



OSGi Alliance Ingredient Mark License Agreement, Version 1.0

This License Agreement (“**Agreement**”) is entered into effective as of the “Effective Date” as defined herein by and between the OSGi Alliance, a California, USA nonprofit mutual benefit corporation (the “**OSGi Alliance**”), and the applicant submitting the on-line license request to use the “Ingredient Mark” identified herein (“**Licensee**”).

BACKGROUND

The OSGi Alliance owns the OSGi Ingredient design mark (logotype) shown on **Exhibit A**, defined herein as the “Ingredient Mark”. The OSGi Alliance licenses the use of the Ingredient Mark to its members and third parties for use with products that include software implementation/s that is/are compliant with one or more OSGi Specifications. The OSGi Alliance grants the use of the license to OSGi Alliance Members or third parties, subject to the payment schedule in Exhibit B, and the terms and conditions herein.

AGREEMENT

1 Definitions

For purpose of this Agreement:

- a) “**Application**” means the on-line application that the Licensee submitted at the public website of the OSGi Alliance (www.osgi.org as-of April 21, 2016) requesting the licenses granted herein.
- b) “**Ingredient Mark**” means the mark identified on **Exhibit A** hereto.
- c) “**Offering**” refers to the **software artifact** or Service referenced in the Application for which the Licensee wishes to associate the Ingredient Mark.
- d) “**Compliant Implementation**” refers to an implementation of an OSGi Alliance specification that has passed the technical compliance test process for that specification created by the OSGi Alliance. The creator of the compliant implementation must be an OSGi Alliance member in good standing and must be able, upon request by the OSGi Alliance, to demonstrate the claimed compliance.
- e) “**Effective Date**” shall mean the date on which this Agreement has been executed by both parties.
- f) “**Execute,**” “**Executes,**” “**Executed,**” and “**Executing**” each means to agree by action or electronic transmission to be bound by the terms, conditions and provisions of this Agreement. This Agreement is Executed by Licensee upon Licensee’s electronic acknowledgment of the Agreement’s terms as part of the Application. This Agreement is Executed by the OSGi Alliance when the OSGi Alliance transmits a copy of the Agreement to Licensee after Licensee’s Execution of it as part of the Application.
- g) “**Registry**” means the OSGi Alliance maintained registry of Licensees and their

approved Ingredient Mark Applications: this listing of Offerings and claimed Compliant Implementations for those Offerings. This is maintained on the public area of the OSGi Alliance website.

- h) **“Manual”** means the OSGi Alliance Brand Style Guide or its OSGi Alliance designated equivalent, as in effect from time to time and available for download while completing the Application and on the members only portion of the OSGi Alliance Web site.
- i) **“Word Mark”** means the word marks identified and authorized by the OSGi Alliance for Ingredient Mark use.

2 Ingredient Mark License.

- a) **License Grant.** Provided that Licensee complies with the terms, conditions and provisions hereof, the OSGi Alliance hereby grants Licensee a limited, non-exclusive, worldwide, revocable, non-transferable license, with limited right of sublicense solely as provided in Section 2(c), to use the Ingredient Mark in connection with the Offering/s referenced in the Application.
- b) **Word Mark License.** To the extent permitted in the Manual, the OSGi Alliance grants Licensee a limited, non-exclusive, worldwide, revocable, non-transferable, with the limited right of sublicense solely as provided in Section 2(c) to use the Word Marks as prescribed in the Manual.
- c) **Sublicense Grant.** The OSGi Alliance hereby grants to the Licensee a limited, non-exclusive, worldwide, revocable, non-transferable license to sublicense the Ingredient Mark and the Word Marks to third parties with which Licensee has contracted to advertise, promote or market the Offerings. Licensee shall require all such third parties to agree in writing to all terms and conditions necessary and appropriate to protect the OSGi Alliance’s right, title and interest to the Ingredient Mark and the Word Marks, which shall include, but not be limited to, all applicable terms and conditions of this Agreement, and which shall also provide that the OSGi Alliance shall be a third party beneficiary of each such agreement.
- d) **Reservation of Rights.** Except for the limited license rights granted herein, the OSGi Alliance reserves to itself all right, title and interest in and to the Ingredient Mark.

3 License Requirements and Limitations.

The licenses granted pursuant to Section 2 are granted subject to the following requirements and limitations:

- a) **Compliance.** Licensee shall at all times comply with all requirements as the OSGi Alliance may communicate in connection with Ingredient Mark usage.
- b) **Compliance with Manual.** Licensee shall comply with all requirements in the Manual. The Licensee is solely responsible for keeping itself informed of the current requirements in the Manual by reviewing from time to time the version posted on the OSGi Alliance Web site. The Licensee is responsible for making any necessary

changes to its practices to remain in compliance with any revisions to the Manual. The OSGi Alliance is under no obligation to inform Licensee of changes to the Manual other than by posting the revised version on its Web site, but the OSGi Alliance agrees to refrain from taking action without prior affirmative notice to Licensee if the provision upon which the OSGi Alliance action is to be based is materially different from the Manual that are applicable to this Agreement on the Effective Date. If Licensee does not agree with any changes to the Manual, Licensee's sole remedy is to terminate this Agreement as provided herein.

- c) **Fees.** All appropriate fees, as documented in Exhibit B, must have been paid to the OSGi Alliance.
- d) **Scope of Usage.** Ingredient Mark usage is restricted to the Offering referenced in the Licensee's Application.
- e) **Applicability.** The Licensee's Application must state both the Offering name and the Compliant Implementations that are used by the Offering. At the OSGi Alliance's discretion, the Application is subject to review to determine that the Ingredient Mark is appropriate for the Offering/s listed in the Application.
- f) **Offering Modification.** Should the Licensee make changes to the Offering that either increase or decrease the number of Compliant Implementations, then this information should be communicated to the OSGi Alliance within 30 days of the changes.
- g) **Registry Maintenance:** The Licensee is solely responsible for the accuracy of the entries relating to the Licensee's Offering/s in the Registry. The Licensee is responsible for requesting any necessary changes to the Registry to ensure the Offering listing accurately reflects the Compliant Implementations used.
- h) **Verification.** At the request of the OSGi Alliance the Licensee must be able to demonstrate that the Offering includes, and is functionally dependent upon, the Compliant Implementations referenced in the Registry.
- i) **Nonconforming Offerings.** If at any time the Compliant Implementations used by the Offering are demonstrated to fail in more than an immaterial degree to conform to the standards and specifications that were the basis of their Certification, then the OSGi Alliance reserve the right to remove the Implementation the list of Compliant Implementations referenced against Offerings listed in the Registry. If a point is reached whereby the Licensee's Offering includes no Compliant Implementations, then Licensee must immediately cease on-going use of Ingredient Mark for that Offering by removing the Ingredient Mark from undistributed Offering units or live Services.
- j) **Offering Name Changes.** Licensee will notify the OSGi Alliance in writing of any change to the name of the Offering/s using the Ingredient Mark and will not adopt a name for the Offering/s that may cause confusion when used in conjunction with the Ingredient Mark.
- k) **Certain Geographic or Usage Limitations.** In the event the OSGi Alliance determines that use of the Ingredient Mark may in any particular manner or jurisdiction violate any applicable laws or regulations, be contrary to public policy or may subject Licensee or the OSGi Alliance to any third party claims, legal proceedings, governmental investigations or proceedings, penalties or liabilities, Licensee agrees, upon receipt of notice and request from the OSGi Alliance, to

promptly cease and desist from all use of the Ingredient Mark in such particular manner or jurisdiction.

- j) Control.** The OSGi Alliance shall have absolute determination and control, in its sole discretion, over the design, redesign, modification, change, enhancement, improvement, authorized or unauthorized use, manner and degree of application, manner and extent of registration, maintenance, protection, enforcement, ownership, licensing, use and termination of the Ingredient Mark, and the Manual.
- k) Specific Use Restrictions.** The licenses granted in this Section 2 may be used solely in connection with Offerings and are subject to the restrictions and obligations of Licensee set forth in this Agreement, including, without limitation, the following:

 - i. Licensee shall not modify, enhance or change the Ingredient Mark or combine it with another mark, or use, adopt or register any marks confusingly similar to the Ingredient Mark.
 - ii. Licensee shall not omit portions or use a partial version of the Ingredient Mark.
 - iii. Licensee shall not use the Ingredient Mark, or any portion thereof, as a domain name, including, without limitation, as a sub-domain name or name of the service or company.
- l) Licensee shall not use the Ingredient Mark:** (a) in any manner that is likely to reduce, diminish or damage the goodwill, value or reputation associated with the Ingredient Mark; (b) in any manner as would violate the rights of any third parties; (c) in any manner as would result in any third party claim or in any governmental investigation, claim or proceeding alleging unlawful or improper use of the Ingredient Mark; (d) on or in connection with any products or services other than the Offerings referenced in the Application and materials pertaining to those Offerings; or (e) in any manner other than as an Ingredient Mark.
- m) Third-Party Infringement.** Licensee will promptly notify the OSGi Alliance if it becomes aware of any infringement of the Ingredient Mark by a third party. Licensee shall have neither the right nor the obligation to prosecute any infringement claims against third-party infringers.
- n) Noncompliance.** Licensee shall immediately and at its sole cost and expense correct any usage of the Ingredient Mark that the OSGi Alliance regards as failing to comply with the requirements of this Agreement or the Manual.
- o) Use of “OSGi” and other trademarks and servicemarks of the “OSGi Alliance.”** Nothing in this Agreement gives Licensee the right or license to use the mark “OSGi” or other trademarks or servicemarks of the OSGi Alliance apart from the mark as shown in Exhibit A. Any use of such mark shall occur only if and to the extent permitted by the Manual or a separate agreement between Licensee and the OSGi Alliance. Licensee shall not use “OSGi” or other trademarks or servicemarks of the OSGi Alliance except as permitted therein.
- p) Unauthorized Use of the Ingredient Mark by Licensee.** Licensee acknowledges that if it engages in any unauthorized use or reference to the Ingredient Mark, its right



to continue using the Ingredient Mark may be terminated and that irreparable injury will occur if such unauthorized use continues.

- q) Relationship of Agreement and OSGi Alliance Membership.** This Agreement constitutes a portion of the “rules and regulations” of the OSGi Alliance as contemplated by the corporation’s Bylaws and other policies established by the OSGi Board of Directors. Licensee acknowledges that a breach of this Agreement is also a breach of those rules and regulations and may give rise to the suspension or termination of Licensee’s membership in the OSGi Alliance.

4 License Fees and Royalties.

The licenses granted per the established fees and royalties policy of the OSGi Alliance, references in Exhibit B.

5 OSGi Alliance Ownership of the Ingredient Mark

Licensee acknowledges the OSGi Alliance’s exclusive right, title, and interest in and to the Ingredient Mark and acknowledges that nothing herein shall be construed to accord to Licensee any rights in the Ingredient Mark except as otherwise expressly so provided. Licensee acknowledges that its use of the Ingredient Mark hereunder will not create in it any right, title or interest in the Ingredient Mark other than the limited license rights granted herein and that all such use of the Ingredient Mark and the goodwill generated thereby will inure to the benefit of the OSGi Alliance. Should the OSGi Alliance, in its sole discretion, deem it necessary to record Licensee as a registered licensee of the Ingredient Mark in any jurisdiction, it shall do so at Licensee's expense (provided that Licensee may avoid such expenses by covenanting in an amendment to this Agreement that it will not use the Ingredient Mark in such countries), and Licensee will cooperate with OSGi Alliance to effect such recordation. Licensee warrants and represents with respect thereto that (a) it will not at any time challenge the OSGi Alliance’s right, title, or interest in the Ingredient Mark or the validity the Ingredient Mark or any registration thereof; (b) it will not do or cause to be done or omit to do anything, the doing, causing, or omitting of which would contest or in any way impair or tend to impair the rights of the OSGi Alliance in the Ingredient Mark; (c) it will not represent that it has any ownership in or rights with respect to the Ingredient Mark; and (d) it will not, either during or subsequent to the term of this Agreement, adopt, use, or register any ingredient mark, trademark, service mark, trade name, insignia or logo that is confusingly similar to or a colorable imitation of the Ingredient Mark or any of the OSGi Alliance’s other marks.

6 Representations of Licensee. Licensee represents and warrants that:

- a) It is duly organized and in good standing under the laws of its jurisdiction of organization;
- b) Licensee has taken all actions that are necessary or advisable in order for it to enter into this Agreement;
- c) The person Executing this Agreement on behalf of Licensee is authorized to do so;
- d) The Agreement, upon its Execution by Licensee (and assuming due Execution by the OSGi



Alliance) shall be the binding obligation of Licensee, enforceable in accordance with its terms;

- e) Each Certified Product unit that it sells or distributes will substantially conform to the specifications of the product unit that Licensee submitted for Certification;
- f) Licensee will comply with all changes to the Manual and the Certification requirements within three (3) months from the date of receipt of written notice of such changes; and
- g) Licensee will not challenge the OSGi Alliance's rights under its Certification program, the Manual, or this Agreement and will not challenge the validity of any OSGi Alliance mark.

7 No Warranty by the OSGi Alliance.

The OSGi Alliance provides the licenses granted hereunder without warranty of any kind. THE INGREDIENT MARKS ARE PROVIDED "AS IS", ALL EXPRESS OR IMPLIED CONDITIONS, REPRESENTATIONS, AND WARRANTIES INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, SATISFACTORY QUALITY OR ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE, ARE HEREBY EXCLUDED TO THE EXTENT ALLOWED BY APPLICABLE LAW.

8 Limitation of Liability.

IN NO EVENT SHALL THE OSGi ALLIANCE BE LIABLE FOR LOST PROFITS OR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT REGARDLESS OF THE LEGAL THEORY UPON WHICH SUCH CLAIM IS BASED AND EVEN IF THE OSGi ALLIANCE HAS BEEN ADVISED OF THE POSSIBILITY THEREOF. FURTHER, THE MAXIMUM LIABILITY OF THE OSGi ALLIANCE UNDER THIS AGREEMENT SHALL BE THE AMOUNT ACTUALLY PAID BY LICENSEE.

9 Indemnity.

Licensee agrees to defend, indemnify and hold OSGi Alliance and its respective representatives, employees, officers, directors and agents harmless against all claims, suits, costs, damages, judgments, attorney's fees, settlements or expenses incurred caused by, arising from or relating to any breach of this Agreement by Licensee or claimed, obtained or sustained by any third party, whether for personal injury, misrepresentation, or otherwise arising out of or relating to the manufacture, advertising, promotion, use, marketing or sale of the Offering, provided such claims are not caused by OSGi Alliance's negligence or breach of this Agreement.

10 Effective Date, Term and Termination.

- a) **Effective Date.** This Agreement shall commence and the licenses granted hereunder shall become effective upon the Execution of this Agreement by both parties.

- b) **Term.** The term of this Agreement shall commence on the Effective Date and shall continue until terminated by a party as provided herein.
- c) **Termination.**
 - i. **Termination by Licensee.** Licensee may terminate this Agreement at any time by providing notice to the OSGi Alliance and by discontinuing all use of the Ingredient Mark. Termination in this manner shall be effective upon receipt of the notice by the OSGi Alliance or at such time (not to exceed thirty (30) days) specified in the notice from Licensee.
 - ii. **Termination by the OSGi Alliance.** The OSGi Alliance may terminate this Agreement upon thirty (30) days notice if Licensee breaches any provision of this Agreement and fails to cure such breach within such thirty (30)-day period. The OSGi Alliance may terminate this Agreement upon written notice if Licensee ceases to be a member in good standing of the OSGi Alliance. The OSGi Alliance may terminate this Agreement for convenience upon not less than thirty (30) days' written notice to Licensee if it discontinues its use of the Ingredient Mark.
 - iii. **Consequences of Termination.** Upon termination of this Agreement, the licenses granted hereunder shall immediately terminate. Licensee will immediately cease to actively use the Ingredient Mark. However, Licensee and its sublicensee(s) may continue to use already created materials in their possession, but no new material may be created.

11 Miscellaneous.

- a) **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of California of the United States of America as applied to agreements entered into and fully performed therein by residents thereof. Both parties submit to jurisdiction in California and further agree that any cause of action arising under this Agreement shall be brought in a court in the County of Contra Costa, California.
- b) **Severability; Headings.** If any provision herein is held to be invalid or unenforceable for any reason, the remaining provisions will continue in full force without being impaired or invalidated in any way. Headings are for reference purposes only and in no way define, limit, construe or describe the scope or extent of such section.
- c) **Independent Contractors.** The parties are independent contractors, and no agency, partnership, joint venture, employee-employer or franchisor-franchisee relationship is intended or created by this Agreement. Neither party shall make any warranties or representations on behalf of the other party.
- d) **Notice.** The OSGi Alliance may give notice to Licensee by personal delivery, mail, courier, or facsimile to Licensee's physical address as identified in the OSGi Alliance's membership records or by e-mail to the e-mail address identified in the Application. Licensee may give notice to the OSGi Alliance by personal delivery, mail, courier, or facsimile to the OSGi Alliance's physical address as identified at www.osgi.org or electronically by e-mail to help@osgi.org. Notice shall be deemed given: (i) upon



personal delivery; (ii) if sent by fax, with confirmation of correct transmission, on the next business day after it was sent; upon the courier's confirmed delivery if sent by courier; (iii) if sent by mail with proper postage prepaid, five (5) days after the date of mailing; and (iv) upon electronic mail transmission, with confirmation of the correct transmission and receipt by the other party, on the next business day after it was sent.

- e) **Entire Agreement; Waiver.** This Agreement sets forth the entire understanding and agreement of the parties and supersedes any and all oral or written agreements or understandings between the parties as to the subject matter of this Agreement. This Agreement may be changed only by a writing Executed by both parties that expressly states that it is changing the provisions of this Agreement. The waiver of a breach of any provision of this Agreement will not operate or be interpreted as a waiver of any other or subsequent breach.
- f) **Assignment.** Licensee may not transfer its rights or obligations under this Agreement in whole or in part to any third party without the prior written consent of the OSGi Alliance and any attempt to do so is void.
- g) **Counterparts.** This Agreement may be Executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be Executed by their duly authorized representatives.

[INSERT ELECTRONIC SIGNATURE FORMAT]

Exhibit A Ingredient Mark

Exhibit B Fees