

RapidIO TRADE ASSOCIATION AUDITING PARTICIPATION AGREEMENT

This PARTICIPATION 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 (“Participant”).

Participant agrees to participate in RapidIO activities 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 or Participant, provided that the minutes are promptly provided to the individual representing the Member or Participant, unless the submitting Member or Participant 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

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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 a company that has signed a membership agreement with the RapidIO Trade Association, and includes the company's wholly owned subsidiaries.

1.11 Members mean all RapidIO Members, regardless of membership class, including Members who may become Members after the undersigned Participant 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 Participant 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 Participant means the undersigned Participant. Participant is not a member of the RapidIO Trade Association, but may have some limited rights, such as access to confidential RapidIO information, and participation in RapidIO meetings.

1.14 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.

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

1.16 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.

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2. PARTICIPATION

2.1 Participation. Participant's participation in RapidIO is limited to the activities specified in Section 2.2 and is subject to the terms and conditions of this Agreement.

2.2 Permitted Activities. Participant shall only be permitted to participate in the following activities of RapidIO:

2.2.1 If invited by a Member, Participant may attend a face- to-face meeting or a conference call.

2.2.2 If approved by the workgroup or taskgroup chair, Participant may access the RapidIO Members website, including the repositories of that workgroup or taskgroup.

2.2.3 If approved by the workgroup or taskgroup chair, Participant may access unpublished and in-progress specifications and other works of that workgroup or taskgroup.

2.2.4 Participant may access internal RapidIO bulletin boards and support mechanisms.

2.3 Changes to Scope of Participation. The scope of participation may be expanded or limited by the RapidIO Steering Committee.

2.4 Not a Member. Participant acknowledges and agrees that nothing in this Agreement shall be deemed to make Participant a member of RapidIO. Participant agrees that it does not have the rights, privileges or benefits of a Member.

2.5 Use of Name. The Participant may publicly disclose that it is a Participant of RapidIO. However, the Participant 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 Participant's name in any lists of Members or participants published by RapidIO and to announce that the Participant participates in RapidIO activities.

2.6 Contribution. Any Contributions to Specifications, to Design Guidelines, and to Programming Guidelines made by Participant are subject to the terms and conditions of this Agreement and the Bylaws.

2.7 Dues and Other Fees. The Participant 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 or participation.

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

2.9 Antitrust Policy. The Participant agrees to comply with all applicable antitrust laws pertaining to participation in RapidIO. Nothing in this Agreement shall be construed to require or permit conduct that violates any applicable antitrust law. Participant consents to the disclosure of its name as a member or participant 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.)

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3. INFORMATION

3.1 Confidential Information. The Participant 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. Participant 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 Participant) 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 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 Participant. However, no Participant 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.

3.2 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 Participant within Participant'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.

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4. INTELLECTUAL PROPERTY

4.1 Agreement to Grant Licenses. When the Steering Committee adopts and approves for release a Specification, the Participant and its Affiliates hereby agree to grant to RapidIO Members and their Affiliates under reasonable terms and conditions 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. Participant agrees that it will not transfer patents having Necessary Claims for the purpose of circumventing this Section 4.1.

4.1.1 Reciprocity Required. The Participant's agreement in Section 4.1 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 4.1 available to the Member and its Affiliates.

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

4.3 Right to Grant Nonexclusive Licenses Retained. The Participant 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 Participant may determine.

4.4 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.

4.5 Transfer of Necessary Claims to Third Parties. Any transfer by Participant 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 agreement to grant licenses by the Participant to Members and their Affiliates pursuant to Section 4.1 of this Agreement.

4.6 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 4.7 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.

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4.6.1 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 4.1 and 4.1.1, even when the Member has voted YES, except as provided in the following Section 4.6.2.

4.6.2 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 4.6 is approved and adopted without substantial change, then such Member and its Affiliates agrees that its licensing obligations under Section 4.1 and 4.1.1 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.]

4.7 Copyrights. Participant grants to RapidIO and to Members and their affiliates a worldwide, irrevocable, non-exclusive, non-transferable 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 Participant solely for the purposes of developing, publishing and distributing (i) Specifications, Design Guidelines, and Programming Guidelines, and (ii) products based on such documents. RapidIO shall license or otherwise make available Specifications, Design Guidelines and Programming Guidelines to all Members and their Affiliates on reasonable, equal and nondiscriminatory terms, subject to any preexisting rights or obligations of third parties and without any warranty of any kind.

4.8 Trademarks. Participant, 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. Participant will not use any name or logo adopted by RapidIO except to refer to a Specification and to products which comply with a Specification. Participant 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.

5. TERM AND TERMINATION

5.1 Term. Unless terminated as provided herein, this Agreement shall remain in full force and effect, renewing annually upon the Participant's payment of dues.

5.2 Termination by Participant. The Participant's participation shall terminate upon the

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occurrence of any of the following events:

- a.* Upon the Participant's decision to terminate its membership in the Corporation, upon written notice to the Corporation;
- b.* Upon a failure of a Participant to initiate or renew participation 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 Participant by the Secretariat of the Corporation. A Participant may avoid such termination by paying the amount of delinquent dues within a thirty (30) day period following the Participant's receipt of the written notification delinquency; or
- c.* After providing the Participant 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 Participant is in breach of these Bylaws or its Membership Agreement;
 - ii.* That the Participant 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 Participant in the Corporation shall cease on termination of membership as herein provided. A Participant 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, Participant shall not be subject to any agreement to grant a license of its Necessary Claims, except as provided in Sections 5.2.1 and 5.2.2.

5.2.1 Survival of Agreement to Grant License.

Notwithstanding any termination of this Agreement and except as provided in Section 5.2.2, Participant's agreement to grant a license as provided in Sections 5.1 and 5.2 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 Participant's termination ("Committed Specifications"); (ii) for any Contribution made by the terminating Participant 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 Participant's termination. Such agreement shall extend to all Members of RapidIO, including Members who become Members after the effective date of Participant's termination.

5.2.2 Exception in the Event of Noncompliance. The agreement to license, which survives under Section 5.2.1, 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 Participant'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 Participant's termination.

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6. NO WARRANTY/LIMITATION OF LIABILITY/REPRESENTATION

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

6.2 LIMITATION OF LIABILITY. IN NO EVENT SHALL ANY MEMBER, PARTICIPANT OR AFFILIATE, OR RAPIDIO BE LIABLE TO OTHER MEMBERS OR PARTICIPANTS 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.

6.3 REPRESENTATION. THE PARTICIPANT 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.

7. OTHER PROVISIONS

7.1 No Transfer. The Participant 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 Participant of RapidIO and executes this Agreement or a Member of RapidIO and executes the Member's Agreement. Any attempted transfer in violation of this Section is null and void.

7.2 The Participant designates the representative identified below for the purpose of receiving notice under this Agreement. The Participant may change the designated representative by written notice to RapidIO. If the Participant fails to designate a representative, notice may be sent to the Participant 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 Participant'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.

7.3 No Joint Venture. Nothing contained in this Agreement and no action taken by the Participant shall be deemed to render the Participant 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.

7.4 Compliance with Laws. The obligations of the parties hereto shall be subject to

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all laws, present and future, of any government having jurisdiction over the parties hereto, pertaining to the Participant's participation in RapidIO.

7.5 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.

7.6 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.

7.7 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 Participant 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 Participant shall be bound by a duly adopted amendment, unless it elects to terminate this Agreement and its participation in RapidIO.

7.8 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.

7.9 Integration. This Agreement supersedes and replaces any and all prior representations, agreements and understandings relating to the Participant's participation in RapidIO, except the Bylaws.

7.10 Authority. The Participant 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 Participant.

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8. EFFECTIVE DATE

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

PARTICIPANT:

By: _____ **Dated:** _____

Printed Name: _____

Title: _____

Address: _____

Facsimile Number: _____

e-mail Address: _____

ACCEPTED AND AGREED:

RAPIDIO, INC. dba RAPIDIO TRADE ASSOCIATION

By: _____ **Dated:** _____

Printed Name: _____

Title: _____