

TRADEMARK LICENSE AGREEMENT

This Trademark License Agreement (“Agreement”) is made and entered into as of _____, 20__ (the “Effective Date”), by and between the OSGi Alliance, Inc., a California nonprofit corporation, with principal offices at Bishop Ranch 6, 2400 Camino Ramon, Suite 375, San Ramon, California, 94583, United States of America (the “Alliance”), and _____, a _____ formed under the laws of _____ with principal offices at _____

_____ (the “Licensee”).

RECITALS

WHEREAS, the Alliance has used the names, trademarks, service marks and trade names “OSGi”, “OSGi Alliance”, “OSGi Service Platform”, and other marks incorporating “OSGi” in various forms and stylizations, including with logos (all such names, trademarks, service marks and trade names may be collectively referred to as the "Alliance Family of Marks") since at least as early as 1999 in connection with technology goods and services in the field of information and communications technologies, and has received registrations for such marks in the United States of America and various other countries; and

WHEREAS, Licensee desires to use the mark “OSGi Users’ Forum” exclusively to promote, educate, share and disseminate Alliance technology, and to inform various parties of Licensee’s use of Alliance technology; and

WHEREAS, the Alliance agrees to allow Licensee to use “OSGi Users’ Forum” for such purposes, all in a manner consistent with the Alliance’s status as a nonprofit corporation.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged and in further consideration of the mutual promises hereinafter set forth, the parties agree as follows:

1. Licenses and Ownership.

1.1 License to the Mark “OSGi Users’ Forum”. The Alliance hereby grants to Licensee a royalty-free, nonexclusive, nontransferable, non-sublicenseable, limited license, for the term of this Agreement, to use the mark “OSGi Users’ Forum” (in the form attached hereto as Exhibit A) in the country of _____ exclusively to promote, educate, share and disseminate information relating to Alliance technology, and to inform various parties of Licensee’s use of Alliance technology. The licensed use does not extend to the use of the mark “OSGi Users’ Forum” in connection with the sale of goods or services, or otherwise in order to promote any for-profit commercial enterprise undertaken by Licensee.

1.2 Ownership. All rights, title, and interest in and to the OSGi Family of Marks (including without limitation the mark “OSGi Users’ Forum”), other than Licensee’s right to use during the term of this Agreement as described in this Agreement, shall remain with the Alliance. During the term of this Agreement and thereafter, Licensee will not contest the Alliance’s exclusive right, title, and interest in and to, or the validity of, the Alliance Family of Marks (including without limitation the mark “OSGi Users’ Forum”). In addition, Licensee will not in any manner represent that it has an interest in any marks from the Alliance Family of Marks (including without limitation the mark and “OSGi Users’ Forum”), except for the limited license provided herein during the term of this Agreement. Use of the mark “OSGi Users’ Forum” by Licensee shall not confer upon Licensee any right, title, or interest in or to the mark “OSGi Users’ Forum” or any other of the marks from the Alliance Family of Marks, and all such use by Licensee of the mark “OSGi Users’ Forum”, and all related goodwill, shall inure to the sole benefit of, and be on behalf of, the Alliance. Licensee shall make any and all assignments, and shall execute any and all documents, necessary to perfect such ownership and rights on behalf of the Alliance. To assist the Alliance with its registration of any marks from the Alliance Family of Marks (including without limitation the mark “OSGi Users’ Forum”), Licensee, at the Alliance’s request and expense, shall promptly perform any act necessary and commercially reasonable for the Alliance to secure or maintain any and all trademark rights to any marks belonging to the Alliance Family of Marks (including without limitation “OSGi Users’ Forum”).

1.3 No Other Licenses. The parties agree that the rights expressly granted to Licensee by Alliance hereunder are the only rights granted, and that no further licenses or permissions are implied by this Agreement.

2. Terms of Use.

2.1 Quality Standards and Form of Use.

2.1.1 Licensee shall use the mark “OSGi Users’ Forum” only in the form attached hereto as Exhibit A. Licensee shall use such mark solely and strictly in conformance with the trademark usage policy established by the Board of the Alliance, as such may be amended from time to time. Licensee shall cooperate reasonably with the Alliance in facilitating the Alliance’s control of such usage.

2.1.2 Licensee shall submit examples representative of Licensee’s proposed usage of the mark “OSGi Users’ Forum” for prior review and approval by the Alliance. Licensee shall also submit examples of Licensee’s usage of the mark and “OSGi Users’ Forum” upon request by the Alliance. Licensee is not required to submit examples of usages previously approved, unless they involve material change from what has been previously approved. Any submitted examples must be in compliance with Section 2.1.1.

2.1.3 Licensee may not incorporate any graphics, logos, or words, symbols or any other marks with the mark “OSGi Users’ Forum” without the prior written approval of the Alliance, or in any manner that may create a composite or unitary mark.

2.1.4 Licensee shall immediately notify the Alliance of any unauthorized use of the mark “OSGi Users’ Forum” as it comes to Licensee’s attention and shall reasonably cooperate, at the Alliance’s expense, with the Alliance in enforcing the Alliance’s rights. The Alliance shall have the sole right and discretion to bring any infringement or other proceedings.

2.1.5 Licensee covenants and warrants that the manner in which Licensee uses the mark “OSGi Users’ Forum” shall be in accordance with all applicable laws and regulations, shall be of high quality and standards, and shall not adversely affect the good name of the Alliance.

2.2 Intellectual Property Notices. Licensee will comply with all procedures which the Alliance may from time to time adopt regarding display of intellectual property notices in connection with the Alliance Family of Marks. Without limiting the foregoing, Licensee agrees to affix: (i) a superscript TM next to each use of a mark from the Alliance Family of Marks, and the ® symbol when notified by the Alliance that a registration has issued with respect to a particular trademark; and (ii) in the case of copyrighted materials, the following notice: “© [YEAR OF PUBLICATION] The OSGi Alliance. All Rights Reserved.”

2.3 Web site and Mailing list: Licensee will comply with OSGi Alliance requirements for website URLs and mailing-list names for OSGi Users’ Forums/Groups as specified in the most recently approved version of the "Guidelines and Requirements for OSGiTM Users’ Groups and Users’ Forums” document.

3. Indemnification. Licensee agrees to indemnify and hold the Alliance and its members, officers, directors, agents, representatives, and employees harmless from and against any and all claims, liabilities, judgments, penalties, proceedings, demands, losses, costs, damages, and expenses (including reasonable attorneys’ fees and costs) arising by reason of or in connection with: (i) any breach of this Agreement by Licensee; (ii) Licensee’s use of the mark “OSGi Users’ Forum” in an improper manner; or (iii) Licensee’s unauthorized use of other marks from the Alliance Family of Marks. Licensee shall immediately notify the Alliance of any misuse or misappropriation of the Alliance Family of Marks known to it, and shall reasonably cooperate with the Alliance, at the Alliance’s expense, in any suit or proceeding initiated by the Alliance to enforce its rights.

4. Disclaimers and Limitations. THE MARK “OSGi Users’ Forum” IS PROVIDED TO LICENSEE “AS IS” AND LICENSEE HEREBY ACKNOWLEDGES AND AGREES THAT THE ALLIANCE MAKES NO WARRANTIES, COVENANTS, OR REPRESENTATIONS OF ANY KIND, WHETHER EXPRESS, STATUTORY, OR IMPLIED (INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF NONINFRINGEMENT), REGARDING THE MARK “OSGi USERS’ FORUM”. IN NO EVENT SHALL THE ALLIANCE BE LIABLE TO LICENSEE IN ANY MANNER OR FOR ANY AMOUNT FOR ANY DIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, CONSEQUENTIAL, PUNITIVE, INDIRECT, OR OTHER DAMAGES OF ANY KIND, REGARDLESS OF THE FORM OF ACTION.

5. Term and Termination.

5.1 This Agreement shall commence on the Effective Date and shall continue for a period of 6 months. Thereafter, this Agreement may be terminated without cause by either party upon 60 days advance written notice, or upon 5 days advance written notice in the event of a material breach.

5.2 In the event of any termination of this Agreement for any reason, Sections 1.2 (“Ownership”), 2.2 (“Intellectual Property Notices”), 3 (“Indemnification”), 4 (“Disclaimers and Limitations”), 5 (“Term and Termination”), and 6 (“General Terms”) shall survive any expiration or termination of this Agreement.

6. General Terms.

6.1 Governing Law; Venue; Jurisdiction. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the United States and the State of California without regard to its conflict of laws provisions. The parties irrevocably consent to the exclusive personal jurisdiction (except as to actions for the issuance of injunctive relief or the enforcement of a judgment, in which case the jurisdiction will be non-exclusive) of the federal and state courts located in San Francisco, California, and venue in San Francisco, California.

6.2 Compliance with Law. Licensee agrees to only use the mark “OSGi Users’ Forum” in a manner which is in compliance with the laws of the United States, _____ and all other relevant jurisdictions.

6.3 Injunctive Relief for Breach. The parties acknowledge that Licensee’s breach of this Agreement, including without limitation use of the mark “OSGi Users’ Forum” in an unauthorized manner, will result in irreparable and continuing damage to the Alliance for which there will be no adequate remedy at law. Therefore, in the event of such breach, the Alliance will be entitled to injunctive relief and/or a decree for specific performance, and such other and further relief as may be proper (including monetary damages if appropriate).

6.4 Assignment and Sublicense. Licensee shall not assign or sublicense this Agreement, in whole or in part, or any rights or obligations under this Agreement without the prior written consent of the Alliance.

6.5 No Waiver. The failure of a party to insist upon strict adherence to any term of this Agreement, on any occasion, shall not be considered a waiver or deprive that party of the right thereafter to insist upon strict adherence to that term, or any other term, of this Agreement.

6.6 Enforcement Expenses. As used in this Agreement, the phrase “at the Alliance’s expense” shall include only Licensee’s direct expenses relating to any such matter, and shall not include Licensee’s general overhead or other similar charges.

6.7 Miscellaneous. No modification, amendment or waiver of this Agreement shall be effective without the express written consent of an authorized representative of the parties. If any provision of this Agreement shall be held by a court of competent jurisdiction to be contrary to law, all remaining provisions of this Agreement shall remain in full force and effect. This Agreement contains the complete and entire statement of all the arrangements between the parties concerning the subject matter herein, and supersedes all prior and contemporaneous agreements among the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

“The Alliance”:

“Licensee”:

The OSGi Alliance

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A

[INSERT THE USERS GROUP / FORUM LOGO FOR THE SPECIFIC COUNTRY /
GEOGRAPHY]