

TRADEMARK TERMS AND CONDITIONS

OPEN NETWORKING FOUNDATION

(An Oregon Nonprofit Corporation)

These Trademark Terms and Conditions (“**Trademark Terms**”) are a legal agreement between the entity identified in the signature block below (“**Licensee**”) and the Open Networking Foundation (“**ONF**”). These Trademark Terms apply to all uses of the ONF Marks (as defined herein) by Licensee and are effective as of the last date of the parties’ signatures below (“**Effective Date**”).

SECTION 1 DEFINITIONS

SECTION 1.1 “**Confidential Information**” means various trade secrets and confidential information of the parties, including without limitation, marketing plans, technical information, know-how, ideas, designs, drawings, specifications, techniques, programs, systems, and processes.

SECTION 1.2 “**Branded Offering**” means any products marketed or sold by Licensee bearing an OpenFlow Trademark, as set forth in Section 3 below.

SECTION 1.3 “**By-Laws**” means the then-current by-laws adopted by ONF.

SECTION 1.4 “**ONF Member Trademark**” means the logos adopted by ONF from time to time to identify ONF Members. The ONF Member Trademark includes the ONF Founding Member Trademark, but only to the extent Licensee is in fact a founding member in good standing of ONF, as defined in the By-Laws.

SECTION 1.5 “**ONF Founding Member Trademark**” means the logos adopted by ONF from time to time to identify founding Members of ONF.

SECTION 1.6 “**ONF Design Trademark**” means the logos adopted by ONF from time to time to identify the ONF and its activities.

SECTION 1.7 “**ONF Marks**” mean the ONF Member Trademark, the ONF Design Trademark, and the OpenFlow Trademarks.

SECTION 1.8 “**OpenFlow Trademarks**” means the word mark or logos adopted by ONF from time to time to indicate compliance with the OpenFlow Protocol.

SECTION 1.9 “**OpenFlow Test Suite**” means the tests, tools and documentation developed by ONF and intended to measure whether the Branded Offering is compliant with the OpenFlow Protocol.

SECTION 1.10 “**OpenFlow Protocol**” means the OpenFlow protocol adopted by ONF as described in the By-Laws.

SECTION 1.11 “**Member**” means a member of the ONF as long as it remains a member.

SECTION 2 TRADEMARK LICENSING

SECTION 2.1 **OpenFlow Trademarks.** During the Term (defined below) and subject to these Trademark Terms, ONF grants to Licensee a non-exclusive, non-transferable, non-sublicensable, worldwide, revocable, royalty-free license to use the OpenFlow Trademarks: (i) on its Branded Offerings for purposes of placing the OpenFlow Trademarks on its Branded Offerings and/or on packaging and marketing materials related to the Branded Offerings; and (ii) on Licensee's website related to its Branded Offerings. No other right, title or license is granted hereunder.

SECTION 2.2 **Other ONF Marks.** During the Term and subject to these Trademark Terms, ONF grants to Licensee, but only to the extent Licensee is a Member (a "**Licensee Member**"), a non-exclusive, non-transferable, non-sublicensable, worldwide, revocable, royalty-free license to use the ONF Design Trademark and ONF Member Trademark to indicate or publicize its membership in ONF in any reasonable manner, such as on the Licensee Member's website or in marketing collateral. If the Licensee Member uses the ONF Design Trademark or the ONF Member Trademark on its website, the Licensee Member shall cause the representation thereof to link to the ONF website at <https://www.opennetworking.org/>. For the avoidance of doubt: (i) the ONF Design Trademark and/or the ONF Member Trademark must not be used on the Licensee Member's business cards, letterhead, or promotional materials; and (ii) the Licensee Member must not use the ONF Design Trademark and/or the ONF Member Trademark in e-mail signatures. The license granted in this Section 2.2 includes the right to use the ONF Founding Member Trademark as authorized in this Section 2.2, but only to the extent the Licensee Member is a founding member of ONF in good standing, as defined by the By-Laws.

SECTION 3 COMPLIANCE WITH PROTOCOL

SECTION 3.1 The license rights granted in Section 2.1 above in connection with the use of the OpenFlow Trademark are subject to Licensee's strict compliance with the requirements of this Section 3.

SECTION 3.2 Each Branded Offering released by Licensee must be compliant with the OpenFlow Protocol, as determined in ONF's sole and absolute discretion. Branded Offerings shall be tested against the OpenFlow Test Suite, or such other requirements promulgated by ONF from time to time to demonstrate compliance with the OpenFlow Protocol. More information regarding the testing of Branded Offerings may be obtained at ONF's website, <https://www.opennetworking.org/>, or by contacting ONF administration at: info@opennetworking.org. Licensee shall strictly comply with all ONF procedures for verifying such compliance, including without limitation, verifying such compliance in writing to ONF in writing prior to Licensee's release of the applicable Branded Offering. Licensee shall further keep a record of the basis for determination of its compliance and make that record available to the ONF upon request. ONF shall further have the right to review and inspect Licensee's Branded Offerings and Licensee shall provide to ONF, at ONF's request, commercially available samples of such Branded Offerings.

SECTION 4 PROPER USAGE

SECTION 4.1 **Usage Guidelines.** Each Licensee, including Member Licensees, must strictly adhere to any trademark usage guidelines for the ONF Marks, as promulgated by ONF from time to time (the “**Usage Guidelines**”). Such Usage Guidelines may be updated from time to time in accordance with its By-Laws and Licensee shall follow any updated Usage Guidelines upon their adoption and issuance by ONF.

SECTION 4.2 **Attribution.** Licensee shall display the ONF Marks only in a positive manner. Licensee will not use the ONF Marks in any way that disparages ONF, its products or services, or in any manner which would diminish or otherwise damage ONF’s goodwill, including, but not limited to, uses which could be deemed to be obscene, pornographic, excessively violent, or otherwise in poor taste or unlawful, or which purpose is to encourage unlawful activities.

SECTION 4.3 **No Alteration or Modification.** Licensee may not alter or modify the ONF Member Trademark, the ONF Design Trademark, or the logo version of the OpenFlow Trademark, or allow others to do so, except that Licensee may proportionally resize such marks in accordance with the Usage Guidelines. The license rights granted herein are applicable only to the versions of the ONF Marks provided by ONF in electronic form; use of any artwork or graphic files from any other source is prohibited.

SECTION 5 OWNERSHIP OF TRADEMARKS

SECTION 5.1 Licensee acknowledges ONF’s exclusive rights to the ONF Marks and all goodwill associated therewith, and further acknowledges that any and all use by Licensee of the ONF Marks inures to the sole benefit of ONF. Licensee shall not challenge ONF’s exclusive ownership rights in and to the ONF Marks, nor take action inconsistent with ONF’s rights in the ONF Marks. Licensee shall not adopt, use, apply to register and/or register as its own trademark(s) any word(s) or design(s) confusingly similar to or that dilute(s) the ONF Marks for any product and/or service. If at any time Licensee acquires any rights in, or registrations or applications for, the ONF Marks, whether by operation of law or otherwise, it will immediately upon request by ONF and at no charge to ONF, assign such rights, registrations, or applications to ONF, along with any and all associated goodwill.

SECTION 6 TERM AND TERMINATION OF TRADEMARK LICENSE

SECTION 6.1 **Term.** These Trademark Terms shall extend from the Effective Date until terminated pursuant to these Trademark Terms (the “**Term**”).

SECTION 6.2 **Termination.** The parties further agree that these Trademark Terms may be terminated as follows:

(i) Should Licensee violate these Trademark Terms, Licensee shall have thirty (30) calendar days to correct such violation following written notice from ONF (the “**Cure Period**”). Should Licensee fail to correct such violation within the Cure Period, then these Trademark Terms will immediately terminate upon written notice from ONF.

(ii) Immediately upon termination, expiration or cancellation of Licensee’s

membership in ONF, to the extent Licensee is a Licensee Member.

(iii) Upon thirty (30) days advance written notice by Licensee.

SECTION 6.3 Effect of Termination. Upon cancellation, expiration or termination of these Trademark Terms (the “**Termination Date**”), all rights granted hereunder shall immediately and automatically terminate. Upon the Termination Date, Licensee shall immediately cease all use of the ONF Marks; provided, however, that Licensee will have sixty (60) calendar days from the Termination Date to sell any Branded Offerings that were manufactured prior to the Termination Date.

SECTION 7 DISCLAIMERS; LIMITATION OF LIABILITY

SECTION 7.1 Disclaimers. THE ONF MARKS ARE PROVIDED “AS-IS” AND WITHOUT ANY REPRESENTATION OR WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF NONINFRINGEMENT OR OF THE TITLE OR VALIDITY OF ONF’S RIGHTS IN THE ONF MARKS, IN ANY COUNTRY, AND ONF EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES THAT MIGHT OTHERWISE BE IMPLIED BY APPLICABLE LAW. FURTHERMORE, ONF MAKES NO REPRESENTATIONS OR WARRANTIES THAT ANY BRANDED OFFERING IS COMPLIANT WITH THE OPENFLOW PROTOCOL OR THAT THE USE OF ANY BRANDED OFFERING WILL BE ERROR FREE, ACCURATE, OR UNINTERRUPTED.

SECTION 7.2 Limitation of Liability. ONF ITSELF, ITS MEMBERS, AND THEIR RESPECTIVE AFFILIATES WILL HAVE NO LIABILITY FOR ANY DAMAGES, INCLUDING WITHOUT LIMITATION ANY LIABILITY FOR ANY DIRECT, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION, LOST PROFITS), INCURRED BY ANY PARTY ARISING OUT OF OR RELATED TO THESE TRADEMARK TERMS OR THE USE OR EXPLOITATION OR ANY ATTEMPTED USE OR EXPLOITATION OF THE ONF MARKS LICENSED HEREUNDER, WHETHER IN CONTRACT, TORT OR OTHERWISE AND EVEN IF ONF HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

SECTION 8 REPRESENTATIONS AND WARRANTIES; INDEMNITY

SECTION 8.1 Representations and Warranties. Licensee covenants, represents and warrants to ONF that: (i) Licensee shall comply with all applicable laws and regulations in its advertising, promotion, display and use of the ONF Marks; (ii) Licensee’s use of the ONF Marks is and shall remain in strict compliance with these Trademark Terms and the Usage Guidelines, as amended from time to time; and (iii) Licensee’s Branded Offerings are in compliance with the OpenFlow Protocol.

SECTION 8.2 Indemnity. Licensee agrees to indemnify ONF for, from and against all loss, cost, liability and expense incurred by ONF that arises out of or relating to any claim or allegation: (i) regarding the inaccuracy or violation of any of the representations, warranties or covenants contained in Section 8.1 above; (ii) concerning Licensee’s use of any of the ONF Marks not in accordance with these Trademark Terms and the Usage Guidelines, as amended from time to time; (iii) concerning Licensee’s marketing, advertising, promotion, endorsement

or sale of any products and/or platform (including software); or (iv) arising out of Licensee's Branded Offering; provided, however, that in no event shall Licensee be required to indemnify ONF in connection with any claim alleging the invalidity of the ONF Marks or any claim that the ONF Marks infringe the rights of a third party, ONF agrees to provide Licensee with prompt notice of any such claims and shall provide Licensee with reasonable assistance (at Licensee's expense) in the defense or settlement of such claims.

SECTION 9 PROTECTION OF INTEREST

SECTION 9.1 Notification of Unauthorized Use. In the event Licensee: (i) becomes aware of any unauthorized use of the ONF Marks by a third party or a third party licensee; or (ii) has an objectively reasonable belief that the use of the ONF Marks by a third party licensee is noncomplying, Licensee shall promptly notify ONF in writing, and shall provide reasonable cooperation, at ONF's expense, in any enforcement of ONF's rights against such third party or a third party licensee. The right to enforce ONF's rights in the ONF Marks rests entirely with ONF and shall be exercised in ONF's sole discretion. Licensee shall not commence any action or claim to enforce ONF's rights in the ONF Marks.

SECTION 9.2 Third Party Challenge. In the event that a third party challenges any use by Licensee of any ONF Marks which Licensee is authorized to use hereunder, Licensee shall immediately notify ONF in writing. ONF shall undertake and conduct the defense of such a challenge and Licensee shall not enter into any discussions, negotiations, or settlements, or any other action pertaining to said challenge without the express written consent of ONF. ONF or the Licensee may immediately terminate these Trademark Terms in the event that a challenge to the ONF Marks is brought against Licensee and Licensee agrees to cooperate fully with ONF, at ONF's expense, in the event such a challenge is brought.

SECTION 10 CONFIDENTIALITY

SECTION 10.1 Use and Non-Disclosure. During the Term, ONF and Licensee may have access to and/or become acquainted with Confidential Information of the other. Except as otherwise provided for herein, neither party shall: (i) use the disclosing party's Confidential Information for any purpose other than as authorized by these Trademark Terms without the prior written authorization of the other; or (ii) disclose the disclosing party's Confidential Information to any other person or entity without the prior written authorization of the other, other than those directors, officers, employees, agents and representatives of the party having a bona fide need to know such information and who are likewise bound by confidentiality obligations at least as restrictive as those set forth herein.

SECTION 10.2 Exceptions. The confidentiality obligations imposed by these Trademark Terms shall not apply to: (i) information that becomes part of the public domain through lawful means and without breach of any confidentiality obligation; (ii) information subsequently and rightfully received by either ONF or Licensee from third parties without any obligation of confidentiality; (iii) information that was known to and reduced to writing by the ONF or Licensee prior to the Effective Date; (iv) information that is independently developed by Licensee or ONF without use of or reference to any Confidential Information of the disclosing party; (v) information required to be disclosed by compulsory judicial or administrative process or by law or regulation; and (vi) information that is the subject of a written permission to disclose between Licensee and ONF.

SECTION 10.3 Return of Materials. Upon either party's request, or upon the termination of these Trademark Terms, all materials containing Confidential Information shall be returned to the disclosing party. The obligations concerning Confidential Information set forth herein shall survive the termination of these Trademark Terms.

SECTION 11 MISCELLANEOUS

SECTION 11.1 No failure to exercise, nor any delay in exercising or invoking any right or remedy under these Trademark Terms by ONF shall operate as a waiver thereof, nor shall any single or partial exercise or invoking of any right or remedy prevent any further exercise thereof or the exercise or invoking of any other right or remedy.

SECTION 11.2 If any term or condition of these Trademark Terms is or becomes invalid or unenforceable, the validity or enforceability of any other term or condition of these Trademark Terms shall not be affected and such invalid or unenforceable term or condition shall be enforced to the maximum extent permitted by law and completed by a valid interpretation of such term or condition, which to the extent possible, achieves the original purpose of the invalid or unenforceable term or condition.

SECTION 11.3 Licensee recognizes and acknowledges that the breach of any of its covenants, agreements, undertakings, terms or conditions hereunder may cause ONF irreparable damage, which cannot be readily remedied by monetary damages in an action at law, and may, in addition thereto, constitute a violation of ONF's trademark rights and rights under the laws of unfair competition. In the event of any default or breach by Licensee, including any action by Licensee that could cause some loss or dilution of ONF's goodwill, reputation, or rights in the ONF Marks, ONF shall be entitled to seek an immediate injunction in addition to any other remedies available, to stop or prevent such irreparable harm, loss, or dilution.

SECTION 11.4 These Trademark Terms shall be governed by the laws of the State of California, USA, excluding its choice of law provisions.

SECTION 11.5 Any dispute arising out of or related to these Trademark Terms will be subject to the exclusive jurisdiction of the state and federal courts located in Santa Clara County, California.

SECTION 11.6 These Trademark Terms thereto constitute the entire agreement between the parties concerning the subject matter hereof and supersedes all proposals, oral or written, all negotiations, conversations, and/or discussions between the parties relating to the License.

IN WITNESS WHEREOF, the parties, by their duly authorized representatives, have executed these Trademark Terms.

ONF

LICENSEE

Open Networking Foundation

By:

By:

Title:

Title:

Date:

Date: