

## RapidIO TRADE ASSOCIATION MEMBERSHIP AGREEMENT

This MEMBERSHIP AGREEMENT (“Agreement”) is entered into between RapidIO Inc., a Texas non-profit mutual benefit corporation, doing business as RapidIO Trade Association (“RapidIO”), and the undersigned entity (“Member”).

Member agrees to be a Member of RapidIO on the following terms and conditions:

### 1. DEFINITIONS

**1.1 Affiliates** means an entity that directly or indirectly Controls, is Controlled by, or is under common Control with another entity, so long as such Control exists.

**1.2 Bylaws** means the RapidIO corporate bylaws, as in effect and as amended from time to time.

**1.3 Compliant Portion** means only those specific portions of products (hardware, software or combinations thereof) that: (i) implement and are compliant with all relevant portions of a Specification, and (ii) are within the bounds of the Scope.

**1.4 Confidential Information** means and includes: (i) a Draft Specification, (ii) a Specification prior to its release by the Steering Committee; (iii) a Draft Design or Draft Programming Guideline; (iv) a Design Guideline or Programming Guideline prior to its release by the Steering Committee; (v) Contributions, until such time as they become part of Specifications that are released by the Steering Committee, (vi) written materials marked as confidential at the time of disclosure; (vii) orally-disclosed material that is designated as confidential at the time of disclosure and in a written memorandum sent to the Secretariat within thirty (30) days of disclosure, summarizing the Confidential Information sufficiently for identification; and (viii) all minutes of meetings of a Working Group or Steering Committee.

**1.5 Contribution** means a submission to or for a Working Group or Steering Committee proposing an addition to or modification of an existing Specification or a new Specification or portion thereof, or a submission proposing changes or modifications to, or new, Design Guidelines or to Programming Guidelines, provided that the submission is either (i) submitted in writing (including a writing in electronic medium) or (ii) stated orally, memorialized with specificity in the written minutes of a Working Group, and attributed in the meeting minutes to the submitting Member, provided that the minutes are promptly provided to the individual representing the Member, unless the submitting Member withdraws its submission in writing as soon as practicable and in any event, no later than forty-five (45) days of receipt of such written minutes.

**1.6 Control** means beneficial ownership of more than fifty percent (50%) of the voting power or equity in an entity.

**1.7 Design Guideline or Programming Guideline** means a document or documents entitled Design Guideline or Programming Guideline containing functional and technical guidelines to aid in interoperability of implementations of a Specification as adopted and approved for release by the Steering Committee.

**1.8 Draft Design Guideline or Draft Programming Guideline** means a proposal, document or documents entitled Draft Design Guideline or Draft Programming Guideline

in draft or non-final form, being worked on or considered by RapidIO prior to adoption and approved for release as a Design Guideline or Programming Guideline.

**1.9 Draft Specification** means a proposal, document or documents entitled RapidIO Specifications in draft or non-final form, being worked on or considered by RapidIO prior to adoption as a Specification.

**1.10 Member** means the undersigned Member and any of its wholly owned subsidiaries.

**1.11 Members** mean all RapidIO Members, regardless of membership class, including Members who may become Members after the undersigned Member joins.

**1.12 Necessary Claims** means those claims of all patents and patent applications, other than design patents and design registrations, throughout the world which a Member or its Affiliates has the right, at any time during the term of this Agreement, to grant licenses of the nature agreed to be granted herein without such grant resulting in payment of royalties or other consideration to third parties (except for payments to Affiliates or employees), which claims are necessarily infringed by an implementation of a Specification adopted and approved for release by the Steering Committee and which are within the bounds of the Scope, where such infringement could not have been avoided by another commercially reasonable non-infringing implementation of such Specification. Necessary Claims do not include any claims other than those set forth above even if contained in the same patent as Necessary Claims.

**1.13 Scope** means the protocols, electrical signaling characteristics, mechanical requirements for connectors, cards and cabling, register models, data structures and verbs software interface solely to the extent disclosed with particularity in a Specification where the sole purpose of such disclosure is to enable products to interoperate, interconnect or communicate as defined within a Specification. Notwithstanding the foregoing, the Scope shall not include

(i) any enabling technologies that may be necessary to make or use any product or portion thereof that complies with a Specification, but are not themselves expressly set forth in a Specification (e.g., semiconductor manufacturing technology, compiler technology, object oriented technology, basic operating system technology);  
(ii) the implementation of other published specifications not developed by or for RapidIO but referred to in the body of a Specification; or (iii) application programming interfaces, device drivers, device driver models, peripheral control languages, and peripheral devices, except for the portions of peripheral devices that are required by an interconnect that is compliant with a Specification.

**1.14 Secretariat** means the company designated by RapidIO as the Secretariat with which RapidIO has contracted to provide management, administrative and membership services.

**1.15 Specification** means a document entitled RapidIO Specification adopted and approved for release by the Steering Committee, and any updates or revisions adopted and approved for release by the Steering Committee.

## 2. MEMBERSHIP

**2.1 Class of Membership.** Subject to the terms and conditions of this Agreement and the Bylaws, Member agrees to be a Member of RapidIO in the class designated on the signature page of this Agreement. Member's assignment to a class is subject to meeting the qualifications for membership in the class and confirmation by the Steering Committee.

**2.2 Qualifications.** The Member is a commercial enterprise that is a user, manufacturer, seller, or supplier of networking, telecom, storage, signal processing, or high performance embedded applications products and technologies, or related peripherals, software, or other similar products or services.

**2.3 Support for Mission.** During the term of its membership in RapidIO, the Member expects to support the design, development, or application of hardware or software products that will implement or comply with Specifications adopted and released by RapidIO. However, nothing in this Section or in this Agreement shall obligate Member to manufacture or use products complying with the Specifications or preclude the use of alternate or competing specifications.

**2.4 Member Benefits.** The Member shall be entitled to the benefits provided by this Agreement and the Bylaws. The Member shall be entitled to participate in RapidIO membership meetings, to receive materials disseminated to the Member, to access World Wide Web pages maintained by RapidIO, and to the other benefits of such membership, as determined by the Steering Committee or as specified in the Bylaws.

**2.5 Use of Name.** The Member may publicly disclose that it is a Member of RapidIO. However, the Member may not identify any product or service as being sanctioned by, sponsored by or associated with RapidIO, or compliant with a Specification or Design or Programming Guideline, unless in accordance with policies and procedures which may be established by RapidIO. RapidIO shall have the right to include the Member's name in any lists of Members published by RapidIO and to announce that the Member has joined RapidIO.

**2.6 Affiliates.** The Member acknowledges and agrees that it and its Affiliates shall be treated for all purposes as one Member, entitled to one vote on all matters upon which the Member is entitled to vote. Member also acknowledges and agrees that Section 5 of this Agreement, entitled "Intellectual Property," binds Member and Member's Affiliates in accordance with its terms.

## 3. OBLIGATIONS OF MEMBERS

**3.1 Bylaws.** The Member has reviewed, hereby approves and agrees to abide by the Bylaws. Terms used in this Agreement have the same meaning as when the same terms are used in the Bylaws.

**3.2 Contribution.** The Member may make Contributions to Specifications, to Design Guidelines, and to Programming Guidelines, subject to the terms and conditions of this Agreement and the Bylaws.

**3.3 Dues and Other Fees.** The Member shall pay dues, fees and other assessments applicable to its class, as established from time to time by the Steering Committee. Dues within a class shall be nondiscriminatory. The Steering Committee may establish

reasonable additional fees or charges for participation in meetings or for other benefits of membership.

**3.4 Expenses.** The Member shall bear its own costs and expenses for its participation in RapidIO, such as travel, employee compensation, and incidental expenses.

**3.5 Antitrust Policy.** The Member agrees to comply with all applicable antitrust laws pertaining to the Member's participation in RapidIO. Nothing in this Agreement shall be construed to require or permit conduct that violates any applicable antitrust law. Member consents to the disclosure of its name as a member of RapidIO, for the purpose of permitting RapidIO to invoke the protection of the National Cooperative Research and Production Act of 1993 (15 U.S.C. §§ 4301, et seq.)

## **4. INFORMATION**

**4.1 Confidential Information.** The Member and its Affiliates agree that Confidential Information is confidential and shall be maintained in confidence with at least the same degree of care that it uses to protect its own confidential and proprietary information, but no less than a reasonable degree of care under the circumstances. Member and its Affiliates will neither disclose nor distribute Confidential Information, except as necessary for its employees or contractors (under a comparable confidentiality agreement restricting the contractor's right to use to be solely with respect to work done for the Member) with a need to know for the purpose of developing or updating the Specification, Design or Programming Guideline documents, or developing products based upon such documents. Any information incorporated in the original version, or a particular revision of such documents, including any exhibits or attachments thereto, shall be permitted to be released upon agreement of the Steering Committee or as otherwise provided in the Bylaws. Any copies which are made will be marked "confidential," "proprietary" or with a similar legend as on the original. This obligation of confidentiality will expire three (3) years from the date of the disclosure by the Member. However, no Member or its Affiliates will be liable for the disclosure of any information that is:

- (i) in the public domain other than by the recipient's breach of a duty of confidentiality; or
- (ii) rightfully received from a third party without any obligation of confidentiality; or
- (iii) rightfully known to the recipient without any limitation on use or disclosure prior to its receipt from the disclosing party; or
- (iv) independently developed by employees or contractors of the recipient; or
- (v) disclosed as required by law; or
- (vi) made public by agreement of the Steering Committee; or
  
- (vii) inherently disclosed in the manufacture, marketing, sale or maintenance of a product or service.

The obligations of this Section shall survive termination of this Agreement.

**4.2 Residuals.** Any party shall be free to use the residuals of Confidential

Information for any purpose including use in the development, manufacture, marketing and maintenance of its products and services, subject only to the obligations herein with respect to disclosure of such Confidential Information. The term “residuals” means that Confidential Information in non-tangible form, which may be retained in the memories of individuals who have had rightful access to such Confidential Information under this Agreement. It is understood that receipt of Confidential Information under this Agreement shall not create any obligation in any way limiting or restricting the assignment and/or reassignment of any employees of a Member within Member’s organization. However, this Section 4.2 shall not be deemed to grant to any party a license under the other party’s copyrights or patents.

## **5. INTELLECTUAL PROPERTY**

**5.1 Agreement to Grant Licenses.** At the time that the Member or its Affiliates makes a Contribution, with respect to that Contribution, and when the Steering Committee adopts and approves for release a Specification or any revisions to a Specification, with respect to the entire Specification, the Member and its Affiliates hereby agree to grant to all other Members and their Affiliates under reasonable terms and conditions (including as to price) that are demonstrably free of any unfair discrimination, a nonexclusive, nontransferable, worldwide license under its Necessary Claims to allow such Members to make, have made, use, import, offer to sell, lease and sell and otherwise distribute Compliant Portions, provided that such agreement to license shall not extend to any part or function of a product in which a Compliant Portion is incorporated that is not itself part of the Compliant Portion. Member agrees that it will not transfer patents having Necessary Claims for the purpose of circumventing this Section 5.1.

**5.1.1 Reciprocity Required.** The Member’s agreement in Section 5.1 to grant patent licenses to other Members shall not be effective as to any other Member or its Affiliates, if the other Member or its Affiliates does not make the patent license grant of Section 5.1 available to the Member and its Affiliates.

**5.2 Limited Agreement to Disclose.** In the event that the Member has actual knowledge that the Member would be unwilling to provide other Members with a license to a work-in-progress of any Working Group, such Member agrees to promptly provide written notification to the Secretariat and appropriate Work Group chairperson of such Member’s intent not to license. Nothing in this Section is intended to create a duty for a Member to conduct a search of its patent portfolio.

**5.3 Right to Grant Nonexclusive Licenses Retained.** The Member and its Affiliates retain the independent right to grant or withhold a nonexclusive license or sublicense of patents containing Necessary Claims to non-Members on such terms as the Member may determine.

**5.4 No Other License.** No patent license, immunity or other right is granted under this Agreement by any Member or its Affiliates to any other Member or its Affiliates or to RapidIO, either directly or by implication, estoppel or otherwise, other than the

agreements to grant licenses expressly set forth herein.

**5.5 Transfer of Necessary Claims to Third Parties.** Any transfer by Member to a third party of a patent having Necessary Claims shall be subject to: (i) the terms and conditions of this Agreement, and (ii) the transferring Member's agreement to grant licenses to other Members and their Affiliates pursuant to Section 5.1 and Section 5.1.1 of this Agreement.

**5.6 Forwarding Specifications to an External Standards Developing Organization.** RapidIO has the option of forwarding its Specifications to External Standards Developing Organization(s) (SDO) along with the corresponding copyright license rights granted to RapidIO pursuant to Section 5.7 below. The Steering Committee can exercise this option for any specific Specification. The primary purpose of this option is to convert a Specification into an International Standard. The Steering Committee shall obtain a majority of YES votes from the total RapidIO membership before submitting a Specification to an External SDO.

**5.6.1 Ballot Method.** This ballot shall be in the form of a Default Ballot. A Default Ballot is one where the proposed Specification is circulated along with the current External SDO's IPR policy to the total RapidIO membership for a 30 calendar day ballot. Each Member can vote YES (with or without a comment), No with a comment, or Abstain. A non-response is equivalent to a YES vote. The Steering Committee shall respond to each comment and circulate all unresolved NO votes with their unresolved comments to the total membership for a rebalot. The approval to forward a Specification to an External SDO shall not be interpreted as any obligation of or commitment by any Member to grant any licenses on conditions other than according to Sections 5.1 and 5.1.1, even when the Member has voted YES, except as provided in the following Section 5.6.2.

**5.6.2 Expansion of Licensing Obligations.** Notwithstanding anything else in this Agreement to the contrary, every Member and its Affiliates agrees that in the event that a Specification that has been forwarded to an External SDO pursuant to Section 5.6 is approved and adopted without substantial change, then such Member and its Affiliates agrees that its licensing obligations under Section 5.1 and 5.1.1 shall apply not only to Members and their Affiliates, but to all prospective licensees under the External SDO's policies, for so long as the External SDO maintains that Specification.]

**5.7 Copyrights.** The Member grants to RapidIO a worldwide, irrevocable, non-exclusive, non-transferable (except as contemplated by Section 5.6) copyright license to reproduce, create derivative works, distribute, display, perform and sublicense the rights to reproduce, distribute, display and perform the Contributions of the granting Member solely for the purposes of developing, publishing and distributing (i) Specifications, Design Guidelines, and Programming Guidelines, and (ii) products based on such documents.

**5.8 Trademarks.** The Member, for itself and its Affiliates, agrees not to assert

against RapidIO or any Member any trademark or trade name rights it may have now or hereafter in the term “RapidIO” or any confusingly similar terms. In the event that RapidIO proposes to adopt any other name or logo as a trademark or trade name, RapidIO shall notify the Member in writing of the proposal. The Member will have not less than forty-five (45) days’ notice to review the trademark or trade name proposal (“Review Period”). The Member agrees that unless the Member provides written notice to the Secretariat of the Member’s challenge to the proposed trademark or trade name within the Review Period, then the Member and its Affiliates shall not assert against RapidIO or any Member any trademark or trade name rights they may have or thereafter possess in the proposed trademark or trade name. The Member will not use any name or logo adopted by RapidIO except to refer to a Specification and to products which comply with a Specification. Member shall not use or adopt any trademarks for any product, service or specification likely to cause confusion with any trademarks or trade names adopted by RapidIO, unless agreed to by the Steering Committee.

## **6. TERM AND TERMINATION**

**6.1 Term.** Unless terminated as provided herein, this Agreement shall remain in full force and effect, renewing annually upon the Member’s payment of dues.

**6.2 Termination.** The membership of a Member shall terminate upon the occurrence of any of the following events:

- a. Upon the Member’s decision to terminate its membership in the Corporation, upon written notice to the Corporation;
- b. Upon a failure of a Member to initiate or renew membership by paying dues on or before their due date, such termination to be effective thirty (30) days after a written notification if delinquency is sent to such Member by the Secretariat of the Corporation. A Member may avoid such termination by paying the amount of delinquent dues within a thirty (30) day period following the Member’s receipt of the written notification delinquency; or
- c. After providing the Member with prior written notice of the proposed termination and the reason(s) therefore, in no event less than fifteen (15) days, and an opportunity to be heard either orally or in writing not less than five (5) days before the effective date of termination, upon a decision by the affirmative vote of the number of sitting Directors minus one (1):
  - i. That the Member is in breach of these Bylaws or its Membership Agreement;
  - ii. That the Member fails to satisfy the qualifications for membership; or
  - iii. That there are other grounds supporting termination that are fair and reasonable under the circumstances.

All rights of a Member in the Corporation shall cease on termination of membership as herein provided. A Member terminated from the Corporation (whether voluntarily or involuntarily) shall not receive a refund of dues already paid for the current dues period. After the effective date of termination, Member shall not be subject to any agreement to grant a license of its Necessary Claims, except as provided in Sections 6.3.1 and 6.3.2.

### **6.2.1 Survival of Agreement to Grant License.**

Notwithstanding any termination of this Agreement and except as provided in Section 6.2.2, Member's agreement to grant a license as provided in Sections 5.1 and 5.1.1 shall remain in full force and effect: (i) for Specifications as to which the Steering Committee gave notice of its approval more than sixty (60) days before the effective date of Member's termination ("Committed Specifications"); (ii) for any Contribution made by such Member to a Specification prior to the effective date of its termination; and (iii) for unmodified portions of Committed Specifications that are contained in Specifications approved after the effective date of Member's termination. Such agreement shall extend to all Members of RapidIO, including Members who become Members after the effective date of Member's termination.

**6.2.2 Exception in the Event of Noncompliance.** The agreement to license, which survives under Section 6.2.1, shall terminate completely: (i) as to any Specification which does not include all applicable requirements for interoperating, communicating or connecting with or to products that comply with Specifications that were in effect sixty (60) days prior to the effective date of Member's termination; or (ii) as to Specifications, any portion of which is inconsistent with or exceed the bounds of the specific purpose of RapidIO as stated in its Bylaws prior to or as of sixty (60) days before the effective date of Member's termination.

## **7. NO WARRANTY/LIMITATION OF LIABILITY/REPRESENTATION**

**7.1 NO WARRANTY.** EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, ALL CONTRIBUTIONS, SPECIFICATIONS, AND GUIDELINES PROVIDED OR RELEASED HEREUNDER TO RAPIDIO BY MEMBER OR ITS AFFILIATES OR TO MEMBER OR ITS AFFILIATES BY RAPIDIO OR FROM OR TO ANY OTHER MEMBERS OR SUCH OTHER MEMBERS' AFFILIATES, ARE PROVIDED AND RELEASED "AS IS" AND WITHOUT ANY WARRANTY OF ANY KIND, INCLUDING, WITHOUT LIMITATION, ANY EXPRESS OR IMPLIED WARRANTY OF NONINFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

**7.2 LIMITATION OF LIABILITY.** IN NO EVENT SHALL ANY MEMBERS OR AFFILIATES OR RAPIDIO BE LIABLE TO OTHER MEMBERS OR AFFILIATES OR TO RAPIDIO FOR ANY INDIRECT, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**7.3 REPRESENTATION.** THE MEMBER REPRESENTS THAT ITS REPRESENTATIVES TO RAPIDIO SHALL NOT SUBMIT A CONTRIBUTION THAT ITS REPRESENTATIVES KNOW VIOLATES THE COPYRIGHT OR TRADE SECRET RIGHTS OF ANY OTHER MEMBER OR THIRD PARTY.

## **8. OTHER PROVISIONS**



**8.1 No Transfer.** The Member may not transfer, assign or sublicense any of its rights or obligations under this Agreement without the prior written consent of RapidIO, except to its Affiliates so long as its Affiliate becomes a Member of RapidIO and executes this Agreement. Any attempted transfer in violation of this Section is null and void.

**8.2** The Member designates the representative identified below for the purpose of receiving notice under this Agreement. The Member may change the designated representative by written notice to RapidIO. If the Member fails to designate a representative, notice may be sent to the Member at its address stated below. Any notification made under this Agreement shall be deemed delivered on the next business day following it being sent by electronic mail, by facsimile, by express mail or by courier, or three (3) days after being sent first-class mail, postage prepaid, addressed to the Member's designated representative at the address provided. Notice of a breach of this Agreement and notice of termination of this Agreement shall be given both by express mail or by first class mail, postage prepaid, and, in addition, by electronic mail or by facsimile.

**8.3 No Joint Venture.** Nothing contained in this Agreement and no action taken by the Member shall be deemed to render the Member or its Affiliates an employee, agent or representative of RapidIO or any other Member or their Affiliates, or shall be deemed to create a partnership, joint venture or syndicate among or between any of the Members or their Affiliates or with RapidIO.

**8.4 Compliance with Laws.** The obligations of the parties hereto shall be subject to all laws, present and future, of any government having jurisdiction over the parties hereto, pertaining to the Member's participation in RapidIO.

**8.5 Governing Law.** This Agreement shall be governed by and construed under, and the legal relations among the parties hereto shall be determined in accordance with, the laws of the State of Texas, excluding conflict-of-law principles that would cause the application of the laws of any other jurisdiction.

**8.6 Severability.** If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, then the remaining provisions will nevertheless remain in full force and effect; and a substitute, valid, and enforceable provision most nearly reflecting the original intent shall be developed in place of the invalid provision.

**8.7 Amendments.** This Agreement may be amended on a nondiscriminatory basis by the affirmative vote of at least two-thirds (2/3) of the Steering Committee. The Member shall be given at least thirty (30) days' prior written notice of the effective date of an amendment, and amendments shall be prospective only. A Member shall be bound by a duly adopted amendment, unless it elects to terminate this Agreement and its membership in RapidIO.

**8.8 Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

**8.9 Integration.** This Agreement supersedes and replaces any and all prior representations, agreements and understandings relating to the Member's membership in RapidIO, except the Bylaws.

**8.10 Authority.** The Member represents and warrants that it is authorized to enter into

this Agreement. The undersigned person represents and warrants that he/she is authorized to sign this Agreement on behalf of the Member.

**9. EFFECTIVE DATE**

**9.1** This Agreement shall be effective when it is accepted by RapidIO.

MEMBER:

By: \_\_\_\_\_ Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_ Address: \_\_\_\_\_

Facsimile Number: \_\_\_\_\_ e-mail Address: \_\_\_\_\_

Membership Class  
(Check one – see Section 2.1):

\_\_\_\_\_ Regular Member \_\_\_\_\_ Sponsoring Member \_\_\_\_\_ Steering Committee Member

ACCEPTED AND CONFIRMED AS TO THE  
FOLLOWING MEMBERSHIP CLASS: \_\_\_\_\_

RAPIDIO, INC. dba RAPIDIO TRADE ASSOCIATION

By: \_\_\_\_\_

(Name and Title)