



DIGITAL TWIN CONSORTIUM

MEMBERSHIP AGREEMENT AND TERMS

1.0 INTRODUCTION

1. All references to the Digital Twins Consortium (“DTC”) in this application shall be deemed to refer to the DTC program of Object Management Group, Inc., a 501(c)(6) tax-exempt organization (“OMG”), which operates pursuant to its bylaws (the “DTC Bylaws”).
2. By submitting below, you (“Member”) agree that this membership agreement (“Agreement”) represents a binding contract between Member and OMG and (i) commits Member’s organization to comply with such rules and policies as OMG’s Digital Twin Consortium (“DTC”) may from time to time adopt (subject to Sections 2.3 and 3.7 below), and (ii) commits OMG to comply with the DTC Bylaws, as in effect May 5, 2020, as they may be amended in accordance with those Bylaws, *except to the extent any such amendment modifies the rights or responsibilities of OMG and is not approved by OMG.*
3. Member will enjoy the rights and benefits, and be subject to the duties, established from time to time for DTC members only (see Section 2.2 below). Membership in the DTC is renewable on the anniversary of initial application (unless Member has made a longer-term commitment). Members are expected to comply with all applicable laws and regulations, including U.S. laws regarding antitrust.
4. As a program of OMG, the DTC shall operate in a manner consistent with OMG's purposes and tax-exempt status, subject to the terms of the DTC Bylaws. The activities of the DTC, and Member’s participation in the DTC, do not constitute the activities of a separate association or establish a partnership among DTC members.

2.0 MEMBERSHIP RIGHTS AND OBLIGATIONS

1. **Generally.** Member agrees to pay the annual fees established for its DTC Membership Level, as these may be amended from time to time by the DTC Steering Committee (the

“Steering Committee”). Dues are yearly and payment is required upon signing (to activate membership) and upon the effective date of renewal. OMG will bill Member for dues in advance by written invoice, and payment will be due within thirty (30) days of mailing. No refunds of Membership fees or other payments will be given.

2. **Relation to OMG.** For clarification, membership in the DTC does not establish Member as a member of OMG and, except as may be expressly provided in OMG’s own policies and procedures, does not give Member any rights or privileges of an OMG member, or grant Member any ownership rights in or (except as set forth herein) any other rights with regard to the DTC program.
3. **Compliance with Policies.** Member agrees to abide by, and shall have all applicable rights and obligations as set forth in, the DTC Bylaws, the OMG Privacy Policy, and any and all additional policies and procedures adopted for the DTC, as these may be amended from time to time, all of which are hereby incorporated by reference (collectively, the “DTC P&Ps”).
4. **Suspension and Termination.** The Steering Committee may suspend or terminate the membership of Member as follows:
 - 4.1 **Failure to Renew Membership.** If Member fails to pay owed dues within sixty (60) days after a written notification of delinquency is delivered to Member, the Steering Committee by majority vote may elect either to suspend Member or terminate its membership.
 - 4.2 **Resignation.** If Member provides written notice of resignation to the DTC, its membership is terminated fifteen (15) days from the date that written notice is received by the DTC.
 - 4.3 **Violation of Policies or Duties of Membership.** If the Steering Committee unanimously (except for the Steering Committee voting member appointed by Member) finds that Member—after Member has had notice and opportunity to be heard on the issue—has violated any material provision of the Bylaws, this Agreement, or other DTC policies or procedures.
 - 4.4 **Member’s Dissolution.** If Member dissolves, its membership will be deemed terminated as of the dissolution date unless transferred to a successor (pursuant to section 2.5 of the DTC Bylaws).
 - 4.5 **No Refund.** If Member is terminated it shall not receive any refund of dues already paid for the current dues period regardless of the basis for termination.

3.0 GENERAL

1. **Authority to Form Agreement.** The person entering into this Agreement on behalf of Member hereby represents, warrants and covenants to the DTC that (a) it has the authority to enter into this Agreement and to perform its obligations hereunder; (b)

entering and performing this Agreement does not and will not violate any agreement to which Member is a party or by which it is otherwise bound; and (c) when executed and delivered or otherwise accepted by the Member, this Agreement will constitute a legal, valid and binding obligation of Member, enforceable in accordance with its terms.

2. **No Other Licenses.** By entering this Agreement, Member neither grants nor receives, by implication, estoppel, or otherwise, any rights under any copyright, patents or other intellectual property rights of OMG, the DTC or another member, except as expressly provided in the DTC P&Ps (e.g., the DTC's right to use the Member's name to indicate the Members' participation in the DTC).
3. **No Warranty.** EACH PARTY ACKNOWLEDGES THAT, EXCEPT AS OTHERWISE AGREED IN WRITING, ALL SERVICES AND INFORMATION PROVIDED TO OR BY OMG (OR THE DTC PROGRAM) IS PROVIDED "AS IS" WITH NO WARRANTIES OR CONDITIONS WHATSOEVER, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND OMG AND MEMBER EACH EXPRESSLY DISCLAIM ANY WARRANTY OF MERCHANTABILITY, NONINFRINGEMENT, OR FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO SUCH SERVICES AND INFORMATION.
4. **Limitation of Liability.** IN NO EVENT WILL EITHER OMG OR MEMBER BE LIABLE TO THE OTHER OR TO ANY OTHER DTC MEMBER OR THIRD PARTY, UNDER THIS AGREEMENT OR IN CONNECTION WITH SUCH MEMBER'S MEMBERSHIP IN DTC, FOR THE COST OF PROCURING SUBSTITUTE GOODS OR SERVICES, LOST PROFITS, LOST REVENUE, LOST SALES, LOSS OF USE, LOSS OF DATA OR ANY INCIDENTAL, CONSEQUENTIAL, DIRECT, INDIRECT, PUNITIVE, OR SPECIAL DAMAGES, WHETHER OR NOT SUCH PARTY HAD ADVANCE NOTICE OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES. EXCEPT FOR MEMBER'S DUES COMMITMENT, OR IN CASES OF WILLFUL MISCONDUCT OR GROSS NEGLIGENCE, OR WHERE REQUIRED BY APPLICABLE LAW, OR AS OTHERWISE AGREED IN WRITING, THE AGGREGATE LIABILITY OF OMG (INCLUDING ITS DTC PROGRAM) TO MEMBER AND TO OTHER PARTIES, AND OF MEMBER TO OMG, TO OTHER DTC MEMBERS OR TO OTHER PARTIES, SHALL NOT EXCEED THE PAST 12 MONTHS' MEMBERSHIP FEES PAID BY THE MEMBER TO THE DTC.
5. **Governing Law.** This Agreement shall be construed and controlled by the laws of the Commonwealth of Massachusetts without reference to conflict of laws principles. If any claim or dispute between the parties is not resolved by good faith negotiations, any suits or proceedings pursued by either party shall be brought in the Federal or state courts located in Massachusetts, to whose jurisdiction each party hereby submits.

6. **Complete Agreement; No Waiver.** This Agreement, including all attachments, sets forth the entire understanding of OMG and Member and supersedes all prior agreements and understandings relating hereto, unless otherwise stated in this Agreement. The waiver of any breach or default will not constitute a waiver of any other right hereunder or any subsequent breach or default.
7. **Amendment.** All amendments to this Agreement or to any DTC P&Ps enacted by the DTC shall be effective upon their stated effective date. Member shall be given at least thirty (30) days prior written notice of the effective date of an amendment to this Agreement, and of any change to DTC P&Ps, rules, or fees, whether new or amended, that is in accordance with the DTC P&Ps and that directly and materially affects adversely any of the rights or obligations applicable to Member (each of the foregoing, an “Amendment”). If Member does not agree to an Amendment that was so approved, then Member shall provide written notice to DTC of such disagreement prior to the end of the 30-day notice period. If the parties are not able to reach a mutually acceptable accommodation (for example, the parties agree to a phase-in of the Amendment, the DTC determines to withdraw, suspend or modify the Amendment, or the DTC grants Member a waiver or variance), this Agreement and Member’s membership in the DTC shall terminate automatically upon expiration of the 30-day notice period, unless Member elects to withdraw by written notice on an earlier date. Amendments shall be prospective only, unless otherwise agreed to by Member and the DTC. No termination or withdrawal pursuant to this paragraph will entitle Member to a refund of Membership dues or other fees, all of which are nonrefundable.
8. **No Rule of Strict Construction.** Regardless of which party may have drafted this Agreement, no rule of strict construction shall be applied against either party. If any provision of this Agreement is determined by a court to be unenforceable, the parties shall deem the provision to be modified to the extent necessary to allow it to be enforced to the extent permitted by law, or if it cannot be modified, the provision will be severed and deleted from this Agreement, and the remainder of this Agreement will continue in effect.
9. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but collectively shall constitute one and the same instrument.
10. **Compliance with Laws.** Anything contained in this Agreement to the contrary notwithstanding, the obligations of the DTC and Member shall be subject to all laws, present and future, of any government having jurisdiction over OMG’s DTC program and Member including, without limitation, all U.S. export and re-export laws and regulations. It is the intention of the DTC and Member that this Agreement and all referenced documents shall comply with all applicable laws and regulations.

11. **Headings.** DTC and Member acknowledge that the headings to the sections hereof are for reference purposes only and shall not be used in the interpretation of this Agreement.
12. **Assignment.** DTC Membership is non-transferable, non-salable and non-assignable, but Member may transfer its current Membership to a successor of substantially all of its business or assets, whether by merger, sale or otherwise, if the successor agrees to be bound by the DTC Bylaws and this Agreement.
13. **Force Majeure.** Neither DTC nor Member shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder on account of strikes, shortages, riots, insurrection, fires, flood, storm, explosions, acts of God, war, governmental action, labor conditions, earthquakes or any other cause which is beyond the reasonable control of such party.
14. **Logos and Names.** You grant DTC the right to use your organization's name and logo on the OMG and the DTC websites and on related marketing materials, solely to indicate your membership in the DTC. As long as you remain a member in good standing, you may use the DTC's name and logo, in the format and with the notices provided or requested by the DTC, solely to indicate your membership in the DTC.