

UNIVERSITY OF WASHINGTON

NS-3 Consortium

Affiliation and Membership Agreement

This Affiliation and Membership Agreement (the “Agreement”) is entered into effective as of the date of the last signature below (the “Effective Date”) by and between the University of Washington, a public institution of higher education and an agency of the State of Washington with its principal campus located in Seattle, Washington (the “UW”), and the undersigned (the “Member”).

WHEREAS, it is within the UW’s mission to advance research and further technology within various fields, and consistent with that mission the UW has from time to time established various affiliation programs through which other private and public organizations may become members as a means for benefitting from and supporting such activity;

WHEREAS, the UW has established an affiliation and membership program known as “NS3C” (“NS-3 Consortium”) for the purpose of advancing research and the state of knowledge in the field of discrete-event network simulator for Internet systems, targeted primarily for research and educational use (the “Field”);

WHEREAS, Member has expressed an interest in joining NS3C and cooperating with the UW and the other NS3C members (collectively, the “Members”) in a collaborative effort to advance research and technology within the Field; and

WHEREAS, the parties desire to set forth the terms by which the Member has agreed to join NS3C.

NOW THEREFORE, in consideration of the mutual agreements set forth herein, UW and Member do hereby agree as follows:

1. Membership and NS3C Bylaws

NS3C Members may join one of the membership classes described in Article Five of the current version of the NS3C Bylaws attached as Exhibit A hereto (the “Bylaws”), which sets forth the benefits, privileges, and obligations of each membership class. Member hereby elects and UW hereby accepts the undersigned’s membership class as indicated on the signature page of this Agreement. Upon joining NS3C, Member hereby agrees to pay the annual fee, if applicable to the membership class, until termination of its membership as described in Sections 2 and 3 below. Member further agrees to abide by this Agreement and the Bylaws, as they may from time to time exist during the terms of Member’s membership. UW hereby reserves the right to amend the Bylaws in accordance with the terms thereof. In the event of a conflict between the terms of this Agreement and the Bylaws as they may exist on the date of this Agreement, the terms of this Agreement shall govern.

2. Fees, Invoices and Payments

(a) Annual Fee. For so long as the undersigned remains a Member of NS3C and until termination of its membership as provided in Section 3 below, Member agrees to pay UW each year's annual fee within thirty (30) days of the beginning of the NS3C fiscal year. A Member changing its membership class will pay the annual fee for the new class at the time of the change. Members joining in the middle of a fiscal year will be invoiced for a pro-rated amount remaining in the fiscal year.

(b) Invoices for Fees and Payments. UW will invoice Member for all membership fees owing under this Agreement. Annual fees will be invoiced approximately ninety (90) days prior to the beginning of following fiscal year. All membership fees under this Agreement will be paid by Member in United States dollars by check payable to *The University of Washington* (Taxpayer Identification No. 91-6001537) and delivered as follows:

NS-3 Consortium
Attention: Sumit Roy
University of Washington, Dept. of Electrical & Comp. Engineering
Box 352500
Seattle, WA 98195
USA

(c) Taxes. Each party will be responsible for payment of any taxes (including all federal, state, and local income, sales, use, value-added, and employment taxes) owed by it and arising from this Agreement. No fees paid to UW under this Agreement will be subject to any withholding by Member. UW represents that it is exempt from United States federal income taxes under Section 115(1) of the Internal Revenue Code, but makes no representation as to the tax-deductibility of any fees paid by Member under this Agreement.

3. Fiscal Year, Term and Termination

(a) Fiscal Year. The NS3C fiscal year shall be as specified in the Bylaws.

(b) Membership Term and Automatic Renewal. The Member's initial NS3C membership term shall be as described in Section 2(a) above. Until terminated by either party in accordance with Section 3(c) below, Member's NS3C membership shall renew for a period of one (1) year via payment of the annual fee within thirty (30) days of the beginning of the NS3C fiscal year.

(c) Termination of Individual Membership and Agreement. This Agreement and Member's NS3C membership may be terminated by either party for any reason upon sixty (60) days' written notice to the other party. In the event of UW's termination of this Agreement or NS3C, Member shall be entitled to a pro-rata refund of its annual fee for the remaining months of the NS3C fiscal year from the effective date of termination unless such termination (i) is effective as of the end of the current NS3C Fiscal Year, or (ii) is a result of Member's material breach of the terms of this Agreement. If this Agreement is terminated by Member for any reason, including failure to remit the annual fee according to Section 3(b) above, Member shall not be entitled to

any refund of any previously paid membership fees or to cancellation of any obligation to pay membership fees otherwise owing under the terms of this Agreement.

(d) Survival. Unless expressly provided otherwise herein, each provision of this Agreement reasonably interpreted as intending to survive after the termination or expiration of this Agreement shall survive any such termination or expiration, including without limitation, Sections 4 and 5 of this Agreement.

4. Intellectual Property

Intellectual Property Ownership. Neither party shall by reason of this Agreement or its performance obtain any right, title, license or other interest, either express or implied, to the other party's intellectual property. Nothing in this Agreement, the NS3C, or the results of any NS3C activity will be deemed to create or disposition any Intellectual Property of a party.

5. Non-Confidentiality

The parties acknowledge that they have not and that they do not anticipate disclosing to each other any confidential or proprietary information in connection with this Agreement or the NS3C. In the event that a party believes that a disclosure of confidential or proprietary information will be required to carry out any activity, such party will promptly notify the other party and request that the parties enter into an appropriate confidential disclosure agreement on terms mutually agreeable to both parties. Unless and until any such confidential disclosure agreement has been executed by the duly-authorized representatives of the parties, nothing in this Agreement, the NS3C, or the results of any NS3C activity will be deemed to be confidential or restricted from disclosure by either party to any third party.

6. Scholarly Disclosures

Member recognizes and accepts that publication of research results is of fundamental importance to UW, its faculty members and other researchers. As provided in the Bylaws, UW reserves the right for UW and UW's faculty members and other researchers to publish and engage in scholarly disclosure, including publication in scientific journals, at scientific meetings or otherwise publicly disclose, the results of all research conducted within NS3C or under this Agreement regardless of funding source.

7. Status of the Parties

(a) Non-Exclusivity. The parties understand and agree that nothing herein shall be interpreted as establishing any form of exclusive relationship between UW and any of the NS3C Members. The parties further understand and agree that nothing herein shall be interpreted as precluding either party from entering into other agreements with each other or with third parties or from conducting educational, research or other activities that may involve the same or similar subject matter as NS3C, the conduct of which is outside and independent of this Agreement and NS3C, providing that any such educational, research or other activities are not done in a manner that is

inconsistent with the rights and obligations of the parties to this Agreement and the rights of NS3C Members.

(b) Independent Status. The parties hereby agree that they are at all times each acting as independent contractors. Nothing in this Agreement will be construed or deemed to create a relationship of employer and employee, partner, joint venture, or principal and agent between or among NS3C Members, Member and UW, its faculty, employees, agents or officers.

(c) Trademarks, Trade Names and Service Marks. Except as otherwise expressly provided herein, neither party will use the other party's proprietary marks, trademarks, service marks, trade names, symbols, logos or designs, for any purpose whatsoever (including, but not limited to, any press release, sales or marketing publication or correspondence, advertisement, or similar communication), without the express prior written approval of the other party's officer who has been duly-designated for such purposes.

8. Compliance

(a) Legal Compliance. The parties intend this Agreement to comply with all applicable laws, regulations and requirements. The parties further agree this Agreement shall be applied and interpreted in a manner consistent with full compliance with all such laws, regulations and requirements. If at any time either party has reasonable grounds to believe that this Agreement may not conform to the then-current requirements or interpretations relevant to such matters, both parties agree that they will immediately negotiate in good faith for the purposes of bring this Agreement into full compliance with such then-current requirements and interpretations.

(b) Nondiscrimination. Both parties agree that they will not engage in any unlawful discrimination nor will they discriminate against any person because of race, color, religion, national origin, age, handicap, status as a Vietnam era or disabled veteran, sex, or sexual orientation with respect to their employment, or personnel, policies and practices as those matters may relate to the performance of the parties' respective obligations under this Agreement.

(c) Export Control. Member understands that the parties are subject to and that UW's obligations under this Agreement are contingent upon compliance with certain laws and regulations of the United States applicable to the export of technical data and information, computer software, laboratory prototypes and other commodities (including without limitation the Arms Export Control Act, as amended, and the Export Administration Act of 1979) ("Export-Controlled Materials"). Member understands that the transfer of any Export-Controlled Materials under this Agreement or under any other agreement entered into pursuant to this Agreement, including transfers to Member's affiliates and permitted uses by certain third parties, may require a license from a cognizant agency of the United States Government and/or written assurances by Member that Member shall not transfer Export-Controlled Materials to certain foreign countries without the prior approval of an appropriate agency of the United States government. The UW neither represents that any such export license shall not be required, nor that, if required, it shall be issued. Member agrees that it will not provide or make accessible to UW any Export-Controlled Materials without first notifying UW in writing of the existence and

nature of the Export-Controlled Materials and obtaining the prior written agreement of the UW, through a duly-authorized UW representative, for the UW to receive such Export-Controlled Materials. All Export-Controlled Materials shall be conspicuously labeled “Export Controlled” together with any applicable Export Control Classification Number.

9. Legal Matters

(a) Entire Agreement. This Agreement constitutes the entire agreement between the parties, and supersedes all prior oral or written agreements, commitments, or understandings concerning the matters provided for herein.

(b) Amendment. This Agreement may only be modified by a subsequent written agreement executed by the duly-authorized representatives of the parties. Notwithstanding the foregoing, the Bylaws may be amended as provided herein and as provided under the terms of the then-current Bylaws.

(c) Severability. If any provision of this Agreement or of any other agreement, document or writing pursuant to or in connection with this Agreement, shall be wholly or partially invalid or unenforceable under applicable law, said provision will be ineffective to that extent only, without in any way affecting the remaining parts or provision of said agreement, provided that the remaining provisions continue to effect the purposes of this Agreement.

(d) Waiver. Neither the waiver by any of the parties hereto of a breach of or a default under any of the provisions of this Agreement, nor the failure of either of the parties, on one or more occasions, to enforce any of the provisions of this Agreement or to exercise any right or privilege hereunder will thereafter be construed as a waiver of any subsequent breach or default of a similar nature, or as a waiver of any such provisions, rights or privileges hereunder.

(e) Force Majeure. Nonperformance by a party, other than payment of any amounts due hereunder by Member, shall not operate as a default under or breach of the terms of this Agreement to the extent and for so long any such nonperformance is due to: strikes or other labor disputes; prevention or prohibition by law; the loss or injury to products in transit; an Act of God; or war or other cause beyond the control of such party.

(f) Assignment and Successors in Interest. Except as otherwise provided herein, no party may assign, subcontract, or delegate any right or obligation under this Agreement, in whole or in part, without the express prior written consent of the other party. This Agreement shall inure to the benefit of and be binding upon each party’s successors and assigns.

(g) Counterparts. This Agreement may be executed in any number of counterparts or, if mutually agreeable to the undersigned authorized signatories for the parties, through the exchange by facsimile or other electronic means of duly-signed duplicates hereof, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

(h) Notice of Dispute, Negotiation and Mediation. Prior to commencing any legal action, the parties will attempt in good faith to resolve through negotiation any dispute, claim or controversy arising out of or relating to this Agreement. Either party may initiate such negotiations by providing written notice to the other party specifying that this provision of this Agreement is being utilized and setting forth the subject of the dispute and the relief requested. The party receiving such notice will respond in writing within ten (10) business days with a statement of its position on and recommended solution to the dispute. If the dispute is not resolved by this exchange of correspondence, then representatives of each party with full settlement authority shall meet at a mutually agreeable time and place in Seattle, Washington within ten (10) business days of the date of the initial notice in order to exchange relevant information and perspectives, and to attempt in good faith to resolve the dispute. If the dispute is not resolved by these negotiations, the matter will be submitted to a mutually agreeable and recognized nonbinding mediation service prior to initiating legal action. Any such mediation shall be conducted in Seattle, Washington and the costs of the mediation service shall be shared equally by the parties.

(i) Governing Law, Jurisdiction and Venue. This Agreement shall be governed by and enforced according to the laws of the State of Washington and the United States, without giving effect to its or any other jurisdiction's choice of law provisions, and the Superior Court of Washington for King County shall have exclusive jurisdiction and venue of all disputes arising under this Agreement, except that in any case where the courts of the United States shall have exclusive jurisdiction over the subject matter of the dispute, the United States District Court for the Western District of Washington, Seattle division, shall have exclusive jurisdiction and venue.

(j) Attorney Fees. The prevailing party in any action sought to enforce or interpret this Agreement or any provision of this Agreement shall be entitled to its reasonable attorney's fees and costs, including any appeals thereon, as determined by a court in conjunction with any such legal proceeding.

(k) Limitation of Damages. In no event shall either party be liable to the other party for any claims by the other party for indirect, incidental, consequential, special, punitive, or exemplary damages, including lost profits, arising or alleged to arise from this Agreement, its breach, or the transactions contemplated herein, however caused, under any theory of liability.

(l) UW Self-Insurance. UW hereby notifies Member that as an agency of the State of Washington and in accordance with Washington law, UW maintains a self-insurance program pursuant to RCW §§28B.20.250, 28B.20.253, and 28B.20.255.

(m) Programmatic Communications and Legal Notices. All communications between the parties pertaining to NS3C programmatic matters, including scientific and technical matters and similar matters pertaining to the conduct of NS3C programs and events, shall occur as provided in the NS3C Bylaws. All legal or contractual notices, demands, requests or other similar communications required to be given or sent by a party under this Agreement will be in writing and will be delivered by at least one of the following methods: (i) in person, (ii) mailed by first-class mail, postage prepaid, (iii) transmitted by facsimile, or (iv) transmitted by electronic mail (email) addressed as set forth below, providing a party may designate a change of address at any time by notice in writing to the other party. All such legal or contractual notices, demands,

requests, or communications that are mailed by first class mail will be deemed received five (5) business days after deposit in the U.S. mail, postage prepaid, and all notices transmitted by facsimile or by email will be deemed received upon written confirmation by the receiving party of successful facsimile or email transmission.

To UW:

University of Washington
Office of Sponsored Programs
Attention: Director of Sponsored Programs
4333 Brooklyn Ave NE, 17th Floor
Box 359472
Seattle, WA 98195-9472

(206) 543-4043 (Voice)
(206) 685-1732 (Facsimile)
osp@u.washington.edu (Electronic Mail)

In the case of a legal notice to the UW relating to a dispute, claim or controversy arising out of or relating to this Agreement, a copy of such notice shall also be provided to:

Washington State Attorney General's Office
University of Washington Division
Attention: Senior Assistant Attorney General
4333 Brooklyn Ave NE, 18th Floor
Box 359475
Seattle, WA 98195-9475

(206) 543-4150 (Voice)
(206) 543-0779 (Facsimile)
agouw@u.washington.edu (Electronic Mail)

To Member: As specified on the signature page below.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals and duly executed this Agreement.

University of Washington

NS-3 Consortium (Member)

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

NS3C DIRECTOR (Read/Acknowledged)

[Street Address]

[Mailing Address, if different]

[City, State, Zip]

By: _____

() _____ (Voice)

Print Name: _____

() _____ (Facsimile)

Title: _____

_____ @ _____ (Electronic Mail)

Date: _____

Membership Class: _____

Joining Fee: _____

Exhibit A

BYLAWS

University of Washington

NS-3 Consortium

The following are the Bylaws of the University of Washington NS-3 Consortium (“NS3C” or “NS3”) duly adopted and approved by the University of Washington (the “UW”) as of February 6, 2019.

ARTICLE ONE MISSION

The NS3C is established for the purpose of supporting the ns-3 network simulation project, an open source, discrete-event network simulator for Internet systems, targeted primarily for research and educational use. The NS3C shall manage and use funding raised by NS3C membership dues and other income sources in a manner consistent with the further development and sustainment of the open source project. The NS3C shall also coordinate or host activities consistent with the goals of the open source project, such as an annual meeting and academic workshop, and user training sessions.

ARTICLE TWO NAME AND LOCATION

The name of the NS-3 Consortium shall be the “University of Washington NS-3 Consortium.” The principal offices of NS3C shall be located on the principal UW campus in Seattle, Washington, or such other location as may be authorized by the UW. NS3C shall be part of the UW’s Department of Electrical & Computer Engineering. NS3C’s Advisory Board shall be entitled to make recommendations regarding any change in the name or location of NS3C, but the sole authority to change, approve, or disapprove any name or location change shall reside with the UW.

ARTICLE THREE FISCAL YEAR

NS3C’s fiscal year shall begin on the first day of July of each year.

ARTICLE FOUR MANAGEMENT AND OFFICERS

Section 1. Management. NS3C shall report to the UW’s Department of Electrical & Computer Engineering and be managed by those persons designated by the Chair of the Department of Electrical & Computer Engineering as responsible for the affairs of NS3C. The activities of NS3C shall be conducted in accordance with the laws of the United States and the State of Washington and the policies, rules, procedures and established practices of the UW.

Exhibit A

Section 2. Officers. NS3C's Officers shall consist of a Director and an Associate Director. The UW reserves the right and shall have the sole authority to select and remove NS3C's Officers, who shall serve at the pleasure of the UW. Prior to removing or replacing an officer, UW will confer with NS3C's Advisory Board. The Director shall serve as the chief executive for NS3C and shall have the authority to manage NS3C's affairs, subject to Section 1 of this Article above, and report to the Chair of the Department of Electrical & Computer Engineering or the Chair's designee. Unless otherwise specified in a funding agreement, the Director shall serve as principal investigator on all activities of NS3C and exercise all customary duties and responsibilities incidental thereto. The Associate Director shall be authorized to act for the Director in the Director's absence and to perform such duties as may be properly delegated and assigned by the Director.

ARTICLE FIVE MEMBERS

Section 1. Eligibility and Application. Any organizations interested in becoming a Consortium Member of NS3C may submit an application and a signed form of agreement to the UW, which shall be reviewed by the Director for consideration and recommendation for acceptance by the UW. During NS3C's existence, the UW shall make reasonable efforts to use and maintain a standard form of Affiliation and Membership Agreement ("Membership Agreement"), which may change from time to time reflecting any changes in the policies of the UW and NS3C and NS3C's Bylaws.

Section 2. Membership Classes. NS3C shall have the following classes of Members:

a. Founding Executive Member

Inria Sophia Antipolis-Mediterranee
Annual Dues: none

b. Executive Member

Upon invitation of UW and Inria Sophia Antipolis-Mediterranee
Annual Dues: none

c. Consortium Members

Class I Consortium Members:
For-profit entities with more than 500 employees
Annual Dues: \$15,000

Class II Consortium Members:
For-profit entities with 20 or more and less than 500 employees
Annual Dues: \$7,500

Class III Consortium Members:
For-profit entities with less than 20 employees
Annual Dues: \$1,500

Exhibit A

Class IV Consortium Members:
Non-Profit Organizations, governmental organizations, and U.S. Federally
Funded Research and Development Centers (FFRDCs)
Annual Dues: \$1,500

Section 3. Indirect Cost/Overhead Charges on Dues. Dues are payable as provided in the Membership Agreement between Members and the UW. NS3C is assessed an indirect (overhead) charge on cash dues at the time of payment at a reduced level in accordance with the then-current UW indirect cost policy applicable to corporate affiliate programs (20% as of 2018). The UW reserves the right to amend or modify at any time its indirect cost policies.

Section 4. Member Benefits and Privileges. Members shall be accorded the following benefits and privileges based on their membership classification:

a. Consortium Members (All Classes I-IV)

Submit suggestions, requests and feedback concerning NS – 3 software development directions and roadmap, to be discussed during the annual meeting. These suggestions are expected to be shared among Consortium Members and the open source project.

Attend the annual meeting during which NS – 3's recent release shall be presented and during which a sample of suggestions made by Consortium Members shall be discussed. The meeting may be co-located with a technical conference or workshop, or may be attended virtually.

Designate attendees (1 for Class II, III, and IV members, and 2 for Class I Members) to attend an annual NS – 3 training course. Such training course shall either be organized by Executive Members or by a third party on their behalf. The training course may be co-located with a technical conference or workshop.

Receive annual Consortium financial and activity report.

Have their name, including logo, placed on the NS-3 consortium website.

b. Executive Members and Founding Executive Member

All benefits and privileges of Consortium Members.

ARTICLE SIX BOARDS AND COMMITTEES

Section 1. Advisory Board. The Advisory Board shall be comprised of the Director, Associate Director, two representatives designated by the Founding Executive Member, a representative designated by each Executive Member, and one member appointed by each Consortium Member. The function of the Advisory Board shall be to advise the UW and Director on all

Exhibit A

matters pertaining to the NS3C. The Advisory Board will meet at least annually and at NS3C's annual meeting, at which time it will review and recommend goals and assess NS3C's progress and financial condition. In addition, upon request, the Board will review research and program proposals, and may seek third party opinions and recommendations.

Section 2. Other Committees. The Director, upon consultation with the Advisory Board, may from time to time establish such other temporary and permanent committees it deems appropriate, providing that any such committees shall have not have authority inconsistent with these Bylaws

ARTICLE SEVEN ANNUAL MEETING

NS3C will hold an annual meeting at such time and place as may be established by the UW in consultation with the Advisory Board. The annual meeting will be open to all Members at which time the Director will provide a report on the affairs of NS3C and its progress in the preceding year and on such other matters as the Director deems appropriate.

ARTICLE EIGHT INTELLECTUAL PROPERTY

Section 1. Intellectual Property Ownership. No member of the NS3C shall by reason of this Agreement or its performance obtain any right, title, license or other interest, either express or implied, to another member's, or a third party's, intellectual property.

Section 2. Classification of Intellectual Property. UW shall retain the right to make all decisions and determinations regarding the classification of Intellectual Property.

ARTICLE NINE SCHOLARLY PUBLICATION AND INVENTION DISCLOSURES

Members recognize and accept that the publication of research results is of fundamental importance to UW, its faculty members and other researchers. UW reserves the right for UW and UW's faculty members and other researchers to publish and engage in scholarly disclosure, including publication in scientific journals, at scientific meetings or otherwise publicly disclose, the results of all research conducted within NS3C or under this Agreement regardless of funding source.

ARTICLE NINE AMENDMENTS

These Bylaws may be amended (i) by the UW after consultation with the Advisory Board and thirty (30) days' prior written notice to the Members, or (ii) at a meeting called for such purpose or by written consent, upon recommendation by a majority of the Advisory Board and a majority of the Members and approved by the duly-authorized representative of the UW. Any amendment to these Bylaws shall be given effect no earlier than ninety (90) days after its

Exhibit A

adoption. In no event shall any amendment to these Bylaws serve to diminish any Members' vested property right arising under any agreement between the UW and a Member.

ARTICLE TEN WAIVER OF NOTICE

Whenever any notice is required to be given to any Member under the provisions of these Bylaws, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

ARTICLE ELEVEN UW RESERVED RIGHTS

UW reserves the right to terminate NS3C at any time upon six (6) months' written notice to all NS3C Members. UW further reserves the sole and exclusive right to adopt, apply, and interpret its policies, rules, procedures as practice as they may from time to time exist, providing they are not inconsistent with the terms of these Bylaws.