

# Thread Group, Inc.

## Affiliate Participation Agreement

This Agreement is entered into as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between the Thread Group, Inc. (the “Alliance”) and \_\_\_\_\_ (“Affiliate”).

**WHEREAS**, the Alliance has been formed as a nonprofit nonstock corporation to bring technology companies, device manufacturers, application developers, and other entities together around to define one or more specifications, best practices, reference architectures, implementation guidelines and certification programs to promote the availability of devices and solutions based on the Thread protocol; and

**WHEREAS**, the Alliance has established tiers of participation which include Sponsor level membership and Contributor and Affiliate level participation (Sponsor Members, Contributors and Affiliates are collectively referred to herein as “Participants”);

**WHEREAS**, Affiliate would like to participate in the Alliance as a member of the Affiliate participation class;

**NOW, THEREFORE**, the Alliance agrees to allow Affiliate to join on the terms and conditions contained herein, and Affiliate agrees to abide by the terms and conditions contained herein.

### Agreement

#### 1. INCORPORATION

The Alliance is organized as a nonprofit nonstock corporation under the laws of the State of Delaware. The Articles of Incorporation and initial form of Bylaws of the Alliance are set forth in **Exhibit 1** (collectively, the “*Corporate Documents*”). By executing this Agreement, Affiliate consents to the form of the Corporate Documents. Affiliate acknowledges that the Corporate Documents may be amended from time to time in accordance with the provisions of the Corporate Documents and as may be allowed by law. The Alliance intends to file for tax-exempt status under Section 501(c) (6) of the Internal Revenue Code of 1986, as amended. Affiliate agrees not to engage in activities for or on behalf of the Alliance that may adversely affect the nonprofit or tax-exempt status of the Alliance.

#### 2. GROUP PARTICIPATION; CONTROL GROUP

Affiliate will cause its Affiliates (as defined in Article III, Section 3.1 of the Bylaws) to be bound by this Agreement. Once bound the Affiliates will explicitly become third party beneficiaries to this Agreement and be entitled to the same rights arising out of this Agreement as the Affiliate.

#### 3. PARTICIPATION

**3.1 Rights and Privileges.** The rights and privileges of the Affiliate class are as established by the Board of Directors of the Alliance in accordance with the Bylaws. These rights and privileges include access to final Alliance deliverables, the right to utilize the Alliance logo, access to the Alliance’s “members only” website, and participation in annual Participant meetings. Affiliates may also have involvement in press articles and interviews and receive communications from the Alliance. All

participation in the Alliance by Affiliate shall be in accordance with applicable Alliance policies as set forth below. Affiliate acknowledges and agrees that the rights and privileges of Affiliate participation as a class in the Alliance may be changed from time to time by action of the Board of Directors of the Alliance in accordance with the Alliance's Bylaws and that any such amendment shall be binding upon Affiliate on a prospective basis. Affiliate acknowledges and agrees its participation in the Alliance as Affiliate is participation as an Associate of the Alliance as defined in the Bylaws and that Affiliates are not considered "members" or holders of "membership" within the meaning of the Delaware General Corporation Law as applies to non-stock corporations.

**3.2 Adherence to Alliance Policies.** Affiliate agrees to adhere to the Bylaws and all other policies and procedures established by the Alliance, as they currently exist and as they may be amended from time to time. Such policies and procedures of the Alliance may include without limitation an Intellectual Property ("IP") Policy (**Exhibit 2**), and Antitrust Guidelines, attached hereto as **Exhibit 3**, and other policies approved by the Board of Directors from time to time. Rights and privileges of participation in the Alliance including but not limited to use of Alliance logo and certification marks, participation in technical or marketing committees or study groups and access to "members only" section of the Alliance web site shall extend only to current Participants in good standing.

**3.3 Affiliate Dues.** Affiliate agrees to pay all applicable dues duly imposed on Affiliates by action of the Board of Directors. The term of participation of Affiliate shall be on a year-to-year basis, expiring on the 365th day from the effectiveness of this Agreement pursuant to Section 8.9. Subject to the terms of Section 6, Affiliate may renew its Affiliate status for subsequent twelve (12) month periods by paying the then-current annual dues established by the Board of Directors. Failure to pay annual or specially assessed dues when due shall result in termination and/or non-renewal of Affiliate's membership pursuant to Section 6.1. In the event that Affiliate withdraws from the Alliance within ninety (90) days of the written notification by the Alliance of a resolution imposing dues, fees or assessments, Affiliate shall not have any liability for payment of such dues, fees or assessments. If a Affiliate does not withdraw within ninety (90) days of such notification of passage of a resolution concerning such dues, fees or assessments, Affiliate shall be responsible for such payment, even if Affiliate subsequently withdraws from or Affiliate's participation is subsequently terminated from the Alliance.

**3.4 Costs and Expenses.** Affiliate shall bear its own costs and expenses for its participation in the Alliance, including without limitation compensation of its employees, and all travel and expenses associated with Affiliate's participation in the Alliance meetings and conferences, and Affiliate understands that it has no right of reimbursement from the Alliance for such expenses.

**3.5 Publicity.** The following provisions shall govern publicity relating to the Alliance and its Participants:

(a) Media Releases and Use of Names, Trademarks and Logos of Participants.

Alliance agrees that Affiliate shall have the right to list the Alliance's name and logo on Affiliate's web site and advertising and promotion materials in accordance with guidelines adopted by the Alliance. Except as may be allowed pursuant to written instructions or guidelines issued by Affiliate, neither Alliance nor Affiliate shall use the name of another Participant or Participants in any form of publicity without the written permission of the other Participant or Participants, provided the Alliance (unless otherwise requested in writing by Affiliate) may publicly disclose and identify the participation of Affiliate in the Alliance in documentation, press releases, brochures and other materials, provided that all such references are truthful and accurate. Notwithstanding any such written request by Affiliate, the

Alliance may disclose the participation of such a Affiliate if required by law or any court of competent jurisdiction. By executing this Affiliate Participation Agreement, Affiliate agrees that the Alliance shall have the right to list Affiliate's name and logo on the Alliance web site and advertising and promotion materials to indicate participation in the Alliance, provided that Affiliate continues to participate in the Alliance and that such Affiliate's name and logo are used in accordance with Affiliate's guidelines.

(b) Compliance with Alliance Communications Policies. All publicity related to the Alliance, whether promulgated by the Alliance or by Affiliate, shall be in compliance with the policies and procedures adopted by the Board of Directors from time to time.

(c) Third Party Beneficiaries. Affiliate acknowledges and agrees that all other Participants are third party beneficiaries of this Section 3.5.

#### **4. CONFIDENTIALITY**

All exchanges of information between Affiliates and between the Alliance and its Participants, which relate to Alliance activities, are confidential except as may be otherwise provided in the Alliance IP Policy attached hereto as **Exhibit 2**.

All information developed by Alliance employees or Subcontractors shall be deemed the Confidential Information (as defined in the IP Policy) of Alliance for three (3) years subsequent to such development and subject to the terms of the IP Policy governing confidential information. This shall not affect the information disclosed or material presented by a Participant to Alliance or its subgroups. Except for the information contributed or provided by any of the Participants which shall be governed by the Alliance IP Policy, the Parties acknowledge and agree that works in progress, minutes of meetings of the Sponsor Members, minutes of Participants, minutes of the Board of Directors, minutes or results of the committees, and any other corporate governance information, in any form or media, disclosed by the Alliance shall in all cases be deemed Confidential Information of Alliance. No obligation under this Section shall apply to Confidential Information that is: i) already rightfully in the recipient's possession or rightfully received by recipient Participant without a non-disclosure obligation; ii) developed independently by recipient Participant; iii) publicly available when received, or thereafter becomes publicly available through no fault of the recipient Participant; or iv) disclosed by Alliance without a non-disclosure obligation.

From time to time a Participant may deem it necessary to disclose their confidential information to Alliance itself or to the other Participants. Confidentiality of such Participant confidential information disclosures is governed by the terms of the IP Policy.

After resignation, suspension, exclusion, expulsion or non-renewal as a Affiliate, for any reason, a former Affiliate has a continuing duty to comply with this section.

#### **5. INTELLECTUAL PROPERTY POLICY**

Affiliate agrees to the terms and conditions of the IP Policy attached hereto as **Exhibit 2**. Affiliate acknowledges and understands that the IP Policy may be revised to reflect changes proposed by Participants or future Participants or to address special circumstances of such Participant or future Participants; provided, however, that such revisions to the IP Policy shall require the affirmative vote of the Board of Directors as specified in the Bylaws. Affiliate agrees that all other Participants, as defined in the Bylaws, are third party beneficiaries to the IP Policy and subject to its obligations.

## 6. TERMINATION OF PARTICIPATION

The following provisions shall apply in the event of the termination of the participation of Affiliate, whether by voluntary withdrawal or expulsion:

**6.1 Termination.** Affiliate may withdraw from participation in the Alliance by filing a written notice with the Secretary of the Alliance, in which case withdrawal and termination of participation shall be effective as of the date of notification. Participation of Affiliate in the Alliance may also be terminated by the Alliance under the conditions set forth in the Bylaws.

**6.2 No Refund of Dues.** Affiliate shall have no right to a refund of any dues, fees or assessments paid prior to the termination of its participation in the Alliance, including but not limited to withdrawal by Affiliate for any reason. Moreover, Affiliate shall remain fully liable for any dues, fees or assessments then due and owing, except as provided in Section 6.3 below.

**6.3 Obligations for Additional Assessments.** In the event that Affiliate's participation in the Alliance terminates within 90 days of the written notification by the Alliance of the passage of a resolution imposing fees, dues or assessments, Affiliate shall not have any liability for payment of such dues, fees or assessments. Furthermore, a Affiliate may terminate without any liability for payment of fees, dues or assessments due or outstanding if terminated in compliance with Section 6.1 within 90 days after notification of a change in the Articles of Incorporation, the Bylaws, the IP policy or any other policies or procedures that affect its legitimate interests. After the 90-day period, Affiliate shall be responsible for any dues, fees or assessments, even if Affiliate's participation is subsequently terminated.

**6.4 Survival.** Upon termination of participation pursuant to Section 6.1, this Agreement shall be automatically terminated with respect to Affiliate except with regard to Sections 2, 3.2, 3.5(a), 4, 5, 6 and 7 of this Affiliate Participation Agreement, and any other provisions, that by their nature would survive termination or expiration of this Agreement, which shall survive indefinitely unless limited to a shorter period by any statutes of limitations imposed by law or by express language of the surviving provision. Notwithstanding the foregoing, any Alliance policies or agreements which contain specific survival provisions following termination of participation shall not be affected by this Section 6.4 and shall survive pursuant to their terms.

**6.5 Transfers from Classes of Participation.** In the event that a Participant decides to transfer from one class of participation in the Alliance to another, and complies with the admission criteria for the new class of participation as provided in the Alliance Bylaws, the Participant's first membership will be deemed terminated and a new membership will be deemed to be created in the new class of participation, upon written notice filed with the Secretary of the Alliance and satisfaction of any other requirements of the Bylaws.

## 7. DISPUTE RESOLUTION

The following provisions apply in the event of disputes between Affiliate and Alliance. Notwithstanding anything else herein, this Section 7 shall apply only to disputes between Alliance and its Participants and shall not apply to any disputes between the Participants or between the Participants and third parties.

**7.1 Mediation.** The parties agree to first submit any controversy or claim between any Participant and Alliance and arising out of or relating to this Agreement, or the breach thereof, to non-binding mediation in California by a mediator to be selected by the parties from among the California

chapter of the American Arbitration Association (“AAA”) mediation or commercial arbitration panelists. The parties agree to mediate in good faith over a minimum period of thirty (30) days.

**7.2 Arbitration.** Any controversy or claim between any Participant and Alliance not resolved by mediation, arising out of or relating to this Agreement, or the breach thereof, or any rights or materials licensed hereunder, shall be settled by binding arbitration in accordance with the Commercial Arbitration Rules (the “Rules”) of the AAA, and the procedures set forth below. In the event of any inconsistency between the Rules of AAA and the procedures set forth below, the procedures set forth below shall control. Judgment upon the award rendered by the arbitrators may be enforced in any court having jurisdiction thereof.

(a) Location. The location of the mediation and arbitration shall be in San Francisco, California.

(b) Selection of Arbitrators. The arbitration shall be conducted by a panel of three (3) neutral arbitrators who are independent and disinterested with respect to the Alliance and any Participant, this Agreement, and the outcome of the arbitration. If the parties are unable to agree to arbitrators, the arbitrators shall be appointed by AAA from among the AAA commercial arbitration panelists with relevant expertise.

(c) Case Management. Prompt resolution of any dispute between any Participant and Alliance is important to all parties and the parties agree that the arbitration of any such dispute shall be conducted expeditiously. The arbitrators are instructed and directed to assume case management initiative and control over the arbitration process (including scheduling of events, pre-hearing discovery and activities, and the conduct of the hearing), in order to complete the arbitration as expeditiously as is reasonably practical for obtaining a just resolution of the dispute.

(d) Remedies. The arbitrators may grant any legal or equitable remedy or relief (including injunctive relief) that the arbitrators deem just and equitable, to the same extent that such remedy or relief could be granted by a state or federal court, provided however, that such remedy or relief is consistent with the remedies and limitations set forth in this Agreement and extend only to disputes between any Participant and the Alliance.

(e) Expenses. Each party will bear its own expenses of the arbitration, including expert witness fees, and attorneys’ fees. Both parties shall share equally in the payment of the arbitrators’ fees as and when billed by the arbitrators.

(f) Arbitration Confidentiality. Except as set forth below, the parties shall keep confidential the fact of the arbitration, the dispute being arbitrated, and the decision of the arbitrators. Notwithstanding the foregoing, the parties may disclose information about the arbitration to persons who have a need to know, such as directors, trustees, management employees, witnesses, experts, investors, attorneys, lenders, insurers, and others who may be directly affected. Additionally, if a party has stock that is publicly traded, the party may make such disclosures as are required by applicable securities laws. Further, if a party is expressly asked by a third party about the dispute or the arbitration, the party may disclose and acknowledge in general and limited terms that there is a dispute with the other party that is being (or has been) arbitrated. Once the arbitration award has become final, if the arbitration award is not promptly satisfied, then these confidentiality provisions shall no longer be applicable.

(g) Patents. There shall be no arbitration of issues of the validity, infringement or enforceability of patents, copyrights or the Confidential Information of Alliance or Affiliate.

(h) Intellectual Property. Notwithstanding anything else herein, this section does not apply to any intellectual property rights of a Affiliate with respect to other Participants or third parties.

**7.3 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 Delaware without regard to its conflict of laws provisions. For the limited purposes of enforcement of this Agreement, the parties irrevocably consent to the exclusive personal jurisdiction (except as to actions for the enforcement of a judgment, in which case the jurisdiction will be non-exclusive) of the federal and state courts located in Delaware.

**7.4 Alternative Dispute Resolution Provisions**. In the event that any official policy adopted by Alliance provides for different dispute resolution procedures, the terms of such policy shall supersede the dispute resolution provisions set forth herein, to the extent of such difference, provided that such new terms are executed by Affiliate and limited to disputes with Alliance.

## **8. GENERAL**

**8.1 Definitions**. All capitalized terms used herein or in an Exhibit shall have the meaning assigned in the Bylaws.

**8.2 Amendment**. This Agreement may only be modified pursuant to a writing executed by Affiliate and Alliance.

**8.3 No Implied Joint Venture**. This Agreement does not create a joint venture, partnership or other form of business association between the Participants nor an obligation to develop, make available, use, license, buy, sell or provide any information, product, services or technology.

**8.4 Licenses and Permits**. Affiliate shall possess or obtain at its own expense all necessary licenses or permits.

**8.5 Enforceability and Interpretation**. If any provision of this Agreement is held for any reason to be invalid or unenforceable, the remaining provisions of this Agreement will be unimpaired and, unless a modification or replacement of the invalid or unenforceable provision is further held to deprive a party of a material benefit, in which case the Agreement will immediately terminate, the invalid or unenforceable provision will be replaced with a provision that is valid and enforceable and that comes closest to the parties' intention underlying the invalid or unenforceable provision. The headings in this Agreement are for reference only. They will not affect the meaning or interpretation of this Agreement.

**8.6 Limitation of Liability**. No party shall bear any responsibility or liability for any losses arising out of any delay or interruption of its performance of obligations under this Agreement due to any act of God, act of governmental authority, or due to war, flood, civil commotion, labor difficulty, severe or adverse weather conditions, lack or shortage of electrical power malfunctions of equipment or software programs or any other cause beyond the reasonable control of the party delayed. All documents, software and any other materials and information submitted by a Participant to Alliance, or to another Participant under this Agreement, are provided on an "AS IS" basis, and NO PARTICIPANT MAKES ANY WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF NON-INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHT OF ANY

THIRD PARTY, PARTICIPANT OR THE ALLIANCE, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. NONE OF THE PARTICIPANTS, NOR ALLIANCE, WARRANT OR ASSUME ANY LIABILITIES IN CONNECTION WITH THE RIGHTS GRANTED, NOR THE ACTIONS ANTICIPATED OR TAKEN UNDER THIS AGREEMENT. WITH RESPECT TO ALLIANCE OR A PARTICIPANT'S PARTICIPATION IN ALLIANCE, IN NO EVENT SHALL ANY PARTICIPANT BE LIABLE TO ANY OF THE OTHER PARTICIPANTS OR TO ALLIANCE, AS APPLICABLE, NOR SHALL THE ALLIANCE BE LIABLE TO ANY PARTICIPANT FOR ANY LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF USE OF DATA, INTERRUPTION OF BUSINESS, OR FOR DIRECT, INDIRECT, SPECIAL OR EXEMPLARY, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.

**8.7 Waiver.** No approval, consent or waiver will be enforceable unless signed by the granting party. Failure to insist on strict performance or to exercise a right when entitled does not prevent a party from doing so later for that breach or a future one.

**8.8 Counterparts.** This Agreement may be executed in two (2) counterparts, each of which shall be deemed an original, but both of which together shall constitute one and the same instrument.

**8.9 Effectiveness.** This Agreement shall come into effect when the Executive Director of the Alliance has received a signed copy of this Agreement and all required dues from Affiliate. At such time, the Executive Director of the Alliance shall promptly countersign this Agreement and transmit a countersigned copy of the Agreement to Affiliate.

**8.10 Integration.** This Agreement, including all the Exhibits and policies referenced herein and executed by the parties if not provided as Exhibits hereto constitutes the entire agreement between Affiliate and the Alliance concerning this subject matter. Notwithstanding the foregoing, Affiliate shall be obligated to observe and comply with all policies of the Alliance, and receive all the benefits of such policies, as delineated in Section 3.2.

ACCEPTED AND AGREED TO:

**Thread Group, Inc.**

**Affiliate:**

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ADDRESS:

ADDRESS:

2603 Camino Ramon, Suite 200  
San Ramon, CA 94583  
USA

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\_\_\_\_\_  
\_\_\_\_\_

## **EXHIBIT 1: ALLIANCE CORPORATE DOCUMENTS**

The following alliance corporate documents are accessible on the Thread Group, Inc. website [www.threadgroup.org](http://www.threadgroup.org) and linked below:

- [Articles of Incorporation](#)
- [Bylaws](#)

A PDF copy of these documents will be provided upon request to [help@threadgroup.org](mailto:help@threadgroup.org).

## **EXHIBIT 2: ALLIANCE IP POLICY**

The Intellectual Property and Confidentiality Policy (IP Policy) is accessible on the Thread Group, Inc. website [www.threadgroup.org](http://www.threadgroup.org) and linked below:

- [IP Policy](#)

A PDF copy of this document will be provided upon request to [help@threadgroup.org](mailto:help@threadgroup.org).

### **EXHIBIT 3: ALLIANCE ANTITRUST GUIDELINES**

The Antitrust Policy is accessible on the Thread Group, Inc. website [www.threadgroup.org](http://www.threadgroup.org) and linked below:

- [Antitrust Policy](#)

A PDF copy of this document will be provided upon request to [help@threadgroup.org](mailto:help@threadgroup.org).