

LICENSE AGREEMENT

This License Agreement (“Agreement”), is made as of this ___ day of _____, and effective on the latest date of the signatures indicated below, by and between **THE INSTITUTE OF ELECTRICAL AND ELECTRONICS ENGINEERS, INCORPORATED**, a New York not-for-profit corporation with its principal place of business at 3 Park Avenue, 17th Floor, New York, New York 10016-5997 U.S.A. (“**Licensor**”), and _____, a _____ corporation with its principal place of business at _____ (“**Licensee**”).

WHEREAS, Licensor is the owner of all right, title and interest in and to the trademarks IEEE®, POSIX® and the associated logos and trademarks identified in Schedule A (the Trademarks”); and

WHEREAS, Licensee desires a license to use the Trademarks in connection with the sale and marketing of Licensee’s products as defined herein; and

WHEREAS, Licensor is willing to grant Licensee the right to use the Trademarks solely in accordance with the terms and conditions set forth herein;

NOW THEREFORE, the parties hereto agree as follows:

1. Definitions

As used in this Agreement, the following terms shall be defined as follows:

A. Certification Policy

The certification policy for the POSIX®: Certified by IEEE and The Open Group program, as may be modified by Licensor from time to time and set forth at <http://posixcertified.ieee.org>, or such additional or replacement locations as provided by Licensor.

B. Certified Product

Any product or service which has been certified in accordance with the Certification Policy and which remains a Certified Product as defined in the Certification Policy.

C. Standards of Quality

The applicable Conformance Requirements as set forth in the Certification Policy.

D. Collateral Materials

Product labeling, technical documentation, advertising, and promotional materials, including, but not limited to (i) labels on external packaging or otherwise (ii) sales

literature and other sales material, (iii) product data sheets and other technical documentation, and (iv) web sites, advertising, marketing, communications and public relations materials.

2. Grant of Rights

A. Licensor grants Licensee the nonexclusive right to use the Trademarks solely in connection with the labeling, advertisement, promotion, offering for sale and sale of Licensee's Certified Products, as identified in Schedule B to this Agreement, including the right to use the Trademarks in the product names of Licensee's Certified Products, and in Collateral Materials relating to Licensee's Certified Products. Licensee shall not have the right to assign, transfer or sublicense any of the rights granted hereunder, except upon the written consent of Licensor, which consent shall be given at the sole discretion of Licensor.

B. Licensee shall not use the Trademarks in its business name or on stationery, business cards or signs, building directories or telephone listings unless it has received written approval of such use from Licensor.

3. Territory

This Agreement applies worldwide (hereinafter, the "Territory").

4. Licensee's Obligations

A. Licensee recognizes and acknowledges that the Trademarks and all rights therein and goodwill pertaining thereto belong exclusively to Licensor and that all rights resulting from Licensee's use of the Trademarks as permitted hereunder inure to the benefit of the Licensor.

B. Licensee agrees to safeguard and maintain the reputation and prestige of the Trademarks and shall avoid tarnishing the image of or adversely impacting the value, reputation or goodwill associated with the Trademarks.

C. Licensee shall not use the Trademarks other than as permitted herein. Licensee agrees that in using the Trademarks, it will in no way represent that it has any right, title or interest in the Trademarks other than those expressly granted under the terms of this Agreement. Licensee further agrees that it will not use or attempt to register in the Territory or in any other country or jurisdiction, during the Term, or at any time thereafter, any mark consisting of or containing the Trademarks or any other trademark, trade name or other designation similar in whole or in part to the Trademarks, except as specifically permitted by this Agreement.

D. Licensee agrees to immediately notify Licensor in writing in the event (i) any legal action is instituted against Licensee related to the use of the Trademarks or (ii) Licensee becomes aware of any infringement or illegal use by any third party of the Trademarks. Licensee shall cooperate fully with Licensor in stopping such infringement or defending or instituting such legal action. The cost and expense of any litigation that ensues shall be borne by Licensor and Licensor shall be entitled to any monetary recovery which may result from legal action instituted by Licensor.

5. Quality Control

A. Licensee shall comply with the Certification Policy and use the Trademarks only in connection with Certified Products that comply with the Standards of Quality. Licensee hereby warrants and represents that each Certified Product complies with the applicable Standard of Quality set forth in the Certification Policy.

[The POSIX®: Certified by IEEE and The Open Group program requires test results to be provided in order to achieve certification. The Licensee shall retain records of such test results for as long as the Trademarks are used on or in relation to the Certified Products and for a period of one year thereafter – **this can be deleted if this requirement is set forth in the Conformance Requirements.**]

B. In the event any changes in a Certified Product are made due to product defects, corrections or otherwise, Licensee shall ensure that all Certified Products continue to meet the Standards of Quality during the Term of this Agreement. If a Certified Product ceases to qualify as a Certified Product, Licensee shall at its expense immediately cease further use of the Trademarks in connection with that product. In addition, Licensee shall also immediately cause the Trademarks to be removed from all units of that product and from all Collateral Material and use its best efforts to recall such Collateral Material from retailers and other distributors (other than the ultimate customer) or, at a minimum, ensure that any use of the Trademarks on such products or Collateral Material is not visible.

C. All use of the Trademarks in Collateral Material shall be in the form set forth in the Trademark Usage Guide and contain the relevant attribution statement prescribed in the Trademark Usage Guide. **[Where is this Trademark Usage Guide set out?]** To ensure compliance with the Trademark Usage Guide, no Collateral Material shall be used without the prior written approval of Licensor, which approval shall be at Licensor's sole discretion, but shall not be unreasonably withheld. Licensor shall use commercially reasonable efforts to approve, disapprove or otherwise comment upon any items submitted to it within ten (10) business days of receipt of such items. If any changes or modifications are required to be made to any item of Collateral Material in order to insure compliance with Licensor's Trademark Usage Guide, Licensee agrees to promptly make such changes or modifications. In connection with the quality control and approval requirements set forth herein, Licensee agrees to use such forms, procedures and methods of communication as maybe specified by Licensor.

D. In addition to complying with the quality control and approval procedures of this paragraph, Licensee agrees that all Collateral Material shall be of high quality and comply with all laws, rules, regulations and requirements of any governmental or administrative body or voluntary industry standards which may be applicable to the advertising, merchandising, publicity, promotion, sale and distribution of the Collateral Material.

6. Term, Expiration and Termination

A. Term

The Term of this Agreement shall run from the effective date of the Agreement and continue for as long as Licensee offers for sale the Certified Products listed in Exhibit B that continue to meet the Standards of Quality, unless terminated sooner in accordance with the terms herein.

B. Without prejudice to any other rights, Licensor shall have the right to terminate this Agreement, at Licensor's option, upon written notice to Licensee at any time under the following circumstances:

- (i) If Licensee fails to make any payment due;
- (ii) If Licensee is unable to pay its liabilities when due, or makes any assignment for the benefit of creditors or files any petition under any federal or state bankruptcy statute, or is adjudicated a bankrupt or insolvent, or if any receiver is appointed for its business or property, or if any trustee in bankruptcy is appointed;
- (iii) If Licensee's products bearing the Trademarks, or marketed used the Trademarks, fail to meet the Standards of Quality; or
- (iv) If Licensee fails to perform any other material term of this Agreement and such non-performance is not cured after fifteen days written notice by Licensor.

C. Upon the expiration or termination of this Agreement, all rights of Licensee under this Agreement in the Trademarks shall terminate immediately and revert to Licensor. Without prejudice to any other rights Licensor may have at law or equity, upon the expiration or termination of this Agreement, all royalties due to Licensor shall become immediately due and payable to Licensor. Licensee shall discontinue all use of the Trademarks and shall have no further right to advertise distribute, sell, or otherwise deal in any Licensed Service or utilize the Trademarks. Licensee shall also return to Licensor all Collateral Material bearing the Trademarks.

D. Any use of the Trademarks other than in accordance with this paragraph may injure Licensor's business relationships and interfere with its contractual relations, which injuries are not readily calculable in monetary terms, in addition to causing Licensor irreparable harm. Licensor reserves all rights to seek the entry of preliminary and permanent injunctive relief for any use of the Trademarks other than as provided herein. However, such remedies shall not be exclusive of other legal remedies otherwise available to Licensor.

7. Payment Terms

Licensee shall pay Licensor _____ USD in consideration for the rights granted herein. Same shall be due upon final execution of this Agreement.

8. Indemnification

A. Licensee will defend, indemnify, and hold harmless Licensor from and against any loss, damages, or liability resulting directly from claims by third parties based on alleged defects or failures of Licensee's products. As a condition to such defense and indemnification, Licensor will provide Licensee with prompt written notice of the claim.

B. Licensor will defend, indemnify, and hold harmless Licensee from and against any loss, damages, or liability resulting from or arising out of a claim that Licensee's use of the Trademarks infringes the trademark rights of any third party. As a condition to such defense and indemnification, Licensee will provide Licensor with prompt written notice of the claim.

9. Notices

All notices, requests, demands and other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given only if personally delivered, delivered by a major commercial rapid delivery courier service with tracking capabilities, costs prepaid, or mailed by certified or registered mail, return receipt requested, postage prepaid, to a party at the address set forth below or such other address as a party last provided to the other by written notice:

If to Licensor:

If to Licensee:

Attention: _____

10. Disputes

All disputes arising with respect to this Agreement shall be governed by the laws of New York and adjudicated in a court of competent jurisdiction in New York, and Licensee hereby consents to personal jurisdiction in New York. Upon mutual agreement by the parties, such disputes may be resolved by arbitration or mediation.

11. Relationship of the Parties

This Agreement does not create a partnership or joint venture between Licensee and Licensor, and Licensee shall have no power to obligate or bind Licensor in any manner.

12. Severability

If any provision of the Agreement is for any reason declared to be invalid or unenforceable, the validity and enforceability of the remaining provisions shall not be affected thereby. Such invalid or unenforceable provision shall be deemed modified to the extent necessary to render it valid and enforceable, and if no modification shall render it valid and enforceable, the Agreement shall be construed as if not containing such provision and the rights and obligations of the parties shall be construed and enforced accordingly.

13. No Waiver

Any waiver by either party of any condition, party, term or provision of this Agreement, shall not be construed as a waiver of any other condition, part, term or provision or a waiver of any future event or circumstance.

14. Entire Agreement

This Agreement contains the entire agreement between the parties and supersedes any prior agreement or understanding relating to the subject matter hereof. The Agreement may not be altered or modified in any way except by a writing signed by Licensor and Licensee and dated subsequent to the effective date hereof.

THE INSTITUTE OF ELECTRICAL AND
ELECTRONICS ENGINEERS, INCORPORATED

Dated:

By: _____

Name:

Title:

Dated:

By: _____

Name:

Title: