

ETHERNET ALLIANCE PoE CERTIFICATION MARK LICENSE AGREEMENT

This Ethernet Alliance PoE Certification Mark License Agreement (“**Agreement**”), by and between The Ethernet Alliance, a California nonprofit mutual benefit corporation (“**Alliance**”), and _____, a(n) _____ and its Affiliates (as defined below) (collectively referred to as the “**Licensee**”), is entered into and effective as of the day on which the latter of the Parties’ signature has been executed (the “**Effective Date**”). Alliance and Licensee may at times be referred to in this Agreement individually as a “**Party**” and collectively as the “**Parties.**”

RECITALS

A. WHEREAS, Alliance is a nonprofit corporation formed as provided by its Bylaws, for the purpose of promoting Ethernet technologies based on existing standards and the development of new standards by appropriate standards organizations, and to encourage the utilization and implementation of Ethernet as a key networking technology for connectivity of various computing, data, and telecommunications devices;

B. WHEREAS, Alliance has developed the certification mark(s) set forth on Exhibit A and as defined more fully below (the “**Mark(s)**”);

C. WHEREAS, Alliance is willing to license use of the Mark(s) to licensees that have manufactured, tested, and successfully passed the tests for at least one (1) product in accordance with the Ethernet Alliance certification program (the “**Certification Program**”), which passing result will confirm the product(s) meet the requirements in the Ethernet Alliance PoE Certification Program Test Plan set forth in Exhibit A (the “**PoE Certification Program Test Plan**”); and

D. WHEREAS, one or more of Licensee’s products (as identified in Exhibit A and defined more fully below) is(are) in compliance with the applicable PoE Certification Program Test Plan required by the Certification Program (collectively, the “**Certified Product**”), and Alliance wishes to grant Licensee a limited license to use the Mark(s) in connection with the Certified Product, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals (which are incorporated into and made a part of this Agreement by this reference), the other covenants and conditions of this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

AGREEMENT

1. Definitions.

1.1 “**Affiliate**” means any entity that is controlled by, under common control with, or that controls the subject party. For purposes of this definition “control” means direct or indirect control of more than fifty percent (50%) of the voting power to elect directors of a corporation or, for any other entity, the power to direct management of such entity. At times, this Agreement references the “named Licensee” set forth in the opening paragraph of this Agreement separately from Licensee’s Affiliates; all other references to “Licensee” in this Agreement, however, refer both to the named Licensee *and* to Licensee’s Affiliates.

1.2 “**Bylaws**” means Alliance’s Bylaws as may be amended from time to time by Alliance.

1.3 “**Certified Product**” has the meaning set forth above and means the product(s) identified on Exhibit A. In the event Alliance certifies additional Licensee products for compliance with the PoE Certification Program Test Plan during the term of this Agreement, Alliance may add those additional Licensee products to the list of Certified Products in Exhibit A at any time by providing an update to Licensee.

1.4 “**Mark(s)**” means the mark(s) identified on Exhibit A. Alliance may add licensed certification marks to Exhibit A at any time by providing an updated Exhibit A to Licensee, and Alliance may include additional terms for use of such newly-added certification marks. In the event Alliance adds certification marks to Exhibit A, all such marks shall be considered “Mark(s)” under this Agreement and licensed and used under the terms of this Agreement and the amended Exhibit A.

1.5 “**Member**” means a general reference to all Principal Members, Participating Members, Associate Members, Power-over-Ethernet Certification Members, and Consulting Members (as such terms are defined in the Bylaws) who have so qualified for such classifications pursuant to the provisions of the Bylaws.

1.6 Additional terms are defined in Exhibit A.

1.7 All other capitalized terms used in this Agreement that are not defined in this Section 1 or in Exhibit A shall have the meanings applied to such terms in this Agreement or in the Bylaws.

2. Mark License Grant; Restrictions.

2.1 License Grant. Subject to and conditioned upon Licensee’s compliance with this Agreement, Alliance hereby grants to Licensee, and Licensee accepts, a limited, worldwide, non-exclusive, non-sublicensable (except as set forth in Section 2.3 of this Agreement), non-assignable (except as set forth in Section 12.1 of this Agreement), non-transferable, revocable, and fee-bearing license to use the Mark(s): (i) on Licensee’s Certified Product; (ii) on packaging and marketing materials directly related to the Certified Product; and (iii) on any portion of Licensee’s website that is directly related to the Certified Product (the “**License**”). Licensee may use the Mark(s) solely during the term of this Agreement, solely in accordance with the terms and conditions of this Agreement and the EA PoE Certification Mark Usage Guidelines (defined and discussed below), and solely to indicate that Licensee’s Certified Product(s) is compliant with the PoE Certification Program Test Plan. No other right, title, or license to any of Alliance’s marks, technology, or proprietary rights is granted under this Agreement.

2.2 Use of the Mark(s) by Licensee’s Affiliates. The named Licensee set forth in the opening paragraph of this Agreement agrees to ensure its Affiliates’ compliance with the terms and conditions of this Agreement. The named Licensee agrees that it shall be responsible for any breach or other violation of this Agreement by the named Licensee’s Affiliates.

2.3 Sub-License Grant. Notwithstanding the non-sublicensable nature of the License granted to Licensee under Section 2.1 of this Agreement, Licensee may allow third parties with whom Licensee has contracted to manufacture or assemble Certified Products under Licensee’s trade name and/or to sell, distribute, advertise, promote, or market Licensee’s Certified Product(s) (collectively, “Licensee Contractor(s)”) to use the Mark(s) solely on Licensee’s behalf, solely in connection with manufacturing, assembling, selling, distributing, advertising, promoting, and/or marketing Licensee’s Certified Products for Licensee’s benefit, and solely in accordance with the terms and conditions of this Agreement and the EA PoE Certification Mark Usage Guidelines (defined and discussed below). Licensee agrees to provide such EA PoE Certification Mark Usage Guidelines to all Licensee Contractors who use the Mark(s) on Licensee’s behalf. Licensee is responsible for all use of the Mark(s) on Licensee’s Certified Products, even if such use is the result of Licensee Contractors’ use of the Mark(s) in connection with manufacturing and/or assembling Licensee’s Certified Products.

2.4 No Challenge of Ownership Interests. Licensee acknowledges Alliance’s exclusive ownership rights in and to the Mark(s) and all goodwill associated therewith. Licensee acknowledges that any and all use of the Mark(s) inures to the sole benefit of Alliance. Licensee shall not challenge Alliance’s exclusive ownership rights in and to the Mark(s), nor take action inconsistent with Alliance’s rights in the Mark(s). Licensee shall not adopt, use, apply to register, and/or register as its own trademark(s), service mark(s), certification mark(s), domain name(s), corporate or entity name, or the like, any word(s), phrase(s), or design(s) confusingly similar to or that dilute(s) the Mark(s), for any product and/or service for which the Mark(s) is/are registered, applied for, and/or used. If, at any time, Licensee acquires any rights in, or registration(s) or application(s) for, the Mark(s), whether by operation of law or otherwise, Licensee hereby immediately and automatically, and at no expense to Alliance, assigns such rights, registrations, and/or applications to Alliance, along with any and all associated goodwill.

2.5 Certain Geographic or Use Limitations. In the event Alliance determines, in its sole discretion, that use of the Mark(s), in any particular manner, in any particular jurisdiction, or on any particular Certified Product or packaging or marketing material is likely to violate any applicable laws or regulations; be contrary to public policy; jeopardize Alliance’s rights in the Mark(s) or any other Alliance trademarks, service marks, or certification marks; or subject Licensee and/or Alliance to any third-party claims, legal proceedings, governmental investigations or proceedings, penalties, or liabilities, then upon receipt of notice and request from Alliance to all Members (if applicable), Licensee agrees to, with reasonable promptness, cease and desist from all use of the Mark(s) in such particular manner, in such particular jurisdiction, and/or on such particular Certified Product, packaging, or marketing material, but only to the extent that Alliance requires that all other Members using the Mark(s) in the same manner, in the same jurisdiction, and/or on the same Certified Product, packaging, or marketing material, also cease and desist such use. Notwithstanding the foregoing, Alliance agrees that Licensee will be permitted to sell and distribute any Certified Products that were manufactured and marked with the Mark(s) prior to the date on which Alliance notified Licensee to cease and desist from such use of the Mark(s).

2.6 Alliance Control. Alliance shall have absolute determination and control, in its sole discretion, over the design, redesign, modifications, derivatives, authorized or unauthorized uses, and manner and extent of worldwide registration, maintenance, protection, enforcement, ownership, and licensing of the Mark(s).

3. License Fee; Payment Terms. Licensee shall pay Alliance a one-time license fee in the amount set forth in Exhibit A for the License granted in this Agreement (the “**License Fee**”). The License Fee must be paid in U.S. dollars. The License Fee shall be due upon the Effective Date of this Agreement. Unless requested in writing by Licensee, Alliance will not provide an invoice to Licensee. The License Fee is nonrefundable.

4. Proper Usage of the Mark(s).

4.1 EA PoE Certification Mark Usage Guidelines. Licensee’s use of the Mark(s) shall be in strict accordance with the EA PoE Certification Mark Usage Guidelines (the “**Usage Guidelines**”) (attached as Exhibit B), which may be reasonably updated from time to time by Alliance in its sole discretion. Alliance will notify Licensee of any updates to the Usage Guidelines, and Licensee shall comply with the updated Usage Guidelines within sixty (60) calendar days of receiving notice of such updates. In addition, Licensee agrees that, during the sixty- (60-) day period, Licensee will minimize the use of the earlier version of the Mark(s) to the extent commercially reasonable.

4.2 Components. If the Certified Product(s) constitute(s) only a portion of another Licensee product, Licensee may only use the Mark(s) in reference to that portion of the Licensee product that constitutes the Certified Product, and Licensee must specifically indicate which portion of Licensee’s product constitutes the Certified Product in all packaging and other materials that display the Mark(s).

4.3 Licensee's Brand and Third-Party Brands. Unless otherwise authorized by Alliance in writing, Licensee agrees Licensee will only use the Mark(s) on and in connection with Certified Products that also display Licensee's own source-indicating trademark(s) (or source-indicating trademark(s) owned by a third party but for which Licensee has an exclusive use license) on such Certified Products; provided, however, that Alliance agrees the Certified Products may also bear third-party certification marks. In the event Licensee desires to place a third-party trademark on Certified Products manufactured by Licensee, which Certified Products will be marketed, sold, and distributed by such third party, Licensee agrees it will first receive written confirmation from Alliance that such third party has entered into a license agreement with Alliance for such third party's use of the Mark(s) and has paid Alliance a license fee.

4.4 Positive Usage. Licensee shall display the Mark(s) only in a positive manner. Licensee will not use the Mark(s) or any other Alliance trademarks, service marks, or certification marks in any way that disparages Alliance, its Certification Program, its products or services, or in any manner that would diminish or otherwise damage Alliance's goodwill, including, but not limited to, uses that could be deemed to be obscene, pornographic, excessively violent, or otherwise in poor taste or unlawful, or which purpose is to encourage unlawful activities.

4.5 Attribution. Licensee shall attribute to Alliance ownership of the Mark(s) as set forth in the Usage Guidelines.

4.6 No Alteration or Modification. Licensee may not alter or modify the Mark(s) or allow others to do so, except as expressly allowed in the Usage Guidelines. The License granted herein is applicable only to the Mark(s) depicted in Exhibit A, and use of any artwork or graphic files from any other source is prohibited.

5. Quality Control and Right to Review and Inspect.

5.1 Manufacturing Processes. The Certified Product that Licensee produces and that is marked with one or more of the Mark(s) under this Agreement shall be substantially identical to the Certified Product that was approved and registered pursuant to the Certification Program. Further, Licensee covenants, represents, and warrants that, to the best of Licensee's knowledge, Licensee's Certified Product meets the applicable requirements of the PoE Certification Program Test Plan.

5.2 Review and Inspection.

5.2.1 To ensure compliance with Licensee's obligations under this Agreement, Alliance has the right, in its discretion, to review and inspect Licensee's Certified Product and all advertising and promotional materials, packaging materials, and technical information (so long as the technical information requested is limited to that which is reasonably necessary to evaluate compliance) related to the Certified Product to ensure compliance with this Agreement. Licensee shall cooperate fully in providing Alliance reasonable access to Licensee's (and/or its Licensee Contractors') documents, advertising and promotional materials, packaging materials, and technical information, related to the Certified Product, including providing Alliance with up to two (2) commercially-available samples of the Certified Product, at Alliance's request and at no cost to Alliance. Licensee agrees to provide the requested materials to Alliance (or provide access to such materials) as soon as reasonably practicable after receiving Alliance's request for the same. Alliance agrees to ensure the confidentiality of any Licensee confidential information, including entering into a non-disclosure agreement with Licensee regarding the handling of such information, accessed, reviewed or inspected by Alliance pursuant to this Section 5.2. Alliance agrees to use no less than reasonable care to protect against disclosure or improper use of Licensee's confidential information accessed, reviewed or inspected pursuant to this Section 5.2.

5.2.2 If, as a result of Alliance's review and inspection under this Section 5.2, Alliance reasonably determines that Licensee is not using the Mark(s) in compliance with this Agreement, Licensee agrees that, if required by Alliance, Licensee will make appropriate changes to the Certified Product or other materials in order to ensure proper protection of the Mark(s), and/or that Licensee will require its Licensee Contractors to make such changes. Licensee agrees to make such changes within thirty (30) calendar days after receiving notice of the required changes from Alliance, or sooner if reasonably possible; provided, however, that the Parties may agree to a longer period for Licensee's compliance with any required changes regarding its use of the Mark(s), if the circumstances reasonably require such a longer period. If, however, Alliance does not agree to a longer period for compliance, Licensee must make the required changes within the thirty- (30-) day period. If Licensee fails to make the required changes in the required timeframe, Alliance may immediately terminate this Agreement upon providing written notice thereof to Licensee.

5.2.3 If, as a result of Alliance's review and inspection under this Section 5.2, Alliance reasonably determines that Licensee's Certified Product is not in compliance with the PoE Certification Program Test Plan, Licensee agrees that it shall have sixty (60) calendar days after receiving notice of the deficiency from Alliance to correct such deficiency. If Licensee fails to correct the deficiency within such sixty- (60-) day period, to the reasonable satisfaction of Alliance, Alliance may immediately terminate this Agreement upon providing written notice thereof to Licensee.

5.2.4 Alliance shall pay all costs and expenses associated with any review and inspection of Licensee's use of the Mark(s) and Certified Products; provided, however, that if such review and inspection reveals that Licensee substantially misused one or more of the Marks in contravention to the terms and conditions of this Agreement or reveals Licensee's Certified Products are not in compliance with the PoE Certification Program Test Plan, Licensee shall reimburse Alliance for its reasonable costs and expenses associated with the review and inspection.

5.3 Compliance with Laws. Licensee covenants, represents, and warrants that it will comply with all applicable laws and regulations regarding the advertising, promotion, display, and use of the Mark(s).

6. Confidentiality. Licensee and Alliance agree that the confidentiality provisions set forth in the Ethernet Alliance Member Terms and Conditions (available here: http://www.ethernetalliance.org/wp-content/uploads/2011/11/EA_TC_04_15_08_approved_.pdf) shall govern all confidential information disclosed between the parties in connection with this Agreement. Notwithstanding the foregoing, Alliance agrees to the confidentiality terms in Section 5.2.1 of this Agreement regarding Licensee's confidential information that is accessed, reviewed, or inspected by Alliance pursuant to Section 5.2.1 of this Agreement.

7. Protection of Interest.

7.1 Notification of Unauthorized Use/Infringement. In the event Licensee: (i) becomes aware of any unauthorized use of one or more of the Marks by a third party; or (ii) has an objectively reasonable belief that the use of one or more of the Marks by a third-party licensee does not comply with this Agreement and the Usage Guidelines, Licensee shall use reasonable efforts to promptly notify Alliance in writing, and shall provide reasonable cooperation, at Alliance's expense, in any enforcement of Alliance's rights against such third party or third-party licensee. Alliance agrees that breach of this Section 7.1 by Licensee is not a material breach of this Agreement, and Alliance cannot terminate this Agreement or Licensee's right to use the Mark(s) solely as a result of Licensee's breach of this Section 7.1. The right to enforce Alliance's rights in the Mark(s) rests entirely with Alliance and shall be exercised in Alliance's sole discretion. Alliance shall be entitled to any monetary recovery by way of settlement or judgment. Licensee shall not commence any action or claim to enforce Alliance's rights in the Mark(s), other than the above-required notification.

7.2 Third-Party Challenge. In the event that a third party challenges Licensee's use or a Licensee Contractor's use of one or more of the Marks, Licensee shall immediately notify Alliance in writing. Unless the Parties otherwise agree in writing, Alliance shall undertake and conduct the defense of such a challenge, and Licensee and/or Licensee Contractors shall not enter into any discussions, negotiations, or settlements, or any other action pertaining to said challenge without the express written consent of Alliance, which shall not be unreasonably withheld. Either Party may immediately terminate this Agreement by giving written notice thereof to the other Party in the event that a challenge to Licensee's or a Licensee Contractor's use of one or more of the Marks is brought or alleged against Licensee or a Licensee Contractor. Licensee agrees to cooperate fully with Alliance, at Alliance's request and expense, in the event such a challenge is brought.

8. Disclaimer by Alliance.

8.1 Mark Disclaimer. THE MARK(S) IS(ARE) PROVIDED "AS-IS" AND WITHOUT ANY REPRESENTATION OR WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF TITLE OR NONINFRINGEMENT OR OF THE VALIDITY OF ALLIANCE'S RIGHTS IN THE MARKS, IN ANY COUNTRY; AND ALLIANCE DISCLAIMS ANY AND ALL SUCH WARRANTIES AND ALL OTHER WARRANTIES THAT MIGHT OTHERWISE BE IMPLIED BY APPLICABLE LAW. ALLIANCE SHALL HAVE NO LIABILITY TO LICENSEE WHATSOEVER FOR ANY INTELLECTUAL PROPERTY INFRINGEMENT CLAIM BASED ON LICENSEE'S AND/OR A LICENSEE CONTRACTOR'S MANUFACTURE, SALE, OR DISTRIBUTION OF CERTIFIED PRODUCT OR USE OF THE MARK(S).

8.2 Manufacturing Disclaimer. The Mark(s) may only be used in connection with Certified Products. If a Certified Product displays one or more of the Marks, it means that a representative sample of the Certified Product met the requirements of the PoE Certification Program Test Plan. Licensee may not use the Mark(s) in any manner that indicates or is likely to indicate that the product bearing one or more of the Marks has been certified under the Certification Program, unless the same is true. Licensee may not use the Mark(s) in any manner that indicates or represents anything other than the fact that Licensee's Certified Products are in compliance with the PoE Certification Program Test Plan. NOTWITHSTANDING THE FOREGOING, ALLIANCE MAKES NO REPRESENTATIONS OR WARRANTIES THAT (AND ALLIANCE DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES THAT) CERTIFIED PRODUCTS MEET THE REQUIREMENTS OF THE POE CERTIFICATION PROGRAM TEST PLAN OR CERTIFICATION PROGRAM, OR THAT THE USE OF A CERTIFIED PRODUCT WILL BE FIT FOR ITS INTENDED PURPOSE OR WILL BE ERROR FREE, SAFE, ACCURATE, RELIABLE, OR UNINTERRUPTED. ALLIANCE SHALL HAVE NO RESPONSIBILITY OR LIABILITY TO ANY LICENSEE CONTRACTOR OR ANY DISTRIBUTOR, RETAILER, WHOLESALER, MARKETER, PROMOTER, CONSUMER, END USER, OR OTHER USER OR DISTRIBUTOR OF LICENSEE'S CERTIFIED PRODUCTS. Without limiting the generality of the foregoing disclaimer, Licensee acknowledges and agrees that (i) Alliance is not and shall not be held responsible or liable for compliance with applicable federal, state, and local laws, rules, regulations, and/or codes relating to safety of Licensee's Certified Products; (ii) use of the Mark(s) on and in connection with Licensee's Certified Products shall not be deemed as indicating, and Licensee agrees not to state (expressly or impliedly) that the Mark(s) indicate that Licensee's Certified Products are, compliant with applicable federal, state, and local laws, rules, regulations, and/or codes relating to safety; and (iii) Alliance is not and shall not be held responsible or liable for labeling of any Certified Products' operating modes, and it is Licensee's sole responsibility to ensure that any required or optional labeling is correct for all operating modes of Licensee's Certified Products.

9. Licensee's Covenants, Representations, and Warranties; and Indemnification.

9.1 Licensee’s Covenants, Representations, and Warranties. In addition to Licensee’s covenants, representations, and warranties set forth elsewhere in this Agreement, Licensee covenants, represents, and warrants the following:

9.1.1 Licensee is a Member in good standing of Alliance; and

9.1.2 Licensee’s representative sample of the Certified Product that met the requirements of the PoE Certification Program Test Plan is substantially identical to the manufactured Certified Product that Licensee sells or otherwise distributes to distributors, retailers, wholesalers, end users, consumers, or any other third party during the term of this Agreement; and

9.1.3 Licensee will use the Mark(s) in accordance and conformance with the requirements set forth in this Agreement and the Usage Guidelines.

9.2 Licensee’s Indemnification of Alliance. Licensee agrees to indemnify, defend, and hold harmless Alliance and its officers, directors, employees, agents, and Members (each, an “**Indemnified Party**”) for, from, and against any and all third-party claims, demands, damages, losses, liabilities, judgments, awards, and costs and expenses (including without limitation reasonable attorneys’ fees and costs) that an Indemnified Party incurs through a claim or allegation arising out of or relating to: (i) the inaccuracy or violation of any of Licensee’s representations, warranties, undertakings, or covenants contained in this Agreement; (ii) Licensee’s use of one or more of the Marks not in accordance with the terms of this Agreement and/or the Usage Guidelines (including without limitation any use of the Marks by one or more Licensee Contractors when such use is in connection with manufacturing and/or assembling Licensee’s Certified Products on Licensee’s behalf); (iii) Licensee’s manufacturing, marketing, advertising, promotion, endorsement, sale, or distribution of any product, including without limitation the Certified Product; and/or (iv) Licensee’s Certified Product and/or any third party’s use thereof; provided, however, that in no case shall Licensee be required to indemnify, defend, or hold harmless an Indemnified Party regarding a claim to the extent it pertains to the invalidity of or infringement by the Mark(s) so long as Licensee uses and has used (and Licensee Contractors use and have used) the Mark(s) in strict accordance with this Agreement and the Usage Guidelines. Alliance agrees to provide Licensee with prompt notice of any claims or allegations covered by this Section 9.2 and shall provide Licensee with reasonable assistance (at Licensee’s expense) in the defense or settlement of such claims or allegations.

10. Limitation of Damages.

10.1 NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY UNDER ANY CAUSE OF ACTION, WHETHER IN CONTRACT, TORT, STRICT LIABILITY, OR OTHER LEGAL OR EQUITABLE THEORY, FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, EXEMPLARY, OR ENHANCED DAMAGES, INCLUDING WITHOUT LIMITATION AS A RESULT OF ANY INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS, PRODUCT LIABILITY CLAIMS, FAILURE OF ESSENTIAL PURPOSE, OR ANY LOST PROFITS, SAVINGS, OR REVENUE OF ANY KIND, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE (PROVIDED, HOWEVER, THAT THE LIMITATION OF LIABILITY IN THIS SENTENCE SHALL NOT APPLY TO OR IN ANY WAY LIMIT LICENSEE’S INDEMNIFICATION OBLIGATIONS IN SECTION 9.2 OF THIS AGREEMENT). SUBJECT TO THE PROVISIONS HEREOF, THE AGGREGATE LIABILITY OF EITHER PARTY FOR ANY AND ALL CLAIMS OR ACTIONS ARISING FROM OR RELATED TO THIS AGREEMENT WILL BE LIMITED TO THE TOTAL AMOUNT PAID BY LICENSEE TO ALLIANCE UNDER THIS AGREEMENT, EXCEPT FOR LICENSEE’S INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 9.2 OF THIS AGREEMENT, WHICH SHALL BE LIMITED TO USD 500,000.

10.2 ANY CLAIM FOR DAMAGES BY A PARTY TO THIS AGREEMENT AGAINST THE OTHER PARTY UNDER OR IN CONNECTION WITH THIS AGREEMENT MUST BE FILED WITHIN TWELVE (12) MONTHS FROM THE DATE OF THE EVENT GIVING RISE TO ANY SUCH CLAIM FOR DAMAGES, AND NEITHER PARTY SHALL BE LIABLE FOR ANY CLAIM FOR DAMAGES BROUGHT OR FILED BY THE OTHER PARTY AFTER SAID TWELVE- (12-) MONTH PERIOD.

11. Term and Termination.

11.1 Term. The term of this Agreement shall begin on the Effective Date and continue until terminated under to the provisions of this Agreement.

11.2 Termination.

11.2.1 The Parties agree that this Agreement will terminate immediately and automatically (without a requirement of giving notice) upon termination, expiration, or cancellation of Licensee's membership in Alliance for any reason;

11.2.2 The Parties agree that Alliance may terminate this Agreement, as set forth in Sections 5.2.2 and 5.2.3;

11.2.3 The Parties agree that either Party may terminate this Agreement, as set forth in Section 7.2;

11.2.4 The Parties agree that Alliance may terminate this Agreement, as set forth in Section 12.6;

11.2.5 The Parties agree that should Licensee materially violate this Agreement (including any breach of or other violation of any covenant, undertaking, representation, or warranty of Licensee in this Agreement, including without limitation failure to timely pay the License Fee for use of the Mark(s)), Licensee shall have thirty (30) calendar days (unless a longer cure period is required by a specific provision of this Agreement) to correct such violation following written notice from Alliance of the violation (the "**Cure Period**"). Should Licensee fail to correct such violation within the Cure Period to Alliance's reasonable satisfaction, then Alliance may immediately terminate this Agreement upon providing written notice thereof to Licensee; or

11.2.6 The Parties agree that Licensee may terminate this Agreement for any reason, upon thirty (30) calendar days' advance written notice by Licensee to Alliance.

11.3 Effect of Termination.

11.3.1 Upon the effective date of termination of this Agreement (the "**Termination Date**"), the License granted under this Agreement shall immediately and automatically terminate. Upon the Termination Date, Licensee shall: (i) immediately cease all use of the Mark(s) in connection with the Certified Product and all advertising and promotional material, packaging, and other documents and materials related to the Certified Product; (ii) immediately terminate all current sublicenses for use of the Mark(s) granted under Section 2.3 of this Agreement to Licensee Contractors; and (iii) immediately cease all other uses of the Mark(s). Notwithstanding this Section 11.3.1, unless this Agreement was terminated as a result of Licensee's failure to timely pay the License Fee, Licensee will have sixty (60) calendar days from the Termination Date to sell any Certified Products that were manufactured and marked with the Mark(s) prior to the date on which Licensee became aware of the termination of the Agreement. During such sixty- (60-) day sell-off period, Licensee's use of the Mark(s) shall be subject to the terms and conditions of this Agreement. Unless otherwise

agreed by Alliance in writing, upon expiration of such sixty- (60-) day sell-off period, any Certified Products, as well as any and all advertising and promotional material, packaging material, and other documents and materials, that bear one or more of the Marks and that remain in the possession or under the control of Licensee shall, at Licensee's expense, be destroyed; and an officer of Licensee agrees to certify in writing Licensee's compliance with such request to Alliance. If this Agreement was terminated as a result of Licensee's failure to timely pay the License Fee, Licensee shall not be entitled to any sell-off period.

11.3.2 The provisions of Sections 1, 2.4, 2.6, 6, 7.2, 8, 9.2, 10, 11.3, and 12 and the Parties' obligations and rights therein shall survive termination of this Agreement by either Party and for any reason, in perpetuity.

12. Additional Provisions.

12.1 No Assignment. Licensee may not assign this Agreement without the prior written consent of Alliance, which consent shall not be unreasonably withheld.

12.2 Choice of Law; Dispute Resolution; Jurisdiction. The validity, construction, and performance of this Agreement shall be governed by U.S. federal law and the laws of the State of California as applied to contracts entered into and wholly performed therein by residents thereof, without reference to conflict-of-laws principles. The Parties further agree that any non-contractual cause of action that either Party may assert, including but not limited to trademark infringement, trademark dilution, passing off, false designation of origin, unfair competition, and other non-contractual causes of action, will be governed by U.S. federal law and the law of the State of California, without reference to conflict-of-laws principles. Except as expressly set forth in Section 12.3 of this Agreement, any dispute arising between the parties out of this Agreement shall first be subject to the conflict resolution process set forth in Alliance's EA PoE Certification Program Reference Guide (which conflict resolution process is hereby incorporated into and made a part of this Agreement by this reference). In the event that a conflict is not ultimately resolved under the conflict resolution process, the parties agree that, after exhausting the conflict resolution process, any dispute arising out of this Agreement shall be brought exclusively in, and the Parties consent to personal and exclusive jurisdiction of and venue in, the state and federal courts located within the State of California.

12.3 Equitable Relief; Cumulative Remedies. Licensee acknowledges that the breach or other violation of any of its covenants, representations, warranties, or other terms or conditions in this Agreement might cause Alliance irreparable damage that cannot be readily remedied by monetary damages in an action at law, and might, in addition, constitute a violation of Alliance's trademark rights and rights under the laws of unfair competition. Notwithstanding the conflict resolution requirement in Section 12.2, in the event of any breach or other violation by Licensee, including any action by Licensee that could cause some loss or dilution of Alliance's goodwill, reputation, or rights in the Mark(s), Alliance shall (without first having to engage in the conflict resolution process discussed in Section 12.2) be entitled, in addition to any and all other remedies available at law and in equity, to an immediate temporary, preliminary, and/or permanent injunction (without posting a bond or other security and without proving damages) to stop or prevent such irreparable harm, loss, or dilution. The rights and remedies available under this Agreement, at law, and in equity are cumulative and may be exercised singularly or concurrently.

12.4 Attorneys' Fees. The Parties agree that the prevailing Party in any action for enforcement, interpretation, or breach of or default under any provision of this Agreement shall be entitled to recover its reasonable attorneys' fees and costs.

12.5 Representation as to Authority. The Parties represent and warrant that they have the sole right and exclusive authority to execute this Agreement. Any person signing this Agreement in a representative

capacity, in so signing this Agreement, acknowledges his or her authority to do so and to bind the entity on whose behalf the Agreement is signed.

12.6 Severability. The provisions of this Agreement are independent of each other. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity of the remaining provisions, and the invalid or unenforceable provision will be deemed removed from this Agreement. If, however, Alliance determines in its discretion that the court's determination causes this Agreement to fail in any of its essential purposes, Alliance may immediately terminate this Agreement upon written notice to Licensee.

12.7 Modifications. This Agreement will not be amended or modified except in a writing signed by both Parties.

12.8 No Waiver. The failure of either Party to enforce at any time one or more of the provisions of this Agreement shall in no way be construed to be a present or future waiver of such provisions or of any other provisions, nor in any way affect the ability of either Party to enforce each and every such provision thereafter.

12.9 Relationship of the Parties. No agency, partnership, joint venture, franchise, or employment is created between the Parties as a result of this Agreement. Neither Party is authorized to create any obligation, express or implied, on behalf of the other Party.

12.10 No Endorsement. Licensee shall make no claims or indications that Alliance endorses Licensee or its products or services, except that Licensee may use the Mark(s) to indicate that its Certified Product meets the PoE Certification Program Test Plan, pursuant to the terms of this Agreement.

12.11 Notices. All notices, consents, requests, and demands given under this Agreement must be in writing (including email) and will be considered given when delivered (or when delivery thereof is refused) via personal service; Certified or Registered Mail, Return Receipt Requested; or email, provided that the sender does not know or have reason to know that the recipient did not receive the email, addressed to the Parties at the below addresses or at such other addresses as a Party may specify by notice to the other Party.

If to Alliance:

If to Licensee:

The Ethernet Alliance
3855 SW 153rd Drive
Beaverton, OR 97006
Email: admin@ethernetalliance.org

12.12 Binding Effect. This Agreement will be binding upon and inure to the benefit of the undersigned, any and all Affiliates of Licensee, and any permitted successors and/or assigns of either Party.

12.13 No Third-Party Beneficiary. The Parties do not intend to confer any right or remedy on any third party.

12.14 Product of Negotiation. This Agreement is the product of the negotiation of the Parties. For convenience, this Agreement has been drafted initially in substantial part by legal counsel for one of the Parties, but by agreement of the Parties, this Agreement shall be deemed to have been drafted by both Parties jointly, and any ambiguity in this Agreement shall not be construed for or against either Party by virtue of the identity of the drafter or otherwise.

12.15 Headings. The headings used in this Agreement are for convenience only and shall not be considered or used in construing the meaning of the terms of this Agreement.

12.16 Exhibits. Exhibits A and B referenced in this Agreement are hereby incorporated into and made a part of this Agreement.

12.17 Entire Agreement. This Agreement (including the Exhibits incorporated herein) constitutes the entire agreement between the Parties concerning the subject matter hereof and supersedes all prior and contemporaneous agreements or representations respecting the subject matter of this Agreement, whether oral or written, expressed or implied.

12.18 Signatures. This Agreement may be signed in counterparts. An email transmission of a signature page will be considered an original signature page. At the request of either Party, the other Party will confirm the email-transmitted signature page by delivering the original signature page to the requesting Party.

IN WITNESS WHEREOF, the Parties, intending to be legally bound, have caused this Agreement to be executed by their respective duly authorized agents, effective as of the Effective Date.

ALLIANCE

LICENSEE

The Ethernet Alliance

By: _____

By: _____

(Authorized Signatory)

(Authorized Signatory)

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A to EA PoE Certification Mark License Agreement

1. Definitions (in addition to terms defined in the Agreement and Bylaws)

- a. PSE: PoE Power Sourcing Equipment.
- b. PD: PoE Powered Device.

2. Alliance PoE Certification Program Test Plan with which Certified Products comply:

[http://ethernetalliance.org/poecert/EA PoE Certification Test Plan.pdf](http://ethernetalliance.org/poecert/EA%20PoE%20Certification%20Test%20Plan.pdf)

Licensee acknowledges that the License Fee paid to Alliance for use of the Mark(s) on Certified Product applies only for use of the Mark(s) to indicate conformance to the above-identified PoE Certification Program Test Plan. If Licensee's Certified Product(s) is certified by Alliance for conformance with any other PoE Certification Program Test Plan and if Licensee wishes to use Alliance's other applicable mark in connection with such product, Licensee will be required to enter into a new licensee agreement with Alliance and pay a separate license fee to Alliance.

3. Licensed Mark(s):

The EA PoE Certification Mark Usage Guidelines found in Exhibit B offers details regarding the licensed certification Marks.

4. Certified Product(s):

Licensee's PoE Certified Products can be viewed publicly at this URL:

<http://ethernetalliance.org/poecert/poe-certified-product-registry/>

5. License Fee:

Regular one-time license fee for members is \$5,000. This fee will be discounted for the remainder of the 2017 calendar year to \$2,500.

EXHIBIT B to EA PoE Certification Mark License Agreement

1. EA PoE Certification Mark Usage Guidelines:

The current version of the EA Certification Mark Usage Guidelines can be found here as of September 12, 2017: [http://ethernetalliance.org/poecert/EA PoE Certification Mark Usage Guidelines.pdf](http://ethernetalliance.org/poecert/EA%20PoE%20Certification%20Mark%20Usage%20Guidelines.pdf)

Prior to September 12, 2017, EA will offer a PDF copy or a hard copy of the EA Certification Mark Usage Guidelines.