

## AFFILIATE MEMBER AGREEMENT

THIS AFFILIATE MEMBER AGREEMENT (this “Agreement”), dated as of \_\_\_\_\_, 201\_\_, is between Z-Wave Alliance, LLC, a Delaware limited liability company (the “Alliance”) and the entity executing this Agreement below as “Member.” In consideration of the mutual promises in this Agreement and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, Alliance and Member (each, a “Party” and collectively, the “Parties”) hereby agree as follows:

### 1. **Introduction.**

The purposes of the Alliance are to: (a) promote the use of Z-Wave Technology, (b) build consumer awareness with respect to Z-Wave Technology by coordinating marketing campaigns, (c) encourage collaboration among participants regarding new uses of Z-Wave Technology, and (d) advance the Z-Wave standard. By executing this Agreement, Member agrees to join the Alliance as an Affiliate Member and to perform all of the requirements associated with such level of participation.

### 2. **Definitions.**

When used in this Agreement, the terms “Agreement,” “Alliance,” “Member,” “Party” and “Parties” shall have the meanings indicated in the preamble, and when used with initial capital letters the following terms shall have the following meanings:

“Alliance Board” shall mean a group of individuals nominated by the Principal Members as provided below, which serves in a consultative capacity to the Alliance.

“Governmental Authority” shall mean any Federal, state, municipal, local, territorial or other governmental department, regulatory authority, judicial or administrative body, whether domestic, foreign or international.

“Law” shall mean any declaration, decree, directive, legislative enactment, statute, order, ordinance, regulation, rule or other binding action of or by any Governmental Authority.

“Limited Liability Company Agreement” shall mean the Limited Liability Company Agreement of Z-Wave Alliance, LLC.

“Losses” shall mean any damages, fines, penalties, deficiencies, losses, liabilities (including settlements and judgments), costs or expenses (including interest, court costs, reasonable fees and expenses of attorneys, accountants, experts and other professionals or other reasonable fees and expenses of litigation, mediation or other actions or proceedings or of any claim, default or assessment).

“Manager” shall mean the Manager of the Alliance, as set forth in the Limited Liability Company Agreement.

“Nondisclosure Agreement” shall mean an agreement prohibiting the disclosure of confidential information and containing other terms and provisions relating thereto.

“Operating Procedures” shall mean procedures governing the operation and management of the Alliance, as such are approved by the Manager from time to time.

“Sigma Designs” shall mean Sigma Designs Inc.

“Z-Wave Technology” shall mean embedded networking software, integrated MCU/transceiver silicon chips, reference designs and development tools proprietary to Sigma Designs, including technology trademarked by Sigma Designs as “Z-Wave<sup>™</sup>”.

### 3. **Obligations of Member.**

(a) Classes of Membership. The Alliance shall have such classes of membership as may be determined from time to time, with the eligibility criteria, rights, preferences and privileges set by the Manager.

(b) Dues. Member shall pay annual dues of US\$400. The membership period consists of a twelve month period commencing on the date of execution of this Agreement. The membership dues may be increased or decreased by the Manager, in its sole discretion, at any time, and such increases or decreases may be based on the projected expenditures of the Alliance. Member’s dues will be used by the Alliance for operational purposes, including without limitation marketing and promotion of the Alliance and Z-Wave Technology, and administrative expenses (including the payment of taxes).

(c) Rights and Obligations. In connection with its participation in the Alliance, Member shall have the rights and obligations of an Affiliate Member that are determined by the Manager. Such membership shall automatically renew for consecutive terms unless either Party transmits a notice to the other not less than 30 days prior to the renewal date therefore. Member may keep its membership current by timely paying to the Alliance all amounts required under Section 3(b). Member agrees that when performing its obligations or exercising its rights as an Affiliate Member it shall at all times comply with all applicable Laws, including but not limited to all antitrust Laws (including the requirements set forth in the attached Exhibit A). Additionally, Member acknowledges that it is not being admitted as a statutory member pursuant to Delaware law, is not being admitted as a member pursuant to the Alliance’s Limited Liability Company Agreement, and does not have any statutory voting, inspection or property rights; further, Member acknowledges that all of Member’s rights are strictly the contractual rights delineated in this Agreement.

(d) Designated Representatives. Member shall designate the number of employees required by the Alliance Board for its respective class of membership to serve in the Alliance in those functions designated by the Alliance Board.

(e) Governance.

(i) Manager. The business and affairs of the Alliance shall be managed and controlled by or under the direction of the Manager, which may exercise all such powers of the Alliance and do all such lawful acts and things.

(ii) Alliance Board. The daily operations of the Alliance shall be performed by the Manager pursuant to the Operating Procedures. The Alliance Board shall advise the Manager on any topic within the purview of the Alliance, and provide such assistance on all matters as are deemed advisable by the Manager. Membership of the Alliance Board will consist of those individuals nominated by the Principal Members and approved by the Manager.

(iii) Operating Procedures. The Operating Procedures of the Alliance (and any amendments thereto) shall govern the internal operations of the Alliance. Any amendments to the Operating Procedures, prior to becoming effective: (a) shall be approved by the Manager in consultation with the Alliance Board, and (b) Member shall be given 60 days written notice thereof prior to such revised Operating Procedures going into effect. Except as expressly set forth in such Operating Procedures or as otherwise determined by the Manager, Member shall not have any voting rights with respect to the business or proceedings of the Alliance.

(iv) Committees. The Alliance Board will establish and staff such other committees as it deems necessary from time to time to carry out the purposes of the Alliance, with eligibility criteria for serving on such committees set by the Manager.

(f) Endorsement of Technology. In the event the Alliance approves, certifies or endorses other technology to be used with Z-Wave Technology, the process by which such other technologies are selected shall be fair, objective and reasonable.

(g) Publicity. Member shall (a) submit to the Alliance Board all advertising, written sales promotions, press releases and other publicity matters relating to the Alliance in which the Alliance's name or mark is mentioned or which contains language from which the connection of said name or mark may be inferred or implied and (b) not publish or use such advertising, sales promotions, press releases or publicity matters without the consent of the Alliance Board.

#### 4. **Nondisclosure Agreement.**

The Parties have executed the Nondisclosure Agreement attached hereto as Exhibit B, or have otherwise entered into a binding written agreement governing confidentiality and related matters (subject to the written approval of the Alliance).

#### 5. **Dispute Resolution.**

(a) Governing Law. Except as required by Law in any jurisdiction outside of the United States, this Agreement and the rights and obligations of the Parties under this Agreement and its validity, construction and effect shall be governed by and enforced and construed in accordance with the Laws of the United States and the State of Delaware, without giving effect to the principles thereof relating to the conflicts of Laws.

(b) Service of Process; Waiver of Jury Trial. Each Party hereto irrevocably consents to the service of process from any courts by mailing copies thereof by registered or certified

mail, postage prepaid, to such Party at its address designated pursuant to this Agreement. The Alliance and Member hereby irrevocably waive their respective rights to trial by jury in respect of any disputes arising under or related to this Agreement.

## 6. **Warranties.**

(a) Full Power and Authority. Member hereby represents and warrants that it has the full power and authority to enter into and perform this Agreement and it knows of no contract, agreement, promise, undertaking or other fact or circumstance which would prevent the full execution and performance of this Agreement by it.

(b) Compliance With Laws. Member hereby represents, warrants and covenants that it is, and at all times during its term as a Member will be, in compliance with all applicable state, federal or foreign treaties, laws, regulations and other legal obligations (collectively, "Laws") from whatever source, including, but not limited to U.S. and other applicable export laws, intellectual property laws, and antitrust laws to the extent such Laws relate to or govern such Member's conduct within the Alliance.

(c) Intellectual Property Rights. Member hereby represents, warrants and covenants that it shall not, in performing its obligations or exercising its rights as an Affiliate Member, infringe the copyright, trademark, patent, trade secret or other intellectual property or proprietary rights of the Alliance or any other party.

(d) Disclaimer. EXCEPT AS SPECIFIED IN SECTION 7(A), NEITHER THE ALLIANCE NOR MEMBER MAKES ANY OTHER WARRANTIES WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT, AND EACH EXPLICITLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED.

## 7. **Liability.**

(a) No Consequential Damages. TO THE EXTENT PERMITTED BY APPLICABLE LAW, NEITHER THE ALLIANCE NOR MEMBER SHALL BE LIABLE TO THE OTHER IN CONTRACT, TORT OR ON ANY OTHER BASIS FOR, NOR WILL THE MEASURE OF DAMAGES INCLUDE, ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES OF ANY NATURE, INCLUDING LOSS OF REVENUE, INCOME, PROFITS, SAVINGS OR CUSTOMER GOODWILL ARISING OUT OF OR RELATING TO ITS PERFORMANCE OR FAILURE TO PERFORM UNDER THIS AGREEMENT.

(b) Exclusions. The limitations set forth in Section 7(a) shall not apply to: (i) Member's failure to pay any amounts required under Section 3(b) ("Dues"); (ii) breaches of Section 6 ("Warranties"), (iii) liability resulting from the gross negligence or willful misconduct of a Party, or (iv) breaches of an ancillary agreement referenced herein or otherwise existing between the Parties.

## 8. **Term and Termination.**

(a) **Term.** This Agreement shall be effective as of the date executed by the Alliance and shall remain in effect until terminated concurrently, and without the need for any further action on the part of either Party, upon the effective date of: (i) any dissolution of the Alliance, (ii) Member's resignation from the Alliance pursuant to Section 8(b), or (iii) the Board of Director's decision to remove Member from the Alliance pursuant to Section 8(c).

(b) **Resignation by Member.** Member may voluntarily resign from the Alliance at any time and for any reason effective as of any date by giving the Alliance notice of such resignation. In addition, if Member shall fail to pay any amounts required under Section 3(b) ("Dues"), then Member shall be deemed to have resigned from the Alliance as of the date such amount was due and payable to the Alliance.

(c) **Removal by the Manager.** Without limiting, obviating or qualifying any other termination rights the Manager may have under this Agreement or Law, the Manager may elect to remove Member from the Alliance effective as of any date by giving Member notice of such termination.

## 9. **Rights and Obligations upon Termination.**

The terms of Section 5 ("Governing Law"), Section 6 ("Warranties"), Section 7 ("Liability"), Section 9 ("Rights and Obligations upon Termination"), and Section 10 ("General") shall survive any termination of this Agreement. Additionally, any other agreements between the Parties (including without limitation the Nondisclosure Agreement) shall survive according to their terms. Further, at no time shall Member have any right to receive any refund of any dues or other amounts paid to the Alliance prior to any termination of this Agreement, and Member shall remain liable for all amounts due and payable to the Alliance under Section 3(b) ("Dues") but remaining unpaid as of any termination of this Agreement.

## 10. **General.**

(a) **Assignment.** Member may not assign, transfer or sublicense (whether by operation of Law or otherwise) any of its interest or rights under this Agreement without the written consent of the Manager, provided, however, Member may assign this Agreement with prior written notice to the Alliance to any affiliate of Member, where an affiliate is any entity that controls, is controlled by or is under common control with Member. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns.

(b) **Notices and Requests.** All notices, requests and other communications hereunder shall be in writing and shall be delivered in person or sent by nationally recognized overnight courier service, or by facsimile transmission (with confirmation of receipt) to the address or facsimile number of the Party set forth on the signature page of this Agreement or to such other address designated in writing by the receiving Party. Unless otherwise provided, notice shall be effective on the date it is officially recorded as delivered, as evidenced by delivery receipt or equivalent.

(c) Entire Agreement. Upon execution by both Parties, this Agreement represents the entire agreement and understanding between the Parties with respect to the subject matter hereof and supersedes all prior agreements and understandings relating to such subject matter, and there are no other representations, understandings or agreements between the Parties relative to such subject matter.

(d) Severability. If any provision of this Agreement is prohibited by Law or held to be unenforceable, the remaining provisions hereof shall not be affected, and this Agreement shall continue in full force and effect as if such unenforceable provision had never constituted a part hereof, and the unenforceable provision shall be automatically amended so as best to accomplish the objectives of such unenforceable provision within the limits of applicable Law.

(e) Relationship of the Parties. Nothing contained in this Agreement shall be construed to make either the Alliance or Member partners, joint venturers, principals or agents of the other. Neither Party shall have any right, power or authority, express or implied, to bind the other.

(f) No Waiver. No waiver of any breach of any provision of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provisions hereof, and no waiver shall be effective unless made in writing and signed by an authorized representative of the waiving Party.

(g) Force Majeure. Neither Party hereto shall be responsible for any failure to perform its obligations under this Agreement (other than obligations to pay money and confidentiality obligations) if such failure is caused by acts of God, war, strikes, revolutions, lack or failure of transportation facilities, fire, laws or governmental regulations or other causes which are beyond the reasonable control of such Party and without such Party's fault or negligence.

(h) Section Headings. The section headings used in this Agreement are intended for convenience only and shall not be deemed to supersede or modify any provisions.

(i) References. In this Agreement (i) references to the Limited Liability Company Agreement shall be to the then-current Limited Liability Company Agreement in changed or amended form, (ii) references to any Law shall be to such Law in changed or amended form or to a newly adopted Law replacing a prior Law, and (iii) references to the words "including," "includes" or "include" shall mean "including, without limitation."

(j) No Conflicts with Other Agreements. In the event that Member has entered into separate agreements with Sigma Designs or other entities, such agreements are not affected by any provisions of this Agreement.

(k) Counterparts. This Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which taken together shall constitute one single agreement between the Parties.

(l) Bargained for Bases. EACH PARTY RECOGNIZES AND AGREES THAT THE WARRANTY DISCLAIMERS AND LIABILITY AND REMEDY LIMITATIONS IN THIS AGREEMENT ARE MATERIAL BARGAINED FOR BASES OF THIS AGREEMENT

AND THAT THEY HAVE BEEN TAKEN INTO ACCOUNT AND REFLECTED IN THE DECISION BY EACH PARTY TO ENTER INTO THIS AGREEMENT.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused their duly authorized representatives to execute this Affiliate Member Agreement, effective on the date executed by the Alliance as set forth below.

**MEMBER:** \_\_\_\_\_

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

Name: \_\_\_\_\_

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

Date: \_\_\_\_\_

**Z-WAVE ALLIANCE, INC.**

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

Name: \_\_\_\_\_

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

Date: \_\_\_\_\_

**[Signature Page to Affiliate Member Agreement]**



## Official Z-Wave Alliance Membership Enrollment form

Company name to be listed on websites: \_\_\_\_\_

General company contact address: \_\_\_\_\_

City: \_\_\_\_\_ ZIP / Postal Code: \_\_\_\_\_

State / Province: \_\_\_\_\_ Country: \_\_\_\_\_

General company email: \_\_\_\_\_ General Company Phone: \_\_\_\_\_

URL: http:// \_\_\_\_\_

Product Segment: \_\_\_\_\_

Primary Alliance Contact, Name: \_\_\_\_\_

Email: \_\_\_\_\_ Phone: \_\_\_\_\_

Marketing Alliance Contact, Name: \_\_\_\_\_

Email: \_\_\_\_\_ Phone: \_\_\_\_\_

Technical Alliance Contact, Name: \_\_\_\_\_

Email: \_\_\_\_\_ Phone: \_\_\_\_\_

Accounting Alliance Contact, Name: \_\_\_\_\_

Email: \_\_\_\_\_ Phone: \_\_\_\_\_

Billing Information <sup>1</sup>:  Full, \$4,000 USD/Year  Affiliate, \$400 USD/Year

Purchase order number (optional): \_\_\_\_\_

Billing Address:  Same as company address and primary contact above

Billing Contact: \_\_\_\_\_

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

City: \_\_\_\_\_ ZIP / Postal Code: \_\_\_\_\_

State / Province: \_\_\_\_\_ Country: \_\_\_\_\_

Method of Payment:  Please **invoice** us for the member fee (Full members, only)

Credit Card Payment (Form Attached)

(Membership Information Page)

## Exhibit A

### **Antitrust Requirements**

The purpose of this organization is to promote competition by encouraging the introduction of new technology. The policy of the organization is to comply fully with the antitrust and competition Laws of the United States, including its individual states, and other jurisdictions. In order to achieve such compliance, the following basic guidelines must be followed. There should be:

No discussions of or agreements on individual companies' past, present or future:

Prices, including discounts and rebates;

Bids;

Costs;

Capacity, including plans to add or reduce capacity;

Production volume;

Sales volume;

Profits;

Royalties;

Terms of sale;

Licensing terms;

New product introductions, including dates thereof; or

Strategic plans.

No discussion or agreement about coordinating prices or output.

No discussion or agreement about dividing customers or markets.

No discussion or agreement about whether to deal with particular customers or suppliers.

No meetings that do not follow a pre-announced agenda, at which minutes are recorded.

No exclusion of new members for anticompetitive purposes.

No expulsion of members for anticompetitive purposes.

## Exhibit A

No requirement that a member adopt a particular technology or standard.

No coercion of a member to adopt a particular technology or standard.

No prohibition against a member adopting any technology or standard.

No prohibition against a member developing any technology or standard.

No prohibition against a member licensing others for any technology or standard.

No prohibition against a member marketing any lawful product.

No adoption of specifications or standards except objectively based on technical considerations.

No members who do not agree in advance to adhere to these guidelines.

Note: These guidelines are intended to promote compliance with Laws, not to create duties or obligations beyond what the Laws require. In the event of an inconsistency between these guidelines and applicable Law, the requirements of applicable Law control.

## Exhibit A