

Zigbee Certification Transfer Program Agreement Terms and Conditions

The Zigbee Alliance ("**Zigbee**") has a Zigbee Certification Transfer Program (the "**Program**") which permits eligible registrants ("**Registrant(s)**") that are original equipment manufacturers ("**OEM**") and/or original design manufacturers ("**ODM**") to use certain Zigbee trademarks and logos ("**Zigbee Trademarks and Logos**") related to Eligible Products from by Registrant, subject to these terms and conditions (the "**Agreement**") as well as the Zigbee Trademark and Logo Usage Guidelines and Terms found at URL <http://www.zigbee.org/download/trademark-and-logo-usage-guidelines-and-terms/>, which Guidelines are incorporated into the Agreement by reference and which may be updated from time-to-time by Zigbee ("**Guidelines and Terms**"). Registrant must carefully read and agree to the terms of this Agreement and the Guidelines and Terms prior to entering into this Agreement.

Registrant represents to Zigbee that the information provided to Zigbee in conjunction with Registrant's application and registration in the Program is accurate and correct.

REGISTRANT MAY NOT PARTICIPATE IN THE ZIGBEE CERTIFICATION TRANSFER PROGRAM OR USE ANY ZIGBEE TRADEMARKS AND LOGOS UNLESS REGISTRANT HAS AGREED TO, AND IS IN COMPLIANCE WITH, THE TERMS AND CONDITIONS OF THIS AGREEMENT AND THE GUIDELINES AND TERMS.

By clicking "Accept" and agreeing to terms and conditions of this Agreement, Registrant agrees to participate in the Program and create a binding agreement between Registrant and Zigbee on the terms and conditions set forth herein.

1. Eligibility and Criteria to Participate in the Program. To be eligible to be a Registrant in the Program and to use the Zigbee Trademarks and Logos, such Registrant must:

- (a) Have total annual revenues of less than USD \$10,000,000;
- (b) Not be a Zigbee member;
- (c) Be an OEM and/or ODM that manufactures Eligible Products;
- (d) Manufacture such Eligible Products to the exact specifications of the applicable Zigbee Certified Product;
- (e) Complete all application(s) and remit all fees required by the program
- (f) Use the Zigbee Trademarks and Logos in strict compliance with the Guidelines and Terms; and
- (g) Agree to, and continuously comply with, the terms and conditions of this Agreement.

Registrant represents and warrants to Zigbee that it is eligible to participate in the Program and meets, and will continue to meet, the criteria specified above. If at any time Registrant fails to meet the criteria specified above or breaches any term of the Agreement, Registrant shall immediately notify Zigbee and the applicable Zigbee Member in writing.

From time-to-time and at any time, Zigbee may require that Registrant provide a written certification of a corporate officer of Registrant certifying that Registrant meets each of the criteria specified above. Failure to certify compliance within a timely manner (not to exceed thirty (30) days from the date of Zigbee's request) will be deemed to be a material breach of the Agreement, and is grounds for immediate termination by Zigbee without further notice.

2. Eligible Products. An "**Eligible Product**" is a product which:

- (a) Is manufactured by Registrant to the exact specifications of the Zigbee Certified Product; and
- (b) Uses the Zigbee Trademarks and Logos on in connection with such Eligible Product in strict compliance with the Guidelines and Terms.

A "**Zigbee Certified Product**" is a product that: (a) has been developed by a Zigbee Member; (b) such Zigbee Member and Zigbee have agreed that the Zigbee Certified Product is part of the Program; and (b) is certified by Zigbee to be in compliance with Zigbee certification criteria.

A "**Zigbee Member**" is a Participant or Promoter level member of Zigbee in good standing that has agreed with Zigbee to participate in the Program, including with respect to the Zigbee Certified Products.

3. Limited Zigbee Trademark and Logo Use Grant; Restrictions. Zigbee grants Registrant a limited, non-exclusive, nontransferable, non-sublicensable, worldwide, revocable, temporary license to use the Zigbee Certification Trademarks and Logos solely for the promotion and sale of Eligible Products; provided Registrant: (a) complies with all applicable laws and regulations and all terms and conditions of the Agreement, including, without limitation, the restrictions set forth below; (b) prominently displays the appropriate trademark or copyright notice on all versions of the Eligible Product; and (c) only uses the Zigbee Trademarks and Logos in accordance with the then-current version of the Guidelines and Terms. Zigbee reserves all rights in Zigbee Trademarks and Logos not expressly granted to Registrant in this Agreement.

The scope of this limited license does not permit Registrant to, in whole or in part, and Registrant acknowledges and agrees that it shall not, directly or indirectly: (d) sublicense, resell, otherwise transfer, rent, lease or lend the Zigbee Trademarks and Logos; (e) alter or modify the Zigbee Trademarks and Logos in any way; (f) use the Zigbee Trademarks and Logos as part of Registrant's name or identity, use any name or mark confusingly similar to the Zigbee Trademarks and Logos or otherwise utilize the Zigbee Trademarks and Logos in a manner intended to link or associate Registrant or Registrant's products or services in any manner with Zigbee; (g) combine the Zigbee Trademarks and Logos with any other graphic or textual elements; (h) use the Zigbee Trademarks and Logos as a design element of any other logo or trademark; (i) use Zigbee Trademarks and Logos in any manner that might disparage or injure Zigbee's reputation; (j) use Zigbee Trademarks and Logos on any website or in any way that is in violation of any applicable laws or governmental regulations, in particular, all laws and regulations pertaining to proper protection, use and designation of trademarks in any countries in which the Zigbee Trademarks and Logos are used; (k) adopt, use, display, apply, advertise or register any corporate name, trade name, trademark, trade dress, domain name, universal resource locator (URL) or color scheme which is the same as or confusingly similar to any of the Zigbee Trademarks and Logos; (l) oppose or contest any trademark registration or application of Zigbee and/or any of its affiliates in relation to any of the Zigbee Trademarks and Logos, in the United States or elsewhere, or any application for extension of such rights; or (m) use or register in the United States or in any country any trademark: (1) substantially similar to or confusing with any of the Zigbee Trademarks and Logos; or (2) for purposes of, or with the result of, diluting any of the Zigbee Trademarks and Logos.

4. Ownership of the Zigbee Trademarks and Logos. All right, title and intellectual property rights in and to the Zigbee Trademarks and Logos (including all copies of the Zigbee Trademarks and Logos) and all goodwill associated therewith are owned by Zigbee and its licensor(s), if any.

5. Termination. The Agreement and any and all rights hereunder may be terminated by Zigbee without cause and at any time upon written notice to Registrant. Additionally, if Registrant ceases to participate in the Program with respect to a Zigbee Certified Product, Registrant's rights under this Agreement with respect to the applicable Eligible Product(s) will automatically and immediately terminate.

Upon termination of a Registrant's rights under this Agreement, Registrant shall immediately cease any and all use of the Zigbee Trademarks and Logos, destroy all copies of the Zigbee Trademarks and Logos within its control (including removing all Zigbee Trademarks and Logos on Eligible Products available for sale including if those Eligible Products have been shipped for sale prior to the termination), and remove any reference of the Zigbee Trademarks and Logos, including but not limited to from all published or electronic materials and its websites.

6. NO WARRANTIES. REGISTRANT ACKNOWLEDGES AND AGREES THAT ZIGBEE TRADEMARKS AND LOGOS ARE PROVIDED "AS IS" AND WITH NO WARRANTIES WHATSOEVER, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY, NONINFRINGEMENT, FITNESS OF ANY PARTICULAR PURPOSE, THAT THE ZIGBEE TRADEMARKS AND LOGOS ARE VALID, ENFORCEABLE, OR FREE FROM DEFECTS, OR ANY WARRANTY OTHERWISE ARISING OUT OF THE ZIGBEE TRADEMARKS AND LOGOS AND/OR THE AGREEMENT. REGISTRANT'S USE OF THE ZIGBEE TRADEMARKS AND LOGOS IS SOLELY AT REGISTRANT'S OWN RISK.

7. LIMITATION OF LIABILITY. IN NO EVENT SHALL ZIGBEE OR ANY ZIGBEE MEMBER BE LIABLE OR OBLIGATED TO REGISTRANT OR ANY THIRD PARTY IN ANY MANNER FOR ANY DIRECT, SPECIAL, NON-COMPENSATORY, CONSEQUENTIAL, INDIRECT, INCIDENTAL, STATUTORY OR PUNITIVE DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, LOST PROFITS AND LOST REVENUE, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT PRODUCT LIABILITY, OR OTHERWISE, EVEN IF ZIGBEE HAS BEEN INFORMED OF OR IS AWARE OF THE POSSIBILITY OF ANY SUCH DAMAGES IN ADVANCE.

THE LIMITATIONS SET FORTH ABOVE SHALL BE DEEMED TO APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDIES AVAILABLE TO REGISTRANT. REGISTRANT ACKNOWLEDGES AND AGREES THAT REGISTRANT HAS FULLY CONSIDERED THE FOREGOING ALLOCATION OF RISK AND FINDS IT REASONABLE, AND THAT THE FOREGOING LIMITATIONS ARE AN ESSENTIAL BASIS OF ZIGBEE PERMITTING ACCESS TO THE ZIGBEE TRADEMARKS AND LOGOS. REGISTRANT FURTHER ACKNOWLEDGES AND AGREES THAT ZIGBEE WOULD NOT HAVE PROVIDED REGISTRANT WITH ACCESS TO THE ZIGBEE TRADEMARKS AND LOGOS UNLESS REGISTRANT FULLY AGREED TO THE LIMITATIONS SET FORTH ABOVE.

8. Third Party Rights. Use of certain elements of the Zigbee Trademarks and Logos may be subject to third party intellectual property rights, including without limitation, trademark and copyright rights. Zigbee is not responsible and shall not be held responsible in any manner for identifying or failing to identify any or all such third party intellectual property rights.

9. General. If any provision of the Agreement is found by a court of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable any other part of the Agreement, but the Agreement shall be construed as not containing the particular provision or provisions held to be invalid or unenforceable. No delay or omission by either party to exercise any right occurring upon any noncompliance or default by the other party with respect to any of the terms of the Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the parties hereto of any of the covenants, conditions or agreements to be performed by the other shall not be construed to be a waiver of any succeeding breach thereof or of any covenant, condition or agreement herein contained. Nothing set forth in the Agreement shall be deemed or construed to render the parties as joint venturers, partners or employer and employee. The Agreement, together with any documents referenced herein, sets forth the entire, final and exclusive agreement between the parties as to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, between the parties. The Agreement shall not be assigned, delegated or transferred, including by operation of law, including a change of control with respect to Registrant, which shall be deemed to be a transfer, in whole or in part, by Registrant without the prior written consent of Zigbee. The Agreement may be modified only pursuant to a writing executed by authorized representatives of Zigbee and Registrant. The Agreement, and all the rights and duties of the parties arising from or relating in any way to the subject matter of the Agreement or the transaction(s) contemplated by it, shall be governed by, construed and enforced in accordance with the laws of the State of California (excluding any conflict of laws provisions of the State of California that would refer to and apply the substantive laws of another jurisdiction). **REGISTRANT CONSENTS TO THE EXCLUSIVE PERSONAL JURISDICTION OF THE FEDERAL AND STATE COURTS AND VENUE LOCATED IN SACRAMENTO COUNTY, CALIFORNIA.**

BY CLICKING "AGREE" BELOW, REGISTRANT AGREES TO ALL OF THE FOREGOING TERMS AND CONDITIONS. IF REGISTRANT DOES NOT AGREE TO THESE TERMS AND CONDITIONS, DO NOT CLICK ON "AGREE" BELOW AND REGISTRANT WILL NOT BE PERMITTED TO PARTICIPATE IN THE PROGRAM.