

Open Trusted Technology Provider™ Standard (O-TTPS) Certification Program

O-TTPS Recognized Assessor Agreement

January 2017, Version 1.1

This O-TTPS Recognized Assessor Agreement (“Agreement”) is entered by and between the following Parties: The Open Group, L.L.C. (“The Open Group”) and the O-TTPS Recognized Assessor described in Clause 1.10 below and more particularly described in the signature section of this Agreement.

Background:

1. The Open Group is the Certification Authority that manages the day-to-day operations of the O-TTPS Certification Program (“Certification Authority”), in accordance with the policies defined in the O-TTPS Certification Policy that may be found at <http://ottps-cert.opengroup.org> (“Policy”).
2. Organizations applying for the Third-Party Assessed Tier of the O-TTPS Certification Program must submit their Evidence of Conformance along with other documents required by the Policy to an O-TTPS Recognized Assessor to determine whether conformance to the Conformance Requirements is demonstrated for the declared Scope of Certification.
3. The O-TTPS Recognized Assessor, party to this Agreement, has submitted evidence to The Open Group that it meets the criteria defined in this document, to become one.
4. This Agreement enables the O-TTPS Recognized Assessor to perform Assessment, in accordance with the O-TTPS Certification Program, for the applicant Organization(s) with which they contract and which is not party to this Agreement, but which is separately party to an O-TTPS Certification Agreement with the Certification Authority (“Purpose.”).

The Parties agree as follows:

1. Definitions. As used in this Agreement, the terms “Agreement”, “The Open Group”, “Certification Authority” “Policy” and “Purpose” will have the meanings indicated above. Additional defined terms are as follows:
 - 1.1. Certification Package Document. The document in which the Organization defines the relationship between each Conformance Requirement and the Evidence of Conformance; it is also where the Assessor subsequently records the Assessment findings and provides the Assessment Report.
 - 1.2. Conformance Requirements. The O-TTPS requirements that an Organization must meet in order to demonstrate conformance to the O-TTPS. Those requirements are declared in the Conformance Requirements document.
 - 1.3. Assessment. The mandatory use of the Assessment Procedures to inspect an Organization’s Evidence of Conformance and Certification Package Document, together with additional information as required, in order to recommend conformance to the Conformance Requirements for the declared Scope of Certification.

- 1.4. Assessment Procedures. A set of mandatory processes and procedures uniformly applied by the Assessor to determine conformity to the Conformance Requirements.
 - 1.5. Assessment Report. The outcome of the Assessment as documented in the Certification Package Document by the Assessor and signed by both the Organization and the Assessor.
 - 1.6. Assessor. An individual or team of individuals within an O-TTTPS Recognized Assessor organization who meets the criteria for performing Assessments for the O-TTTPS Certification Program as specified in this O-TTTPS Recognized Assessor Agreement, and who may perform Assessments of an Organization's Scope of Certification.
 - 1.7. Confidential Information. Confidential or proprietary information relating to the Purpose of this Agreement including that of the Organization not party to this agreement for which the disclosing party is authorized to share with the receiving party and, in such case, the receiving party is bound to keep confidential.
 - 1.8. Evidence of Conformance. Evidence submitted to the Assessor performing the Assessment to demonstrate conformance to the Conformance Requirements within an Organization's declared Scope of Certification.
 - 1.9. Organization. A vendor, provider, supplier, or integrator that is interested in applying for certification, has applied for certification, or that has achieved certification in the O-TTTPS Certification Program.
 - 1.10. O-TTTPS Recognized Assessor. The entity that has met the O-TTTPS Recognized Assessor criteria defined in this O-TTTPS Recognized Assessor Agreement, has entered into this O-TTTPS Recognized Assessor Agreement with the Certification Authority, and makes available Assessors to perform Assessments of Organizations for the purpose of O-TTTPS certification.
 - 1.11. Scope of Certification. A description by the Organization of the products, product lines, business units, and/or geographies, which optionally could encompass an entire organization, and for which O-TTTPS certification is being applied for or has been achieved.
2. Recognition and License. In consideration of the payments to be made in accordance with Clause 3.6 (Fees), and subject to Section 3 (O-TTTPS Recognized Assessor Obligations) and the execution of The Open Group Trademark License Agreement for O-TTTPS Recognized Assessors, The Open Group hereby grants recognition status unto O-TTTPS Recognized Assessor.

At all times during which O-TTTPS Recognized Assessor status is in place under this Agreement, The Open Group shall include O-TTTPS Recognized Assessor in its list of The Open Group O-TTTPS Recognized Assessors maintained at <http://ottps-cert.opengroup.org/recognized-assessors>.

3. O-TTTPS Recognized Assessor Obligations.

- 3.1. Eligibility. O-TTTPS Recognized Assessor warrants that:

- In performing O-TTTPS Assessment activities, it operates an accredited/certified management system for organizational processes including documentation management and record control, personnel training, resource management, internal auditing, and preventive and corrective actions
- It is, and will continue to be throughout the term of this Agreement, accredited/certified in at least one of the following standards that are acceptable for demonstrating this requirement to The Open Group:
 - ISO/IEC 17020: 2012: Conformity Assessment – Requirements for the operation of various types of bodies performing inspection,

- ISO/IEC 17021:2011: Conformity Assessment – Requirements for bodies providing audit and certification of management systems,
- ISO/IEC 17025:2005: General requirements for the competence of testing and calibration laboratories,
- Its accreditation/certification was obtained and will continue to be obtained from a certification body that itself is accredited by one of the recognized, internationally approved accreditation authorities operating under the mutual recognition agreements of the International Accreditation Forum (IAF), the International Laboratory Accreditation Cooperation (ILAC), or IQNet.

3.2. Assessor Activities and Assessment Procedures. Assessor shall perform the Assessment(s) in accordance with the Assessment Procedures that are found at <http://ottps-cert.opengroup.org>. O-TTPS Recognized Assessor shall have written procedures regarding the performance of O-TTPS Assessments, which instantiate the O-TTPS Assessment Procedures. Such written procedures, and any updates as necessitated and advised by the Certification Authority, must be made available for review by the Certification Authority, on request.

3.3. Personnel, Qualifications, and Training. In order to perform assessments for the O-TTPS Certification Program, O-TTPS Recognized Assessor shall ensure that its Assessors (employees and/or contractors) performing Assessments on its behalf have the experience, knowledge, and training in the Open Trusted Technology Provider™ Standard (O-TTPS), Certification Policy, and all the technical areas of the O-TTPS. These include the following criteria, satisfaction of which O-TTPS Recognized Assessor shall attest in writing to the Certification Authority:

3.3.1. Have been trained and have a minimum of 2 years' experience in performing process audits or assessment of process conformance to standards based upon review of process documentation and associated records of process implementation. Acceptable training and certifications are:

- ISO 9001 lead auditor
- ISO/IEC 27001 lead auditor
- CMMI-DEV appraisers
- ISO/IEC 15408 or Common Criteria evaluator with experience in evaluating life-cycle assurance requirements
- An ISO/IEC 19790 or FIPS 140-2 tester with experience in testing the process requirements of that standard

3.3.2. Have sufficient knowledge of:

- Supply chain management terminology and techniques
- Technical knowledge of O-TTPS Attributes (listed below): Education and training on these topics should be included in the Assessor personnel's training record.
- O-TTPS Attributes:

- PD_DES: Software/Firmware/Hardware Design Process
- PD_CFM: Configuration Management
- PD_MPP: Well-defined Development/Engineering Method Process and Practices
- PD_QAT: Quality and Test Management
- PD_PSM: Product Sustainment Management
- SE_TAM: Threat Analysis and Mitigation
- SE_RTP: Run-time Protection Techniques
- SE_VAR: Vulnerability Analysis and Response
- SE_PPR: Product Patching and Remediation

- SE_SEP: Secure Engineering Practices
- SE_MTL: Monitor and Assess the Impact of Changes in the Threat Landscape
- SC_RSM: Risk Management
- SC_PHS: Physical Security
- SC_ACC: Access Controls
- SC_ESS: Employee and Supplier Security and Integrity
- SC_BPS: Business Partner Security
- SC_STR: Supply Chain Security Training
- SC_ISS: Information Systems Security
- SC_CTM: Counterfeit Mitigation
- SC_MAL: Malware Detection

3.3.3. Have successfully passed The Open Group Assessor examination covering the O-TTPS and the O-TTPS Certification Program.

3.4. Conflict of Interest. In order to be able to conduct Assessments free of any conflicting interests that might affect its conclusions, O-TTPS Recognized Assessor shall have a written policy that:

3.4.1. Maintains separation between personnel performing Assessment activities and any personnel performing consulting for the same Organization for the same certification; and

3.4.2. Ensures the O-TTPS Recognized Assessor is independent of any ownership, leadership, or joint business endeavor with the Organization they are assessing.

3.5. Insurance. O-TTPS Recognized Assessor shall carry a minimum of USD \$1M professional liability insurance (or equivalent) per occurrence for coverage of risks reasonably satisfactory to The Open Group.

3.6. Fees. O-TTPS Recognized Assessor will pay the required O-TTPS Recognized Assessor fees as set by The Open Group, such as for registration, training, and re-qualification, as provided on the applicable web-based fee schedule at <http://ottps-cert.opengroup.org>, and subject to the following:

3.6.1. The fees are quoted net of all applicable taxes and duties that, where appropriate, will be payable in addition by the O-TTPS Recognized Assessor to The Open Group or to the relevant tax authorities as applicable.

3.6.2. The Open Group will charge the applicable O-TTPS Recognized Assessor fee during registration and annually thereafter.

3.6.3. Fees are payable in U.S. dollars.

3.6.4. Unless The Open Group has agreed alternative arrangements for payment, fees must be paid by credit card in advance.

3.6.5. Fees are non-refundable.

3.7. Re-qualification. O-TTPS Recognized Assessor agrees to re-qualification of their company as an O-TTPS Recognized Assessor every three (3) years.

3.8. Assessment Services. O-TTPS Recognized Assessor will use agreements of its choice with Organizations and shall be free to establish its own terms and conditions for assessment, including with regard to pricing, priorities, indemnities, etc., provided that such terms and conditions are not inconsistent with O-TTPS Recognized Assessor's obligations to The Open Group under this Agreement. O-TTPS Recognized Assessor's agreements with Organizations must explicitly:

3.8.1. Prevent, prior to written notification from the Certification Authority indicating the award of certification, both parties from disclosing publicly or to any third party, other than the Certification Authority, any information regarding the certification process or Assessment process for the declared Scope of Certification, including progress through the process, the Assessor's findings recorded in the Certification Package Document, and the Assessment Report,

3.8.2. Convey that O-TTPS Certification is granted only by The Open Group, as the Certification Authority, and that all assessments including successful assessments ARE NOT equivalent to certification by the Certification Authority.

3.9. Assessment Report. O-TTPS Recognized Assessor will promptly communicate the Assessment findings and Assessment Report to the Organization and the Certification Authority. Under no circumstances shall O-TTPS Recognized Assessor or its Assessors communicate or disclose to any other third party any results of Assessments. All records (e.g., documents submitted by the Organization) and Assessment documentation shall be maintained and made available to the Certification Authority upon request, for at least six (6) years from the date they are created or the maximum period permitted by local law if less than 6 years subject to approval of The Open Group which it shall not unreasonably withhold, provided that all such records shall be deemed to be Confidential Information as defined in Section 4 (Confidential Information) below.

3.10. Oversight by the Certification Authority. The Assessor must submit their Assessment findings and Assessment Report contained in the Certification Package Document to the Certification Authority in accordance with the Certification Policy.

If the Certification Authority believes the Assessor's findings, as recorded in the Certification Package Document, are insufficient then, in the interest of maintaining the quality and integrity of the program, the Certification Authority may require the Assessor to provide clarification or additional rationale to support their findings.

If the Certification Authority believes that any Assessor of the O-TTPS Recognized Assessor, is not following the Assessment Procedures correctly or otherwise not performing their O-TTPS Assessment responsibilities adequately, the Certification Authority has the right to require retraining of such Assessor and/or removal of the O-TTPS Recognized Assessor from the O-TTPS Recognized Assessor register.

3.11. Audit by the Certification Authority. The O-TTPS Recognized Assessor recognizes that compliance to the O-TTPS Recognized Assessor criteria defined in this document and the O-TTPS Assessment Procedures is of utmost importance to The Open Group in maintaining the quality and integrity of the O-TTPS Certification Program. O-TTPS Recognized Assessor agrees that the Certification Authority may conduct random audits of its Assessment activities, either by asking for information directly, in which case the O-TTPS Recognized Assessor shall cooperate and provide such information, or by obtaining information provided by a 3rd party or other means to the Certification Authority or its agents.

4. Confidential Information.

4.1. Notwithstanding Clauses 4.2 through 4.7 below, the Certification Authority, the O-TTPS Recognized Assessor, and its Assessors will hold confidential:

4.1.1. During the certification process, prior to the award of certification, all information relating to an Organization and the declared Scope of Certification;

4.1.2. The Assessor's findings recorded in the Certification Package Document, including the Assessment Report and any documents submitted by the Organization

4.1.3. Any information regarding unsuccessful attempts for certification.

Information regarding the details of the assessment process shall not be disclosed publicly, or to any third party other than the Organization, by or by any party acting on behalf of the Certification Authority, the O-TTPS Recognized Assessor, or its Assessors.

- 4.2. Either party may make available to the other its Confidential Information. As used in this Agreement, the term “Confidential Information” shall include only that information furnished, disclosed, or transmitted to one party by the other party, whether disclosed orally or in writing, which is identified by the disclosing party as being confidential or proprietary. Information first disclosed orally must be described in a letter or memorandum sent to the receiving party within twenty (20) days of such disclosure, identifying such Information as confidential and reciting the date and place of oral disclosure. Pending receipt of such letter or memorandum, the receiving party shall maintain the Confidential Information as confidential under this Agreement. However, the term “Confidential Information” shall not include any information which:
- 4.2.1. Is contained in a printed publication prior to the date of this Agreement;
 - 4.2.2. Is or becomes publicly known through no wrongful act or failure to act on the part of the receiving party;
 - 4.2.3. Is known by the receiving party without obligations of confidentiality at the time of disclosure by the disclosing party or becomes rightfully received by the receiving party from a third party without obligations of confidentiality;
 - 4.2.4. Is required to be disclosed by any applicable law or by order of any Court of competent jurisdiction or any government body, agency or regulatory body, to the extent of the required disclosure.
- 4.3. Each party agrees to receive all Confidential Information in confidence and to maintain such Confidential Information using the same degree of care used by it to protect its own confidential information of like importance, but in no event less than a reasonable degree of care.
- 4.4. Each party further agrees to disclose the Confidential Information only to its employees or contractors whose services are required in furtherance of the Purpose of this Agreement, and to require each of its employees and/or contractors to comply with the terms of this Agreement prior to the disclosure of such Confidential Information to them.
- 4.5. Limitation of Use. Each party shall use such Confidential Information only in connection with the furtherance of the O-TTPS Certification Program and shall make no further use, in whole or in part, of any such Confidential Information. Nothing in this Agreement, however, shall restrict the disclosing party from using, disclosing or disseminating such Confidential Information in any way.
- 4.6. Disclaimer. No rights or obligations other than those expressly recited herein are implied by this Agreement. In particular, no license is hereby granted directly or indirectly to the receiving party under any patent, copyright, trade secret or any other intellectual property right now held by, or which may be obtained by, or which is or may be licensable by the disclosing party. Further, with respect to any information regarding plans for future offerings of the disclosing party disclosed pursuant to this Agreement, the receiving party understands and agrees that such plans are subject to change without notice at any time and that the disclosing party shall have no obligation to execute such plans and should have no liability as a result of any change to such plans.

- 4.7. The obligations of each party and its employees under this Agreement shall expire six (6) years from the date the last item of such information is divulged to the other party hereunder, unless terminated earlier by prior written agreement of the parties.
5. Public Statements. Subject to Certification Authority's prior written approval, O-TTPS Recognized Assessor may publicly announce that it is an O-TTPS Recognized Assessor. Unless otherwise authorized by Certification Authority in writing, O-TTPS Recognized Assessor shall not make any other public statements regarding this Agreement or its terms.
 6. Assignment and Subcontracting. This Agreement may not be assigned by O-TTPS Recognized Assessor, nor shall O-TTPS Recognized Assessor subcontract any O-TTPS Assessment to any third party, without Certification Authority's prior written consent, which consent may be withheld for any or no reason. The Open Group may terminate this Agreement immediately without notice in the event of any attempted assignment or subcontract in violation of this Clause.
 7. Withdrawal of Status. Independent of its rights to termination of this Agreement as provided below, The Open Group reserves the right, by written notice, to suspend or withdraw O-TTPS Recognized Assessor's recognition status under this Agreement if at any time The Open Group reasonably believes that O-TTPS Recognized Assessor is not in material compliance with the terms of this Agreement or the O-TTPS Assessment Procedures. In such event, The Open Group shall provide the reason(s) for such suspension or withdrawal in such notice in reasonable detail. If The Open Group believes in its sole discretion that such reasons may be cured without jeopardizing the integrity of the O-TTPS Certification Program, it shall provide the O-TTPS Recognized Assessor with a reasonable opportunity to take such steps as The Open Group may specify to restore O-TTPS Recognized Assessor's authorized status under this Agreement.
 8. Actions Following Suspension or Withdrawal. O-TTPS Recognized Assessor acknowledges that maintaining the integrity of the O-TTPS Certification Program is of great importance to The Open Group, and therefore agrees that it shall not accept Assessment for O-TTPS Certification engagements from and after the date that it receives notice from The Open Group that its recognition status under this Agreement has been withdrawn or suspended until such time, if ever, as such recognition has been restored by The Open Group in its sole discretion.
 9. Non-exclusivity of Relationship. O-TTPS Recognized Assessor acknowledges that The Open Group intends to enter into agreements similar to this Agreement with other assessors and that such other assessors may also be listed as O-TTPS Recognized Assessors by The Open Group on its website.
 10. Independent Contractor Relationship. This Agreement establishes the terms upon which O-TTPS Recognized Assessor will act as an independent contractor to Organizations, but does not establish any partnership, fiduciary, employment or other relationship between The Open Group or any other Organization and O-TTPS Recognized Assessor.
 11. Indemnity.
 - 11.1. O-TTPS Recognized Assessor shall indemnify and hold The Open Group harmless in respect of any and all loss or damage to property, personal injury, or death and expenses (including legal costs) suffered by The Open Group, O-TTPS Recognized Assessor or any third party in consequence of any negligent act or omission or breach of statutory duty on the part of O-TTPS Recognized Assessor or any person engaged by them in any way arising out of or connected with the performance of this Agreement.

- 11.2. The Open Group shall indemnify and hold O-TTPS Recognized Assessor harmless in respect of any and all loss or damage to property, personal injury, or death and expenses (including legal costs) suffered by The Open Group, O-TTPS Recognized Assessor or any third party in consequence of any negligent act or omission or breach of statutory duty on the part of The Open Group or any person engaged by The Open Group (other than O-TTPS Recognized Assessor) in any way arising out of or connected with the performance of this Agreement.
- 11.3. Notwithstanding Clauses 11.1 and 11.2 above The Open Group's liability under or in relation to this Agreement and its obligation to indemnify the O-TTPS Recognized Assessor hereunder shall be limited, whether in contract, tort or otherwise, to the amount received by The Open Group from the O-TTPS Recognized Assessor in respect of the Assessment engagement to which the claim relates. In any event neither party shall be liable to the other party or be required to indemnify the other party for any indirect or consequential losses (including, without limitation, any loss of contracts, production, profits or use).
- 11.4. Nothing in this Agreement shall be interpreted as placing any limitation upon either party's liability at law for death or personal injury.

12. Term and Termination

- 12.1. This Agreement will commence and be effective on the date of the last signature by the parties and the initial term of this Agreement shall continue for a period of three (3) years, and shall be extended, subject to successful re-qualification for successive three-year periods (the "Term").
- 12.2. This Agreement may be terminated at any time upon six (6) months' written notice by either party to the other; or If a period of thirty (30) days has elapsed from one party notifying the other party of a breach of this Agreement or of the terms of the Certification Policy and Assessment Procedures, and such a breach has not been rectified to the satisfaction of the other party.
- 12.3. If either party (i) commits a breach of this Agreement or fails to discharge any of the obligations under this Agreement, and in the case of a breach capable of remedy fails to do so within thirty (30) days of receiving notice of such breach from the other party, or (ii) becomes bankrupt or goes into liquidation, or (iii) if a receiver is appointed in respect of the whole or any part of its assets, or (iv) if it makes an assignment for the benefit of or enters into a composition with its creditors generally or threatens to do any of the things specified in (ii), or (v) any judgement is made against it and remains unsatisfied for seven days, the other party shall be entitled to terminate this Agreement forthwith on written notice without prejudice to any rights that party may have in respect of such breach or failure.
- 12.4. Expiration or termination of this Agreement for whatever reason shall cause The Open Group to remove O-TTPS Recognized Assessor from its website register and O-TTPS Recognized Assessor, at its expense, shall immediately cease to make any use of the Trademarks and shall not make any claims of being an O-TTPS Recognized Assessor, whatsoever.
- 12.5. Notwithstanding the termination of this Agreement for any reason, the obligations of non-disclosure in respect of any Confidential Information disclosed prior to such termination shall survive for a period of six (6) years following such termination,
- 12.6. In the event of termination pursuant to this Section 12:
 - 12.6.1. Where a six-month termination notice has been advised by either party, O-TTPS Recognized Assessor shall not enter into new Assessment contracts with Organizations that it cannot foreseeably complete before the effective date of termination; or,

12.6.2. Where immediate termination for reasons pursuant to Clause 12.3 above, the Assessor may complete any incomplete Assessments, subject to the written request of the Organization to The Open Group, which it shall not unreasonably deny.

13. Notices. Any notice or other document to be given under this Agreement shall be in writing in the English language and sent by post or by email to the addresses set out in this Agreement or such other address as either party shall notify to the other in writing for this purpose. Notices shall be deemed to be effective upon receipt by the party to which notice is given or within the 5th day following the mailing or transmission, whichever occurs first.

14. General.

14.1. This Agreement including any documents referred to therein (as amended from time to time) sets forth the entire understanding and agreement between the parties as to the subject matter hereof and supersedes, cancels and merges all prior agreements, negotiations, commitments, writing and discussions between the parties as to the subject matter hereof. Neither of the parties shall be bound by any condition or representation with respect to such subject matter, other than as expressly provided in this Agreement, or as duly set forth in writing signed by a duly authorized representative of each party on or subsequent to the date of this Agreement.

14.2. This Agreement may not be modified, changed or discharged, in whole or in part, except by prior written agreement of the parties.

14.3. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of the remaining provisions of the Agreement.

14.4. No delay or omission by either party in exercising any right under this Agreement will operate as a waiver of that or any other right. A waiver or consent given by either party on any one occasion is effective only in that instance and will not be construed as a bar to or waiver of any right on any other occasion.

14.5. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts and the parties hereby submit to the non-exclusive jurisdiction of the Massachusetts courts.

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15. Execution

By signing below, the O-TTPS Recognized Assessor agrees to be bound by this O-TTPS Recognized Assessor Agreement, the Certification Policy, and the Assessment Procedures.

AGREED by the parties through their authorized signatories:

FOR AND ON BEHALF OF

FOR AND ON BEHALF OF

O-TTPS Recognized Assessor

The Open Group

Signed

Signed

Name

Name

Title

Title

Date

Date

Facsimile Number: _____

Facsimile Number: +1 240 250 6102

Email: _____

Email: legal@opengroup.org

Address: _____

800 District Avenue, Suite 150

Burlington, MA 01803, U.S.A.

Please complete and email (scanned/PDF) or fax a signed copy of this document to legal@opengroup.org.
The Open Group will countersign and return a fully executed copy to the email address or fax number provided above. If preferred, you may complete, sign and send this signature page.