any terms or other agreements posted on the Approved Software Download Site, this Agreement shall be the sole and exclusive agreement governing Customer's use of the Software.

Customer shall pay to Genivia the Software license fee set forth in **Exhibit A**. License fees will be invoiced with shipment of this License Agreement. Payment of all amounts invoiced shall be due forty-five (45) days after receipt of the invoice.

All payments and amounts shall be paid without deduction, set-off or counter claim, free and clear of any restrictions or conditions, and without deduction for any taxes, levies, imposts, duties, fees, deductions, withholdings or other governmental charges. If any deduction is required to be made by law, Customer shall pay in the manner and at the same time such additional amounts as will result in receipt by Genivia of such amount as would have been received by Genivia had no such amount been required to be deducted. If Customer is claiming sales or use tax exemption, a certified Tax Exempt Certificate must be attached to this Agreement or applicable purchase order submitted by Customer.

## **6. TERM AND TERMINATION.**

This Agreement shall commence upon the Effective Date and is granted in perpetuity, but may be terminated without notice in the following circumstances: if Customer breaches any term of this agreement, unless such breach is curable and is cured by Customer within thirty (30) days after notice of such breach is provided by Genivia; if Customer becomes the subject of insolvency proceedings; if Customer, being a firm or partnership, is dissolved; or if Customer destroys the Software for any reason. Upon termination, Customer shall destroy any remaining copies of the Software or otherwise return or dispose of such material. Termination pursuant to this clause shall not affect any rights or remedies, which Genivia may have otherwise under this license or at law.

The following Sections shall survive any termination of this Agreement: Sections 1, 4, 6, 8, and 10. Termination of this Agreement, if any, shall not affect any licenses or other grants of any rights, titles, or interests of Customer in or to any Run-Time Modules or the Target Application.

## **7. LIMITED WARRANTY.**

Genivia warrants that the Software, installation scripts, and future Updates will be provided to Customer. Customer assumes full responsibility for: (i) the selection, download, and installation of the Software from the Approved Software Download Site specified in **Exhibit A**; (ii) the proper use of the Software; (iii) verifying the results obtained from the use of the Software; and (iv) taking appropriate measures to prevent loss of data. Genivia does not warrant that the operation of the Software will meet Customer's requirements or that Customer will be able to achieve any particular results from use or modification of the Software or that the Software will operate free from error.

EXCEPT AS EXPRESSLY SET FORTH IN SECTIONS 7 AND 8 OF THIS AGREEMENT, GENIVIA AND ITS LICENSORS DISCLAIM ALL WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS, AND ANY WARRANTY THAT MAY ARISE BY REASON OF TRADE USAGE, CUSTOM, OR COURSE OF DEALING. WITHOUT LIMITING THE FOREGOING, CUSTOMER ACKNOWLEDGES

THAT THE SOFTWARE IS PROVIDED "AS IS" AND THAT GENIVIA DOES NOT WARRANT THE SOFTWARE WILL RUN UNINTERRUPTED OR ERROR FREE. THE ENTIRE RISK AS TO RESULTS AND PERFORMANCE OF THE SOFTWARE IS ASSUMED BY CUSTOMER. UNDER NO CIRCUMSTANCES WILL GENIVIA BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES OF ANY KIND OR NATURE WHATSOEVER, WHETHER BASED ON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, ARISING OUT OF OR IN ANY WAY RELATED TO THE SOFTWARE, EVEN IF GENIVIA HAS BEEN ADVISED ON THE POSSIBILITY OF SUCH DAMAGE OR IF SUCH DAMAGE COULD HAVE BEEN REASONABLY FORESEEN, AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY EXCLUSIVE REMEDY PROVIDED. SUCH LIMITATION ON DAMAGES INCLUDES, BUT IS NOT LIMITED TO, DAMAGES FOR LOSS OF GOODWILL, LOST PROFITS, LOSS OF DATA OR SOFTWARE, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION OR IMPAIRMENT OF OTHER GOODS. IN NO EVENT WILL GENIVIA BE LIABLE FOR THE COSTS OF PROCUREMENT OF SUBSTITUTE SOFTWARE OR SERVICES. CUSTOMER ACKNOWLEDGE THAT THIS SOFTWARE IS NOT DESIGNED FOR USE IN ON-LINE EQUIPMENT IN HAZARDOUS ENVIRONMENTS SUCH AS OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION OR CONTROL, OR LIFE-CRITICAL APPLICATIONS. GENIVIA EXPRESSLY DISCLAIM ANY LIABILITY RESULTING FROM USE OF THE SOFTWARE IN ANY SUCH ON-LINE EQUIPMENT IN HAZARDOUS ENVIRONMENTS AND ACCEPTS NO LIABILITY IN RESPECT OF ANY ACTIONS OR CLAIMS BASED ON THE USE OF THE SOFTWARE IN ANY SUCH ON-LINE EQUIPMENT IN HAZARDOUS ENVIRONMENTS BY CUSTOMER. FOR PURPOSES OF THIS PARAGRAPH, THE TERM "LIFE-CRITICAL APPLICATION" MEANS AN APPLICATION IN WHICH THE FUNCTIONING OR MALFUNCTIONING OF THE SOFTWARE MAY RESULT DIRECTLY OR INDIRECTLY IN PHYSICAL INJURY OR LOSS OF HUMAN LIFE. THIS DISCLAIMER OF WARRANTY CONSTITUTES AN ESSENTIAL PART OF THIS LICENSE. NO USE OF ANY COVERED CODE IS AUTHORIZED HEREUNDER EXCEPT UNDER THIS DISCLAIMER.

#### **8. INFRINGEMENT INDEMNITY.**

Genivia will defend at its expense any suit brought against Customer and will pay all damages finally awarded in such suit insofar as such suit is based on a claim that the Software as provided to Customer infringes a previously issued patent or copyright, provided that Genivia is notified promptly of such claim and is given full and complete authority (including settlement authority consistent with the other terms and conditions of this Agreement), information and assistance by Customer for such defense. In the event that the Software is held in any such suit to infringe such a right and its use is enjoined, or if in the opinion of Genivia the Software is likely to become the subject of such a claim, Genivia at its own election and expense will either (i) procure for Customer the right to continue using the Software or (ii) modify or replace the Software so that it becomes non-infringing while giving substantially equivalent performance. In the event that (i) or (ii) above are not, in Genivia's sole determination, obtainable using reasonable commercial efforts, then Genivia may terminate this Agreement and refund amount Customer paid Genivia under this Agreement for the Software which is the subject of such claim. The indemnification obligation shall not apply to infringement actions or claims to the extent that such actions or claims are caused solely by: (i) modifications made to the Software by a party other than Genivia; and (ii) the combination of the Software with items not supplied or approved by Genivia.

#### **9. GENERAL.**

Neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder (except for the payment of money) on account of strikes, shortages, riots, insurrection, fires, flood, storm, explosions, acts of God, war, governmental action, labor conditions, earthquakes, material shortages or any other cause which is beyond the reasonable control of such party.

The Software is a "commercial item" as that term is defined at 48 C.F.R. 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, Customer will provide the Software to U.S. Government End Users only pursuant to the terms and conditions therein.

Customer may not delegate, assign or transfer this Agreement, the license(s) granted or any of Customer's rights or duties hereunder without Genivia's express prior written consent, except by way of merger or acquisition of the business of Customer, and any attempt to do so shall be void. Genivia may assign this Agreement, and its rights and obligations hereunder, in its sole discretion.

All Software and technical information delivered under this Agreement are subject to U.S. export control laws and may be subject to export or import regulations in other countries. Customer agrees to strictly comply with all such laws and regulations.

This Agreement is governed by Florida law, excluding any principle or provision that would call for the application of the law of any jurisdiction other than Florida. Any action regarding this Agreement shall be brought in a court of competent jurisdiction, federal or state, in the County of Leon, Florida, and Genivia consents to venue and jurisdiction in and service of process from such court.

## 10. DISCLOSURE OF CUSTOMER IDENTITY.

Genivia, Inc., will not disclose the identity of the Customer on its Web site, advertising, press releases, or other publicly released publicity without the Customers' prior written consent.

### EXHIBIT A

#### 1. Genivia gSOAP Source Code Products.

Original Source Code files suitable for compilation into Run-Time Modules for integration into a Target Application:

```
dom.h
dom.c
dom.cpp
soapdoc2.pdf
soapdoc2.html
stdsoap2.h
stdsoap2.c
stdsoap2.cpp
custom/* (all files included in the package under 'custom')
import/* (all files included in the package under 'import')
plugin/* (all files included in the package under 'plugin')
samples/* (all files included in the package under 'samples')
uddi2/* (all of the UDDI v2 support files included in the package under 'uddi2')
ws/* (all of the files included included in the package under 'WS' )
```

Updates to any of the Original Source Code files listed above and distributed by Genivia are also covered under this Agreement.

Original Source Code files of the Software with development functionality not suitable for compilation and integration into Target Applications:

```
src/error2.c
src/error2.h
src/init2.c
src/soapcpp2.c
src/soapcpp2.h
src/soapcpp2_lex.l
src/soapcpp2_yacc.y
```

```
src/symbol2.c
wsdl/dime.h
wsdl/gwsdl.h
wsdl/http.h
wsdl/imports.h
wsdl/includes.h
wsdl/mime.h
wsdl/schema.cpp
wsdl/schema.h
wsdl/service.cpp
wsdl/service.h
wsdl/soap.cpp
wsdl/soap.h
wsdl/typemap.dat
wsdl/types.cpp
wsdl/types.h
wsdl/wsdl.cpp
wsdl/wsdl.h
wsdl/wsdl2h.cpp
```

The source codes above are part of the software development toolkit. The development toolkit generates source code that is suitable for compilation and integration into the Target Application as set forth by Sections 2 and 3.

**2. Approved Software Download Site:** <http://sourceforge.net/projects/gsoap2>

**3. Brief Description of the Customer's Project and Target Application (Confidential, for Internal Identification Purposes Only).**

---

**License Fee per Site:** \$195.00 USD (+ tax when applicable by local law, see section 5)

**Authorized Site** (address and building identification): \_\_\_\_\_

IN WITNESS WHEREOF, the parties' authorized representatives have executed this Agreement and Exhibit as of the Effective Date.

GENIVIA, INC.  
By: Robert van Engelen  
Title: President  
Date: \_\_\_\_\_

CUSTOMER \_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Please complete this form, sign, and return by fax, email, or surface mail to Genivia, Inc.

Genivia, Inc., Sales Department  
3178 Shamrock East  
Tallahassee, FL32309, USA  
Email: [sales@genivia.com](mailto:sales@genivia.com)  
Voice: +1 (850) 264 2676  
Fax: +1 (850) 893 1426

Genivia, Inc., Source Code License Agreement

Jan 1, 04, rev June 27, Aug 1/14, Oct 19, 04; Mar 31, 05, May 10/23, 05, July 1, 05, April 17, 06, May 23, 06, May 1, 07.