

# Trademark Sublicense Agreement

by and between

the Zhaga Consortium

371 Hoes Lane, Suite 200, Piscataway, NJ 08854, U.S.A.

-hereinafter referred to as "**Zhaga**"-

and

Member Details:

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

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

\_\_\_\_\_

-hereinafter referred to as "**Member**"-

and

ISTO, Inc.

371 Hoes Lane, Suite 200, Piscataway, NJ 08854, U.S.A

-hereinafter referred to as "**ISTO, Inc.**"-

## Preamble

WHEREAS, Zhaga is a global lighting-industry organization that aims to standardize interfaces of components of LED luminaires, including LED light engines, LED modules, LED arrays, holders, electronic control gear (LED drivers), LED luminaires, smart nodes and connectivity fit systems with multiple member companies from the industry;

WHEREAS, Zhaga is hosted by ISTO, Inc. an organization established under the laws of Delaware (United States of America);

WHEREAS, Member is active in the lighting industry and a member of the Zhaga Consortium;

WHEREAS, Zhaga has licensed certain trademarks and is willing to grant Member a sublicense for the use of such trademarks and Member is willing to take such a sublicense.

NOW, THEREFORE, the Parties agree as follows:

## 1. Definitions

**“Agreement”** shall mean this trademark license agreement including all its Annexes.

**“Certified Zhaga-D4i Products”** shall mean lighting products and devices, such as, without limitation, luminaires, controllers, components or parts of the aforementioned as well as interfaces between such devices or components which have been certified in accordance with the Usage Guidelines.

**“D4i Trademarks”** shall mean the trademarks listed in Annex 1 hereto.

**“D4i Certification and Trademark Use document”** shall mean guidelines prepared and provided by DiiA regarding manner, style and layout for the use of any trademarks or logos owned by DiiA, in particular for the D4i Trademarks, which are available at [www.dali2.org/specifications/download.html](http://www.dali2.org/specifications/download.html).

**“Effective Date”** shall mean date the agreement is signed by all Parties

**“ISTO”** shall mean the ISTO, Inc., 371 Hoes Lane, Suite 200, Piscataway, NJ 08854, U.S.A.

**“Licensed Products”** shall mean lighting products and devices, such as, without limitation, luminaires, LEDs, drivers, controllers, components or parts of the aforementioned as well as interfaces between such devices or components.

**“Logo License Administrator”** or **“LLA”** means the entity, designated by the Steering Committee of the Consortium from time to time to conduct the logo licensing activities for the Consortium in accordance with the Consortium Agreement. The LLA is the party specified on the signature page of this Agreement.

**“Territory”** shall mean all countries in the world in which the D4i Trademarks are registered or otherwise legally protected.

**“Usage Guidelines”** shall mean the technical requirements for any use of the D4i Trademarks on Licensed Products as set forth in Annex 2 hereto, which may be amended by mutual agreement of DiiA and Zhaga from time to time.

**“Zhaga-D4i Policy”** shall mean the trademark policy governing the use of the D4i Trademarks in conjunction with any trademarks or logos owned by Zhaga.

**“Zhaga Logo Guidelines”** shall mean guidelines prepared and provided by Zhaga regarding manner, style and layout for the use of any trademarks or logos owned by Zhaga.

**“Zhaga Members”** shall mean any legal entity which at the relevant point in time has signed a membership agreement with Zhaga.

Any term in capital letters which is not expressly defined in this Agreement shall have the meaning as defined in the Zhaga Consortium Agreement and its Annexes.

## 2. License

- 2.1 Zhaga hereby grants to Member and its Affiliates for the Term of this Agreement a personal, non-transferable, non-exclusive, royalty-free license to use the D4i Trademarks, in accordance with the Usage Guidelines and the Zhaga-D4i Policy on and/or in connection with the marketing of Licensed Products in the Territory.
- 2.1.1 For the avoidance of doubt: Any use of the D4i Trademarks (a) in connection with or on any products other than Licensed Products and/or (b) which is not in accordance with the Usage Guidelines and/or (c) which is not in accordance with the Zhaga-D4i Policy is not allowed and not licensed. In particular, the D4i Trademarks
- a) shall only be used in association with Certified Zhaga-D4i Products;
  - b) may - subject to lit d) below - be used in systems including Certified Zhaga-D4i Products and/or in written descriptions, data sheets, advertisements or other drawings of such systems, provided that the Certified Zhaga-D4i Products in such systems are identified;
  - c) shall not be used in association with any products that are not Certified Zhaga-D4i Products;
  - d) shall not be used on web pages or catalogue pages which show any products that are not Certified Zhaga-D4i Products;
- 2.1.2 Member acknowledges that the Usage Guidelines contain technical requirements any Licensed Product for which the D4i Trademarks shall be used has to meet. Member acknowledges that the Zhaga-D4i Policy governs the display, layout and graphic display of the D4i Trademarks in combination with the Zhaga Trademarks. For the way the D4i Trademarks shall be displayed in such a combination, the Zhaga-D4i Policy refers to the D4i Certification and Trademark Use document. For the way the Zhaga Trademarks shall be displayed in such a combination, the Zhaga-D4i Policy refers to the Zhaga Logo Guidelines.
- 2.1.3 Member acknowledges that both the Usage Guidelines and the Zhaga-D4i Policy as well as the D4i Certification and Trademark Use document and the Zhaga Logo Guidelines may be changed, modified or amended from time to time ("**Changes**"). Member shall check the current version of the D4i Certification and Trademark Use document in the first week of every calendar quarter during this Agreement and shall implement and comply with any Changes as of the beginning of the following calendar quarter at the latest. In case of any Changes of the Zhaga-D4i Policy, the Zhaga Logo Guidelines or the Usage Guidelines Zhaga shall notify Member of such Changes in writing and Member shall implement and comply with such changes within 90 (ninety) calendar days as of the receipt of such notification.
- 2.2 The D4i Trademarks shall only be used in combination with the Zhaga Trademarks as specified in the Zhaga-D4i Policy. Member and its Affiliates shall not use the D4i Trademarks alone, isolated or separated from the Zhaga Trademarks.
- 2.3 Member is not entitled to grant any further sublicenses under the D4i Trademarks to any third party.

- 2.4 Upon request of Zhaga, Member shall provide Zhaga with written documentation of the use of the D4i Trademarks by Member and its Affiliates from time to time.

### **3. Maintenance and Enforcement**

- 3.1 Member acknowledges that Zhaga is not the owner but the licensee of the D4i Trademarks. Therefore, Zhaga shall not be liable for the maintenance or defence of the D4i Trademarks. If any of the D4i Trademarks is held invalid, abandoned or otherwise revoked, Zhaga shall inform Member thereof and Annex 1 shall be updated accordingly.
- 3.2 Member shall notify Zhaga in writing if it becomes aware of any infringement of the D4i Trademarks. Zhaga shall determine in its sole discretion and in accordance with its license agreement with DiiA on whether and how it wishes to enforce the D4i Trademarks in case of any infringement. Member shall have no right to enforce the D4i Trademarks.

### **4. Limitation of Liability**

Zhaga does not accept any liability for the validity of the D4i Trademarks. Zhaga shall not be liable for the infringement of any third party rights by the use of the D4i Trademarks.

### **5. Term and Termination**

- 5.1 This Agreement shall commence on the Effective Date and end automatically
- a) on the date Member ceases to be a member of Zhaga;
  - b) on the date the license agreement between DiiA and Zhaga is terminated for any reason whatsoever;
  - c) with respect to any Affiliate of Member on the date such Affiliate ceases to be an Affiliate of Member
  - d) when the last of the D4i Trademarks lapses or expires.

In case of a termination in accordance with (b) or (d), Zhaga shall notify Member that the license with DiiA has been terminated or that the D4i Trademarks have lapsed or expired. In case of a termination in accordance with (c), Member shall notify Zhaga in writing that and when the Affiliate ceased to be an Affiliate of Member.

- 5.2 Both Parties may terminate this Agreement upon 12 (twelve) months prior written notice to the end of the calendar year. The right to terminate this Agreement for cause remains unaffected.
- 5.3 In case Zhaga leaves ISTO, Inc. and/or become incorporated, this Agreement shall re-main and continue unaffected.

## **6. Applicable Law and Jurisdiction**

- 6.1 This Agreement shall be governed by and construed in accordance with the laws of the Federal Republic of Germany, excluding the Convention on the International Sale of Goods (CISG) and conflict of laws provisions.
- 6.2 Any dispute between the Parties in connection with this Agreement (including any question regarding its existence, validity or termination) shall be submitted to the District Court (Landgericht) in Dusseldorf, Germany.

## **7. Miscellaneous**

- 7.1 If any provision of this Agreement is determined to be invalid or unenforceable by a court of competent jurisdiction, such finding shall not invalidate the remainder of this Agreement which shall remain in full force and effect as if the provision(s) determined to be invalid or unenforceable had not been a part of this Agreement. In the event of such finding of invalidity or unenforceability, the Parties will substitute forthwith the invalid or unenforceable provision(s) by such effective provision(s) as will most closely correspond with the original intention of the provision(s) so voided.
- 7.2 Any waiver, failure or omission by either Party of any term, provision, obligation or condition of this Agreement shall not be construed or deemed to be a waiver of future performance of said term, provision, obligation or condition or of any terms, provisions, obligations or conditions in this Agreement. No waiver or release of any provision of this Agreement shall be effective unless made in writing and signed by a duly authorized officer of the Party against which the same is to be enforced and no such waiver or release shall extend to anything other than the specific subject matter thereof. The failure at any time of any Party hereto to insist on strict performance of any provision of this Agreement shall not limit the ability of that Party to insist at any future time on strict performance of the same or any other provision (except insofar as that Party may have given a valid and effective waiver or release).
- 7.3 Any changes, amendments, modifications or extensions to this Agreement shall only be binding if they are made in writing and duly executed by authorized signatories of both Parties. This applies also for any amendment waiving the requirements of this Section 7.3.
- 7.4 This Agreement may be executed in several counterparts, each of which is an original, and all of which are one and the same agreement. A facsimile or scan of any original signature transmitted by one party to the other party is effective as if the original was sent to the other Party.

AS WITNESS, the Parties have caused this Agreement to be signed on the date written below.

**On behalf of Member:**

Signature: \_\_\_\_\_

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

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

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

**On behalf of ZHAGA/ISTO, Inc:**

Signature: \_\_\_\_\_

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

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

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

**Annex 1 – D4i Trademarks**

Available at [www.dali2.org/specifications/download.html](http://www.dali2.org/specifications/download.html).

## **Annex 2 – Usage Guidelines**

1. The D4i Trademarks shall be used solely in relation to or on the following components:

- (a) luminaires which are certified in accordance with the following technical specifications: Zhaga Book 18;

- (b) Luminaire Extension Modules (such as sensors, transceivers, wireless network management nodes) which are certified in accordance with the following technical specifications: Zhaga Book 18;

- (c) luminaires which are certified in accordance with the following technical specifications: Zhaga Book 20;

- (d) Luminaire Extension Modules (such as sensors, transceivers, wireless network management nodes) which are certified in accordance with the following technical specifications: Zhaga Book 20.

- (c) [## please add as applicable ##]

Note that manufacturers of Luminaire Extension Modules that wish to certify their products must additionally be a member of the Digital Illumination Interface Alliance, next to their Zhaga membership.

2. Any use of the D4i Trademarks in relation to any products or services other than those listed in Section one of these Usage Guidelines is prohibited.



### **Annex 3 – Zhaga-D4i Policy**

*This document specifies how the D4i Trademarks shall be used by any Zhaga Member that has taken a valid sublicense for these D4i Trademarks from Zhaga. Any terms in capital letters used in this document shall have the meaning assigned to them such sublicense agreement.*

#### *Zhaga-D4i logo combination*

The D4i Logo shall only be used in combination with the Zhaga Logo. The Zhaga-D4i logo combination is obtained by juxtaposing the Zhaga logo and the D4i logo as follows:



#### *Shape*

The Zhaga-D4i logo combination must always be used as described below and as provided in the electronic files that are available to download from the website of the Zhaga Consortium at <https://members.zhagastandard.org/members/logo/>.

1 The D4i logo must be placed to the right of the Zhaga logo, separated by a horizontal distance equal to the thickness of the upper bar of the Zhaga logo.

2 The D4i logo must be scaled to have equal height as the Zhaga Logo, and be vertically aligned with the Zhaga Logo. Any user-created additions, variations, deletions or modifications to any part of the Zhaga-D4i logo combination are strictly forbidden.

#### *Colour*

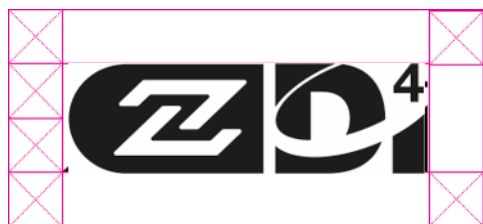
The Zhaga-D4i logo combination is reproduced in either black (on a light background) or white (on a dark background).

The colour of the Zhaga-D4i logo combination, its background colour and intensity must be uniform across the entire Zhaga-D4i logo combination. Shadows or graphic effects are not allowed.

#### *Clear zone*

The complete Zhaga-D4i logo combination must be used, maintaining a clear zone. A clear zone is an area in which no other graphical or textual elements appear.

The clear zone around the Zhaga-D4i logo combination shall be 50% of the height of the two logos:



The Zhaga-D4i logo combination may not be enclosed in any kind of border, box or frame. The complete Zhaga-D4i logo combination must be used on its own, in a free space, without any text, slogan or any other addition.

### *Size*

The Zhaga-D4i logo combination may be reduced or enlarged on the condition that the same relative positions and proportions between the respective elements are maintained and that the Zhaga-D4i logo combination is always legible and easily readable with normal human vision. The indicated aspect ratio (+/- 5%) shall be maintained. The overall width of the Zhaga-D4i logo combination shall not be smaller than 8 mm in width.

### *Updates and Amendments*

Zhaga may update this Zhaga-D4i Policy from time to time. Any changes to this Zhaga-D4i Policy must be implemented in accordance with the sublicense agreement.

### *Use of the word combination "Zhaga-D4i"*

The word combination should always be written in the following format: "Zhaga-D4i", except in the hash tag used in social media where "#Zhaga\_D4i" should be used.

For Zhaga, the first letter must be in upper case. The two words must be separated by a hyphen without spaces. For D4i, the first letter must be in upper case, with the last letter in lower case. For example, "D4i" is correct, but "D4I" and "d4i" are incorrect.

Zhaga and/or the LLA have filed trademark applications for the Zhaga Logo and the word "Zhaga" in many jurisdictions. Zhaga and/or the LLA may not be able to allow these trademark applications to mature into a trademark registration in a particular jurisdiction or in all relevant trademark classes. The same applies for the D4i Logo and the "D4i" name, which are trademarks belonging to DiiA (Digital Illumination Interface Alliance). Zhaga and the LLA advise Licensee to consult its trademark counsel on the risks that use the word "Zhaga" in a particular jurisdiction may infringe 3<sup>rd</sup> party rights.