

Sponsored Event:

Name: _____

Date: _____

Location: _____

LIBERTY ALLIANCE PROJECT INTEROPERABILITY NON-DISCLOSURE AGREEMENT

This Liberty Alliance Project Interoperability Non-disclosure Agreement ("Agreement") is by and between Liberty Alliance Project ("LAP"), a project of the IEEE Industry Standards and Technology Organization ("IEEE-ISTO"), a Delaware corporation, the Participant listed below having a principal place of business at the address listed below and all the Participants who sign this form of agreement and is effective as of the latest date set forth on the signature page hereof.

1. DEFINITIONS

"Confidential Information" shall mean all information provided at, pursuant to, for the purposes of or discovered or generated during the Sponsored Event, which is:

- (i) identified in written, electronic or oral format by the Disclosing Participant as confidential, trade secret or proprietary information at the time of disclosure, (provided that such information, if disclosed orally, must be summarized and designated as confidential in written format to the Receiving Participant within thirty (30) days of disclosure) or
- (ii) the Receiving Participant knows or has reason to know is confidential, trade secret or proprietary information of the Disclosing Participant

and includes, without limitation, the results of any testing performed or any verification status determined at the Sponsored Event.

Confidential Information includes, without limitation, any information of a third party which would otherwise fall under this definition.

"Disclosing Participant" shall mean a Participant disclosing Confidential Information.

"Participant" shall mean a party that attends and participates at a Sponsored Event and has entered into this Agreement, and also includes LAP.

"Receiving Participant" shall mean a Participant receiving Confidential Information.

“Sponsored Event” shall mean the event identified above and sponsored by LAP in which Participants exchange Confidential Information and perform testing in an effort to determine if a Participant’s product meets interoperability criteria as specified by LAP. An event can be a physical meeting where various parties are physically present, can be a virtual meeting where various parties interact by various telecommunication media or a combination of both.

2. PURPOSE AND USE

The purpose of this Agreement is to permit Participants at a Sponsored Event to disclose and receive information and software relating to technologies of the Participants of the Sponsored Event and to determine interoperability of implementations for potential certification. All Participants of the Sponsored Event must execute and abide by the terms and conditions of this Agreement. LAP shall maintain executed copies of this Agreement. A Receiving Participant may use the Confidential Information solely for the purpose of discussion and interoperability testing at the Sponsored Event and generating test reports and modifying Participant’s own technology or product to address identified interoperability problems.

3. DISCLOSURE

The Receiving Participant shall hold in confidence the Confidential Information, not disclose the Confidential Information to any third party, and will exercise the same amount of diligence in preserving the secrecy of that information as the diligence used in preserving the secrecy of the Receiving Participant’s own Confidential Information of like importance, but in no event less than reasonable diligence.

Notwithstanding the limitations on disclosure in the preceding paragraph, Participants shall be permitted to disclose the Confidential Information to other Participants who have executed this Agreement for purposes of the Sponsored Event. Participants may further disclose the Confidential Information internally and to their affiliates and consultants to those persons who:

- (i) need to know the Confidential Information;
- (ii) understand that they are bound by this Agreement;
- (iii) are bound by confidentiality obligations to the Participant which will in principle subsist for at least two years after the date of this Agreement; and
- (iii) can fulfill the obligations of this Agreement.

The Receiving Participant hereby warrants that any employee, subsidiary, affiliated entity or consultant to which Confidential Information is disclosed will be bound and will abide by the terms of this Agreement.

LAP shall be allowed to disclose the approved, passed, granted or similar status of any successful testing performed or certification status determined in or by the Sponsored Event, provided that such disclosure shall only be made with the written approval of the Participant or after disclosure of such status by Participant. Participant shall be allowed to disclose the approved, passed, granted or similar status of any successful testing performed or certification

status determined with respect to its implementation at or by the Sponsored Event, provided that such disclosure shall only be made after receiving written notification from LAP of such status. Except for the disclosures provided for in the preceding sentence, Participant shall not disclose any details of the testing done (including, without limitation, the identity of the other Participants against whom its implementation was tested) or the results of testing, other than as permitted under this Agreement for Confidential Information received from other Participants.

4. LIABILITY

The Receiving Participant shall be liable for:

- (i) any willful or inadvertent disclosure of Confidential Information, and
- (ii) any unauthorized disclosure of Confidential Information by persons or entities to whom the Receiving Participant under this Agreement has the right to disclose Confidential Information, except that the Receiving Participant shall not be liable for such inadvertent or unauthorized disclosure if it has exercised the same amount of diligence in preserving the secrecy of that information as the diligence used in preserving the secrecy of the Receiving Participant's own Confidential Information of like importance, but in no event less than reasonable diligence, and, upon becoming aware of such disclosure, notified the Disclosing Participant thereof and taken reasonable measures to mitigate the effects of such disclosure and to prevent any further disclosure.

In the event of a breach of this Agreement, the Disclosing Participant may take any and all actions available under law against the Receiving Participant.

5. EXCEPTIONS TO CONFIDENTIAL INFORMATION

The Receiving Participant shall have no obligation with respect to information which:

- (i) was lawfully in the possession of or known to the Receiving Participant without any obligation of confidentiality prior to receiving it from the Disclosing Participant;
- (ii) is, or subsequently becomes, legally and publicly available other than by the Receiving Participant's breach of this Agreement;
- (iii) becomes publicly available by action of the Disclosing Participant;
- (iv) is lawfully obtained by the Receiving Participant from a source other than the Disclosing Participant not under any obligation of confidentiality to the Disclosing Participant;
- (v) is developed by or for the Receiving Participant without use of the Confidential Information, provided such independent development can be shown by documentary evidence;
- (vi) is disclosed by the Receiving Participant pursuant to a valid order issued by a court or government agency, provided that the Receiving Participant provides to the Disclosing Participant:
 - (a) prior written notice of such obligation,
 - (b) the opportunity to limit or oppose such disclosure or obtain a protective order, and
 - (c) reasonable cooperation with Disclosing Participant's efforts to limit or oppose such disclosure or obtain a protective order

The terms of confidentiality under this Agreement shall not be construed to limit the Participant's right to independently develop or acquire products without use of the Confidential Information.

6. DISCLAIMER

Each Participant shall retain all right, title and interest to such Participant's Confidential Information and all intellectual property rights fixed, embodied, or otherwise subsisting therein or arising therefrom, and in all works, inventions, discoveries, know-how, techniques, processes, methods, systems, ideas and other elements thereof. No license under any trademark, patent or copyright, or other recognized intellectual property rights, or applications for the same which are now or thereafter may be obtained by such Participant is either granted or implied by this Agreement or the disclosure of Confidential Information hereunder, except for the limited purposes contemplated hereby and as otherwise provided herein. None of the Confidential Information disclosed by the Disclosing Participant constitutes any representation, warranty, assurance, guarantee or inducement by Disclosing Participant to any other Participant with respect to the infringement of trademarks, patents, copyrights; any right of privacy; or any rights of third persons.

7. TERM

This Agreement shall continue from the date last written below for a period of two (2) years.

8. GENERAL

This Agreement represents the entire agreement between the parties hereto pertaining to the subject matter of this Agreement, and supersedes any and all prior oral discussions and/or written correspondence or agreements between IEEE-ISTO and/or LAP and Disclosing Participant with respect thereto. Any waiver of any of the requirements in this Agreement must be in writing and should not in any way be deemed a waiver to enforce any other requirements or provisions of this Agreement. If any provision of this Agreement is deemed unenforceable, then such provision will be severed from this Agreement and the remaining provisions will remain in full force and effect

9. GOVERNING LAW

This Agreement will be governed by the laws of the State of New York and the applicable federal laws without reference to conflict of laws principles and the courts of New York shall have exclusive jurisdiction for all matters arising under this Agreement.

IN WITNESS WHEREOF, the duly authorized representatives of the Participants have executed this Agreement.

PARTICIPANT:

LAP:

By: _____

By: _____

Name: _____
(please print)

Name: _____

Title: _____

Title: _____

Company: _____

Date: _____

Date: _____

Signature: _____

Signature: _____

Address: _____

Please return the executed Agreement to:

Liberty Alliance Project
445 Hoes Lane
Piscataway, NJ 08854 USA
Tel: +1 732 465 6475
Fax: +1 443 647 0099
Email: info@projectliberty.org

A copy of the executed Agreement will be returned to the Participant for its records.