



**SISVEL**



## **SISVEL WIRELESS LICENSE AGREEMENT**

This Patent License Agreement (“Agreement”) is entered into by and between **SISVEL INTERNATIONAL S.A.**, a company duly incorporated under the laws of Luxembourg with an office at 6, Avenue Marie Thérèse, L-2132 Luxembourg, (“Sisvel”), and **XYZ \_\_\_\_\_**, a company duly incorporated under the laws of \_\_\_\_\_, with its principal office at \_\_\_\_\_, (“Licensee”).

### **WHEREAS**

- A. Sisvel owns and has the right to grant licenses or sublicenses under the patent rights identified in Exhibit 1;
- B. Sisvel wishes to grant licenses under the patent rights identified in Exhibit 1 with respect to the practice or implementation of certain standardized technologies for wireless telecommunications to all individuals, companies and other entities desiring such a license under the terms and conditions set forth herein;
- C. Licensee wishes to obtain such a license under the terms offered by Sisvel below; and
- D. Licensee understands that no royalty is payable on any product Manufactured, used, imported, offered for Sale, Sold, or otherwise disposed of unless such product would, absent the license, infringe a Licensed Patent (as those terms are defined below).

### **Article 1. DEFINITIONS**

1.01 “Affiliate” shall mean an entity or person which, on or after the Effective Date, directly or indirectly, controls, is controlled by, or is under common control with Licensee, as well as those companies identified in Exhibit 2. The term “control” as used in this Section 1.02 and in Section 1.14 below shall mean ownership of more than fifty percent (50%) of the outstanding shares representing the right to vote directly or indirectly for the election of directors or other managing officers of such entity or person or, for an entity or person which does not have outstanding shares, an ownership interest representing the right to make decisions for such entity or person; provided, however, such entity or person should be deemed an Affiliate only so long as such “control” exists.

1.02 “ATSC Standard” shall mean the Advanced Television Systems Committee (ATSC) standards developed for digital television transmission over terrestrial, cable, and satellite networks including any updates or revisions thereto.



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1.03 “CDMA2000 Standards” shall mean standards defined and developed by the 3rd Generation Partnership Project 2 (3GPP2) including any updates or revisions thereto.

1.04 “Compliant Rates” shall have the meaning designated in Section 4.02(b).

1.05 “Confidential Information” shall mean (i) any information provided by one Party to the other Party which is not publicly available and is designated “confidential”; and (ii) this Agreement and any information relating to the terms and conditions of this Agreement including, but not limited to, economic terms.

1.06 “Days” shall mean calendar days unless otherwise specifically stated in this Agreement.

1.07 “Effective Date” shall mean \_\_\_\_\_.

1.08 “GSM/GPRS Standard” shall mean the TDMA based GSM/GPRS specification as defined by ETSI and/or 3GPP prior to and at the time of the Effective Date as well as any updates or releases in respect of such GSM/GPRS Standard by ETSI, 3GPP and/or other relevant telecommunications standard setting bodies, as long as not fundamentally technically altering the character thereof, and includes E-GPRS (EDGE), GPRS/HSCSD/EDGE/EGSM and GSM850.

1.09 “Licensed Field” shall mean the functionality implementing any Wireless Standard, or the portion implementing such wireless functionality, of a Licensed Product (as defined below), and only such functionality or portion implementing such functionality.

1.10 “Licensed Patents” shall mean the Patents identified in Exhibit 1 subject to Section 12.01.

1.11 “Licensed Products” shall mean products that (i) are primarily designed as user equipment; and (ii) conform to or practice all or any part of a Wireless Standard. The Parties agree that Licensed Products include, but are not limited to, mobile telephones, USB sticks and other PC cards and dongles, handheld devices, personal computers, tablets, machine type communication (MTC) user equipment, and, subject to the exclusions in this Section 1.08, wireless access points, routers, and modems. In addition to the foregoing, and subject to the preceding sentence, the Parties agree that Licensed Products do not include (y) integrated circuits, components or other intermediate products requiring substantial additional industrial and/or manufacturing processing to implement the wireless user equipment functionality; (z) network equipment or other professional network products, such as, but not limited to base stations (e.g., LTE eNodeB), network testing devices, or femtocells (e.g., LTE Home eNodeB).



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1.12 “LTE Standard” shall mean the Long Term Evolution standard defined by 3GPP (including, without limitation, SAE and EPS) and/or any updates or revisions thereto and includes LTE Advanced.

1.13 “Manufacture” (and cognates thereof) shall mean fabricating, assembling, having made, or otherwise making of a product.

1.14 “OMA Standards” shall mean standards defined by the Open Mobile Alliance (OMA) including any updates or revisions thereto.

1.15 “Party” (collectively Parties) shall mean either Sisvel or Licensee.

1.16 “Patent” shall mean any and all claims of a patent(s) or patent application(s) (including, but not limited to, all divisionals, continuations, continuations-in-part, reissues, renewals, and extensions thereof, and any counterparts claiming priority therefrom) that are filed, issued or granted, anywhere in the world during the term of this Agreement.

1.17 “Sale” (and cognates thereof) shall mean any sale, rental, lease or other form of distribution, transfer or export of a product to an entity or an end user, either directly or through a chain of distribution. For purposes of royalty payment and reporting under Sections 4.02 and 5.02 of this Agreement, a Sale of a product, irrespective of the manner in which the “Sale” takes place, shall be reported upon its occurrence either (i) in the country where an entity or end user takes delivery of the product which is the subject of the “Sale”; (ii) in the country where Licensee issues an invoice relating to the product which is the subject of the “Sale”; or (iii) in the country where Licensee takes delivery of the product which is later the subject of the “Sale.”

1.18 “Sisvel Affiliate” shall mean any entity which, directly or indirectly, controls, is controlled by, or is under common control with Sisvel (as the term “control” is defined in Section 1.02).

1.19 “Standard Rates” shall have the meaning designated in Section 4.02(a).

1.20 “UMTS Standard” shall mean The Universal Mobile Telecommunications System Standard as promulgated by 3GPP and/or ETSI, as well as the WCDMA, ARIB STD-T63, TD-SCDMA, FOMA, HSPA, HSPA+, HSUPA and HSDPA Standards being derivative standards thereof.

1.21 “Wimax Standard” shall mean the “Worldwide Interoperability for Microwave Access” standard as defined by the IEEE in the 802.16 specifications including any updates or revisions thereto.



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1.22 “Wireless Standards” shall mean the ATSC Standard, the CDMA2000 Standards, the GSM/GPRS Standard, the LTE Standard, the OMA Standards, the UMTS Standard, and/or the Wimax Standard.

**Article 2. GRANT OF RIGHTS**

2.01 Provided that the payments under Section 5.01 have been made and the bank guarantee under Section 11.02 and Exhibit 4 hereto has been provided to Sisvel, and subject to the terms and conditions of this Agreement, Sisvel grants Licensee and Affiliates identified in Exhibit 2 hereto a royalty-bearing, non-transferable, non-assignable, non-exclusive license, with no right to grant sublicenses, under the Licensed Patents, to Manufacture, use, import, offer to Sell, Sell, or otherwise dispose of Licensed Products in the Licensed Field.

2.02 The license granted to Affiliates in Section 2.01 is limited to those Affiliates as of the Effective Date identified in Exhibit 2 hereto, and Licensee will impose on such Affiliates the obligations set forth in this Agreement and will obtain the agreement of such Affiliates to adhere to such obligations. On or before Licensee’s execution of this Agreement, Licensee will provide Sisvel with an authenticated organization chart showing the relationship of Licensee with all Affiliates. Licensee represents that such organization chart is complete and accurate. Within thirty (30) Days of any change in the identity or structure of any Affiliates, Licensee will provide Sisvel with an updated Exhibit 2 and with an updated authenticated organization chart showing the relationship of Licensee with all Affiliates. Should Licensee acquire or create a new Affiliate, such new Affiliate will automatically become licensed under this Agreement, and within thirty (30) Days of such acquisition or creation: (i) Licensee shall inform Sisvel of any activities under the Licensed Patents by the new Affiliate prior to the date it became an Affiliate; (ii) Licensee shall impose on any such new Affiliate the obligations set forth in this Agreement and obtain the agreement of such new Affiliate to adhere to such obligations; (iii) upon request of Sisvel, Licensee and such new Affiliate shall execute an addendum to this Agreement wherein such new Affiliate agrees to be bound by all the terms of this Agreement; (iv) Licensee shall provide Sisvel with a full past due royalty statement with respect to any activities under Licensed Patents by the new Affiliate prior to the date it became an Affiliate; and (v) Licensee shall provide Sisvel with royalty payments for Licensed Products Sold by such new Affiliate in accordance with such past due royalty statement and the requirements of this Agreement. Licensee’s failure to comply with (i) through (v) above shall be considered a material breach of this Agreement.



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2.03 Licensee and all Affiliates licensed hereunder will be liable jointly and severally for any payments due under this Agreement for Licensed Products Manufactured, used, imported, offered for Sale, Sold, or otherwise disposed of at any time by Licensee or Affiliates. For the avoidance of doubt, the license granted under this Article 2 to an Affiliate shall remain in effect only for the time that such entity is an Affiliate and shall terminate automatically and without notice on the date on which this Agreement is terminated and/or on the date such entity ceases to be an Affiliate.

2.04 Provided that the payments under Section 5.01 have been made and the bank guarantee under Section 11.02 and Exhibit 4 hereto has been provided to Sisvel, and that Licensee is in full compliance with all its obligations under this Agreement, Sisvel hereby releases, acquits, and forever discharges Licensee and Affiliates listed in Exhibit 2 from any and all claims of infringement of the Licensed Patents limited to the Licensed Field and arising out of the Licensed Products Manufactured, used, imported, offered for Sale, Sold, or otherwise disposed of by Licensee or Affiliates prior to the Effective Date which are listed in Table (a) of the royalty statement(s) attached to this Agreement. The Parties specifically agree that nothing in this Agreement prevents Sisvel from seeking and obtaining royalties from any third party from or to which Licensee has purchased or Sold Licensed Products for which a royalty has not been paid, regardless of whether such products are listed in the royalty statement(s) attached to this Agreement.

2.05 Licensee, for itself and Affiliates, acknowledges that the rights granted herein are limited to the Licensed Field, and Licensee, for itself and Affiliates, acknowledges that no rights granted herein shall apply to any practice under any Licensed Patent outside the Licensed Field. For the avoidance of doubt, no rights are granted under this Agreement with respect to any standards other than the Wireless Standards.

2.06 No rights granted under this Agreement extend to any third party product or process conforming to the Wireless Standards and covered by the Licensed Patents merely because it is used or Sold in combination with a Licensed Product of Licensee.

2.07 No rights are granted under this Agreement for products declared by Licensee as Sold, purchased, or disposed of by Licensee or Affiliates and in breach of Section 11.01 below and therefore such products are not licensed and are not subject to the payment (except for the amounts due pursuant to Section 10.05 below) and reporting obligations of Licensee under this Agreement.



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2.08 It is understood and agreed that no license or immunity is granted by any Party hereto to another Party hereto, either directly or by implication, estoppel, or otherwise, other than as expressly provided under this Article 2.

**Article 3. SCOPE OF PROTECTION**

3.01 Sisvel represents and warrants that it has the authority, power, and right to enter into this Agreement and to grant Licensee and Affiliates the rights, privileges, and releases herein set forth.

3.02 Nothing in this Agreement shall be construed as: (i) a warranty or representation by Sisvel as to the validity or scope of any of the Licensed Patents; (ii) a warranty or representation by Sisvel that anything Manufactured, used, imported, offered for Sale, Sold, or otherwise disposed of under any license granted in this Agreement is free from infringement or will not infringe, directly, contributorily, by inducement or otherwise under the laws of any country any patent or other intellectual property right different from the Licensed Patents; or (iii) a warranty or representation by Sisvel that the Licensed Patents licensed hereunder include all patents essential to practice the Wireless Standards throughout the world.

3.03 Licensee represents and warrants that it has the right to enter into this Agreement with Sisvel on its behalf and on behalf of Affiliates. Licensee further represents and warrants that it will have the right to enter into this Agreement on behalf of Affiliates added after the Effective Date.

3.04 Licensee represents and warrants that Licensee is fully aware that the Licensed Patents do not include all present and future patents essential to practice the Wireless Standards, and that this Agreement may not provide Licensee with all the patents or other rights needed to perform the activities contemplated by Licensee.

3.05 Each Party represents and warrants that this Agreement and the transactions contemplated hereby do not violate or conflict with or result in a breach under any other agreement to which it is subject as a party or otherwise.

3.06 Each Party represents and warrants that, in executing this Agreement, it does not rely on any promises, inducements, or representations made by the other Party or any third party with respect to this Agreement or any other business dealings with the other Party or any third party, now or in the future except those expressly set forth herein.

3.07 Each Party represents and warrants that it is not presently the subject of a voluntary or involuntary petition in bankruptcy or the equivalent thereof, does not presently contemplate filing



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any voluntary petition, and does not presently have reason to believe that an involuntary petition will be filed against it.

3.08 Other than the express warranties set forth in this Article 3, the Parties make NO OTHER WARRANTIES, EXPRESS OR IMPLIED.

**Article 4. ROYALTIES**

4.01 In consideration of the licenses and rights granted to Licensee by Sisvel under this Agreement, Licensee shall pay:

- (a) a non-refundable, non-recoupable sum of Five Thousand Euros (5,000 €) as reimbursement of administrative costs; and
- (b) a royalty as specified in the royalty schedule under Section 4.02 for each Licensed Product.

4.02 The royalty shall be based on the number of units of Licensed Products Manufactured, used, imported, offered for Sale, Sold, or otherwise disposed of by Licensee and Affiliates in jurisdictions in which a Licensed Patent is issued, and the royalty amount for each calendar year shall be calculated as follows:

- (a) Subject to the provisions of subsection 4.02(b), the royalty rate payable in respect of each Licensed Product shall be the “Standard Rate” as set out in the table below.

<b>Number of Licensed Products per calendar year</b>	<b>Standard Rate per unit</b>
From 1 to 500,000	0.14 €
From 500,001 to 2,500,000	0.10 €
From 2,500,001 to 5,000,000	0.075 €
5,000,000 and above	0.06 €

- (b) Provided that Licensee is in full compliance with its obligations under this Agreement including not having committed a material breach of this Agreement and having submitted all royalty statements timely, and having fulfilled its royalty



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payment obligation in connection with such statements for all such Licensed Products, and such royalty statements are true, complete and accurate in every respect, then the royalty rate payable in respect of each Licensed Product shall be the applicable “Compliant Rate” according to the schedule set out below.

<b>Number of Licensed Products per calendar year</b>	<b>Compliant Rate per unit</b>
From 1 to 500,000	0.11 €
From 500,001 to 2,500,000	0.075 €
From 2,500,001 to 5,000,000	0.06 €
5,000,000 and above	0.05 €

In the event that Licensee fails to comply at any time with any of the foregoing in this Section 4.02 (b), the Standard Rate shall apply in respect of each Licensed Product instead of the Compliant Rate, with immediate effect from the first day of the reporting period to which the occurrence of such non-compliance relates until such moment that Sisvel confirms in writing to Licensee that Licensee’s non-compliance has been remedied in full.

4.03 If Licensee or any Affiliates purchase Licensed Products from a third party that is licensed to Manufacture and Sell Licensed Products under the Licensed Patents, and such third party (i) has timely fulfilled its royalty payment obligations under such license(s) for all such Licensed Products, and (ii) has provided Sisvel with a written declaration, subject to written approval by Sisvel, stating that it will be responsible for paying the royalties for such Licensed Products prior to such Licensed Products being purchased from that third party by Licensee, then Licensee shall have no royalty obligation under this Agreement for such Licensed Products purchased from such third party. If Licensee Sells Licensed Products to a third party that is licensed to Manufacture and Sell Licensed Products under the Licensed Patents, Licensee shall have the royalty payment obligation under this Agreement for such Licensed Products Sold to such third party, unless: (x) the third party is a licensee in good standing of Sisvel and has fulfilled all its royalty payment obligations under such license at the time Licensee Sells such Licensed Products to the third party; (y) the third party provides Sisvel with a written declaration, subject to written approval by Sisvel, stating that it will be responsible for paying the royalties for such





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Licensed Products prior to such Licensed Products being Sold to that third party by Licensee; and (z) the third party timely pays royalties on such Licensed Products to Sisvel. The Licensed Products for which Licensee has no royalty payment obligation according to this Section 4.03 will not be considered when calculating the royalty due by Licensee according to Section 4.02, but they need to be listed in the royalty statements as per Section 5.03. It is understood and agreed that in all other cases Licensee has the obligation to pay royalties for such Licensed Products according to the terms of this Agreement. For the avoidance of doubt, any exhaustion of patent rights that may occur does not affect the responsibility of Licensee to pay royalties to Sisvel under this Agreement with respect to any Licensed Products Licensee has purchased from, or Sold to, any third party and for which a royalty has not been paid, regardless of whether such third party is licensed under the Licensed Patents for Licensed Products.

4.04 Licensee and Sisvel recognize that the royalties payable hereunder shall neither increase nor decrease due to an increase or decrease in the number of Licensed Patents or an increase or decrease in the prices of Licensed Products.

#### **Article 5. PAYMENTS AND ROYALTY STATEMENTS**

5.01 Licensee agrees to pay to Sisvel:

- (a) the amount due under Section 4.01(a) on or before Licensee's signature of this Agreement; and
- (b) the amount of ..... Euros (..... €) in consideration of the release granted under Section 2.04 for royalties accrued prior to the Effective Date, and in accordance with the attached royalty statements, on or before Licensee's signature of this Agreement.

5.02 Licensee shall, on a quarterly basis and within one (1) month after the end of each calendar quarter, beginning with the calendar quarter of the Effective Date, provide Sisvel with a full royalty statement according to the form shown in Exhibit 3 hereto, which includes under: Table (a) the total number of units of Licensed Products Sold or otherwise disposed of by Licensee and/or Affiliates in the preceding calendar quarter; for each shipment or delivery of those Licensed Products, the model number, a brief description of the product or product type, the brand or trademark on the product, the name of the customer, the country of Sale, the name of the Manufacturer (or the direct supplier, as the case may be), the country of Manufacture, and the number of units Sold or otherwise disposed of; Table (b) the name and the address of any entity listed in the reports under Table (a) above, and



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the number of units purchased from or Sold to such entity; Table (c) the total number of units of Licensed Products that Licensee and/or Affiliates purchased from or Sold to a third party licensed for such Licensed Products under the Licensed Patents in the preceding calendar quarter provided that no royalty for such Licensed Products is due by Licensee subject to Section 4.03, and, for each shipment or delivery of those Licensed Products, the model number, a brief description of the product or product type, the brand or trademark on the product, the name of the customer, the country of Sale, the name of the Manufacturer (or the direct supplier, as the case may be), the country of Manufacture, and the number of units Sold or otherwise disposed of; and Table (d) the name and the address of any entity listed in the reports under Table (c) above, and the number of units purchased from or Sold to such entity. For each of the reports under Table (a) above, Licensee will specifically state the quantity of Licensed Products Sold or otherwise disposed of and the corresponding amount due to Sisvel. Upon request from Sisvel, Licensee will provide documentation sufficient to demonstrate that any Licensed Products listed in the report under Table (c) above were purchased from or Sold to a third party licensed to Manufacture and Sell Licensed Products under the Licensed Patents including, but not limited to, invoices showing such purchase or Sale. If Licensee fails to provide Sisvel with such documentation within ten (10) Days of Sisvel's request, Licensee will pay royalties for all such Licensed Products for which no such documentation has been provided to Sisvel within twenty-five (25) Days after the date of such request.

5.03 Licensee shall submit the full royalty statement in accordance with Section 5.02, and in the form specified in Exhibit 3 hereto, in electronic format (in a file type specified by Sisvel) via e-mail to the address [wireless.reporting@sisvel.com](mailto:wireless.reporting@sisvel.com). Upon request from Sisvel, Licensee shall render to Sisvel the above full royalty statement in electronic format through an extranet or other internet website established for such purpose by Sisvel.

5.04 Every royalty statement submitted to Sisvel in accordance with this Article 5 shall be certified by a representative of Licensee authorized to make such certification and with the full authority to represent and bind Licensee. Licensee understands and agrees that it is solely the obligation of Licensee to accurately assess and report to Sisvel the Licensed Products and royalties due under this Agreement. By submitting a royalty statement to Sisvel in accordance with this Article 5, Licensee acknowledges and accepts the sole responsibility to accurately assess and report Licensed Products and that any royalty statement submitted to Sisvel reflects the proper and accurate basis for the calculation of royalties under Section 4.02.



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5.05 Sisvel shall keep all information contained in any royalty statements provided to Sisvel by Licensee confidential in accordance with Article 13 below, except to the extent that the information is needed by Sisvel: (i) to communicate to any entity whether or not Licensed Products Manufactured, used, imported, offered for Sale, Sold, or otherwise disposed of by such entity are products licensed under this Agreement, (ii) to verify whether or not royalties have been paid on Licensed Products listed in such royalty statements, or (iii) for auditing or enforcement purposes in connection with Licensed Products under this Agreement. Sisvel shall not disclose information on running royalties paid on a licensee-by-licensee basis except to comply with applicable laws, court orders, rules, or regulations or for auditing.

5.06 Except as provided for in Section 5.07 hereof, royalties payable pursuant to Section 4.01(b) of this Agreement that accrue during each calendar quarter after the Effective Date are due from Licensee to Sisvel within one (1) month after the end of each calendar quarter, beginning with the calendar quarter of the Effective Date, for any Licensed Products which were Sold or otherwise disposed of by Licensee and/or Affiliates during that calendar quarter.

5.07 Within thirty (30) Days after the effective date of termination or expiration of this Agreement, Licensee shall: (i) provide Sisvel with royalty statements completed according to the form specified in Exhibit 3 and including all Licensed Products Manufactured, used, imported, offered for Sale, Sold, or otherwise disposed of by Licensee and Affiliates before the effective date of such termination or expiration and for which a royalty has not been paid; and (ii) pay Sisvel any and all amounts that became due pursuant to this Agreement before the effective date of such termination or expiration (such amounts include, but are not limited to, royalty payments pursuant to Article 4 and corresponding to the royalty statements provided under (i) herein).

5.08 Except as otherwise specified, payments made to Sisvel under the provisions of this Agreement shall be made in Euros and shall be paid by wire transfer to Sisvel's bank account at SISVEL INTERNATIONAL S.A. "Wireless Royalties Account", IBAN LU48 3010 9867 78EU R001, UBI BANCA INTERNATIONAL S.A.. Sisvel reserves the right to change such account.

5.09 Any bank charges, including those relating to the bank guarantee and all other payments made under this Agreement, will be borne by Licensee and will not be deducted from any payment made by Licensee.



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5.10 Any payment to Sisvel which is not made on the date(s) specified herein shall accrue interest, compounded monthly, at the rate of the lesser of one percent (1%) per month (or part thereof) or the highest interest rate permitted to be charged by Sisvel under applicable law.

5.11 Sisvel is the beneficial owner of all amounts payable by Licensee hereunder, including, but not limited to, royalties payable pursuant to Article 4 of this Agreement.

5.12 Licensee may pay any tax (by way of deducting and paying over any withholding tax to the relevant taxing authority) that it is legally obligated to pay by its country of residence on the royalty payments made under this Agreement. However, the term “tax” does not include any interest or penalties related to such tax. For clarity, in the event that a bilateral tax treaty between the countries of residence of the Parties provides for a reduced tax rate or tax exemption the Parties acknowledge and agree that taxes to be imposed by such bilateral tax treaty on any royalty payments made by Licensee under this Agreement shall be required to be withheld by relevant taxing authority. As soon as reasonably possible but in no event later than three (3) months from the date of any royalty payment under this Article 5, Licensee shall provide Sisvel with all proper tax certificates reasonably satisfactory to Sisvel to obtain the tax credits corresponding to any withholding taxes deducted by Licensee. Should Licensee fail to provide Sisvel with a proper tax certificate reasonably satisfactory to Sisvel within three (3) months after having deducted withholding tax from a royalty payment under this Agreement, Licensee shall immediately pay Sisvel an amount equal to the withholding tax previously deducted.

5.13 At Licensee’s reasonable request, Sisvel shall use commercially reasonable efforts to file any certificate or other document in Sisvel’s name which may cause any tax that is so payable by the Licensee not to be payable or to be reduced under applicable law. Licensee shall reasonably cooperate with Sisvel in respect of lawfully mitigating any withholding taxes, including providing such information or documents as may be required for purposes of obtaining refunds of any taxes withheld.

5.14 Should Licensee incorrectly apply the amount of withholding tax, Sisvel shall reasonably cooperate with Licensee to rectify this issue at Licensee’s sole expense. However, in no event will Sisvel reimburse or otherwise compensate Licensee for any mistake with respect to the amount of withholding tax applied by Licensee if Sisvel is unable to obtain tax credits in accordance with Section 5.12 hereof corresponding to the amounts to be withheld.



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5.15 Royalties set forth under Article 4 of this Agreement are exclusive of any foreign taxes, including VAT or any comparable tax imposed on Licensee under the applicable law. Licensee shall pay or reimburse Sisvel for any and all taxes, such as sales, excise, value-added, use taxes, and similar taxes imposed on Licensee, based on payments to be made hereunder in any jurisdiction(s) where such taxes are required. If Licensee in good faith contests any tax that is so payable or reimbursable by Licensee, Sisvel shall reasonably cooperate with the resolution of the contested tax at Licensee's sole expense.

#### **Article 6. AUDITING**

6.01 Licensee and Affiliates shall keep and maintain complete, accurate, and detailed books and records in paper and electronic format with respect to all products (all such books and records collectively referred to as "Necessary Records"). Necessary Records include, but are not limited to, all books and records related to: (i) the organization chart showing the relationship of Licensee with all Affiliates; and (ii) all purchases, stocks, deliveries, Manufacture, and Sale of all products, as well as technical specifications of all products. Necessary Records pertaining to a particular royalty reporting period, including Necessary Records relating to the Manufacture, use, import, offer for Sale, Sale, or other disposition of any products prior to the Effective Date, shall be maintained for five (5) years from the date on which a royalty is paid or should have been paid, whichever is later.

6.02 Sisvel shall have the right to have audited the Necessary Records of Licensee and any past and present Affiliates to ascertain their compliance with their obligations under this Agreement, including, but not limited to the accuracy and completeness of the royalty statements and payments pursuant to Article 5, the organization chart of Licensee required under Section 2.02, and the representations and warranties made by Licensee in Article 3 above. Any such audit shall take place not more than once per calendar year unless any previous audit has revealed a shortfall as provided in Section 6.05 or unless Licensee and/or an Affiliate has failed to fully cooperate during a previous audit. It is understood that an audit under this Article 6 might include separate audits of past and present Affiliates and for purposes of this Section 6.02 such audits will count as a single audit. Sisvel will give Licensee written notice of such audit at least five (5) Days prior to the audit. All such audits shall be conducted during reasonable business hours.

6.03 Any audit under this Article 6 shall be conducted by an independent certified public accountant or equivalent ("Auditor") selected by Sisvel. Licensee shall fully cooperate with the Auditor in conducting such audit and shall permit the Auditor to inspect and copy Licensee's



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Necessary Records that the Auditor, in the Auditor's discretion, deems appropriate and necessary to conduct such audit in accordance with international professional standards applicable to the Auditor. Licensee agrees that it will provide all Necessary Records to the Auditor regardless of whether such Necessary Records are subject to confidentiality obligations. It shall be a material breach of this Agreement for Licensee and/or an Affiliate to fail to cooperate with the Auditor and/or to fail to provide the Auditor all Necessary Records requested by the Auditor, regardless of whether Licensee claims that such Necessary Records are subject to confidentiality obligations.

6.04 The cost of any audit under this Article 6 shall be at the expense of Sisvel; provided, however, that Licensee shall bear the entire cost of the audit, without prejudice to any other claim or remedy as Sisvel may have under this Agreement or under applicable law, if: (i) the audit reveals a discrepancy that is greater than three percent (3%) of either the number of Licensed Products or the amount of royalties payable as declared by Licensee or Affiliates in any of the quarterly royalty statements during the period to which the audit refers; (ii) the audit identifies any Affiliate involved in the Manufacture, use, import, offer for Sale, Sale, or other disposition of Licensed Products and not listed in Exhibit 2 of this Agreement or included in the organization charts as required under Section 2.02; (iii) Licensee has failed to submit any royalty statements by their due date, as per Article 5 above, in respect of the period to which the audit relates; and/or (iv) Licensee or any Affiliate refuse or obstruct the audit, or the Auditor reports that Licensee or any Affiliates have refused or obstructed the audit, such as, for example, by refusing to supply all Necessary Records requested by the Auditor.

6.05 In the event that the audit reveals a discrepancy or error in either the number of Licensed Products or the amount of royalties payable as declared by Licensee in the royalty statements provided for in Article 5 of this Agreement, Licensee will pay royalties based on the Standard Rates for all Licensed Products which are the subject of such discrepancy or error plus a fixed interest amount of one and one quarter percent (1.25%) on the total amount of such discrepancy or error. In addition, in the event that the audit establishes that there is a discrepancy or error exceeding three percent (3%) of the number of Licensed Products declared in any of the quarterly royalty statements during the period to which the audit refers, Licensee agrees to pay an additional amount of seven Euro cents (0.07 €) per Licensed Product exceeding the number of Licensed Products included in any such quarterly royalty statement in addition to the royalties and interest due under this Agreement to partially reimburse Sisvel for the administrative and legal costs which Licensee understands occur in monitoring and enforcing license agreements for non-compliance. In the



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event that evidence from a source other than the auditor, including a revised royalty statement sent by Licensee after receiving notice of an audit or a royalty statement or other document from a supplier or customer of Licensee or an Affiliate, reveals a discrepancy or error in the number of Licensed Products declared by Licensee in the royalty statements provided for in Article 5 of this Agreement, Licensee will pay the royalty and interest due under this Agreement for such Licensed Products exceeding the number of Licensed Products included in the original royalty statement and paid for by Licensee. In addition, if such evidence establishes that there is a discrepancy or error exceeding three percent (3%) of the number of Licensed Products declared by Licensee in any quarterly royalty statement to have been purchased from or Sold to any one entity, Licensee agrees to pay an additional amount of Seven Euro cents (0.07 €) per Licensed Product exceeding the number of Licensed Products included in any such quarterly royalty statement in addition to the royalties and interest due under this Agreement to partially reimburse Sisvel for the administrative and legal costs which Licensee understands occur in monitoring and enforcing license agreements for non-compliance.

6.06 Within fifteen (15) Days after receiving notice from Sisvel of any shortfalls revealed by an audit, or by a source other than an audit, Licensee shall pay the royalties due for the amount of the shortfall plus: (i) interest as set forth in Section 5.10; (ii) the cost of the audit if applicable as per Section 6.04 of this Agreement; and (iii) any additional amounts if applicable as per Section 6.05 of this Agreement.

#### **Article 7. NOTICE OF LIMITATIONS**

7.01 Licensee shall provide adequate written notice throughout the distribution chain of Licensed Products that: (i) only products primarily designed as user equipment are licensed under this Agreement; (ii) the rights granted under this Agreement are limited to the Licensed Field and that no rights are granted under this Agreement with respect to any standards other than the Wireless Standards; and (iii) no rights granted under this Agreement extend to any product or process used or Sold in combination with a Licensed Product of Licensee.

#### **Article 8. ASSIGNMENT**

8.01 This Agreement shall inure to the benefit of and be binding upon each of the Parties hereto and their respective successors and assigns. This Agreement may not be assigned in whole or in part by Licensee without the prior written consent of Sisvel.



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8.02 Sisvel shall have the right to transfer this Agreement to a successor of Sisvel or a Sisvel Affiliate upon reasonable notice to Licensee. Licensee agrees to such transfer in advance, and in the event of such transfer this Agreement shall remain in full force and effect until its expiration or termination.

#### **Article 9. TERM OF THE AGREEMENT**

9.01 Unless terminated earlier in accordance with the provisions of Article 10 below, this Agreement shall be effective as of the Effective Date, and shall remain in force for a term of five (5) years. Upon expiration, this Agreement shall be automatically renewed for successive five (5) year periods so long as any Licensed Patent is in force or effect, unless terminated by either Party by written notice to be sent to the other Party at least six (6) months before each renewal date. Sisvel may condition the renewal upon compliance with any reasonable amendments or changes to the terms and conditions of this Agreement, including changes in the royalty rates based on the rate of inflation, by sending Licensee written notice of any such amendments or changes at least nine (9) months prior to any renewal date. In the event that Sisvel sends written notice of amendments or changes, Licensee shall have three (3) months to provide Sisvel with written notice of its acceptance or rejection of such amendments and changes. For clarity, failure by Licensee to respond within this three (3) month period shall result in automatic renewal of Licensee's agreement as modified according to such amendments and changes.

9.02 Beginning as of twelve (12) months after the Effective Date, Sisvel may notify Licensee, no more than once in any calendar year and/or at the time of any renewal under Section 9.01, that the per unit royalty for Licensed Products specified in Section 4.02 will be adjusted to reflect the aggregate of the annual average rate of change in the inflation rate for the fixed composition Euro Area as indicated in the Harmonised Indices of Consumer Prices (HICP) published by Eurostat since July 1, 2013 or, if applicable, the date of the most recent inflation-based adjustment of the royalty rate unless decided otherwise by Sisvel; provided, however, that Sisvel shall provide Licensee prior written notice at least ninety (90) Days in advance of any such adjustment and Licensee shall have the right to terminate this Agreement by providing written notice to Sisvel of such termination within sixty (60) Days of the date of Sisvel's written notice of any such adjustment. Eurostat HICP data are currently available at:

<http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&plugin=1&language=en&pcode=tec0011>  
8.





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If Eurostat ceases publishing the HICP for any reason, then the Parties shall use similar data published by a European Union agency or institution to measure the aggregate annualized changes in inflation.

9.03 To avoid any doubt, royalty statements and payments for periods before the expiration of this Agreement shall be submitted regardless of whether those royalty statements and payments are due after such expiration.

#### **Article 10. TERMINATION**

10.01 In the event one Party fails to perform any material obligation under this Agreement, the other Party may terminate this Agreement at any time by means of written notice to the other Party specifying the nature of such failure and declaring termination of this Agreement. Such termination shall be effective thirty (30) Days after receipt of the notice if the breaches are not cured by then. Such right of termination shall not be exclusive of any other remedies or means of redress to which the non-defaulting Party may be lawfully entitled, and all such remedies shall be cumulative. Any such termination shall not affect any royalty or other payment obligations under this Agreement accrued prior to such termination. Licensee agrees that a material breach of this Agreement shall include, but is not limited to, a failure by Licensee and/or Affiliates to comply with any of the provisions of Articles 3, 5, 6 and/or Article 13 and that any such material breach gives Sisvel the right to terminate this Agreement in accordance with the provisions of this Section 10.01.

10.02 Sisvel may terminate this Agreement immediately by means of written notice to Licensee in the event that a creditor or other claimant attempts to take possession of, or a receiver, administrator or similar officer is appointed over, any of the assets of Licensee, or in the event that Licensee pledges its assets or otherwise seeks to make or makes any voluntary arrangement with its creditors or seeks protection from any court or administration order pursuant to any bankruptcy or insolvency law.

10.03 Licensee, on its behalf and on behalf of Affiliates, covenants that on the date of termination of this Agreement due to a breach by Licensee or an Affiliate, Licensee and Affiliates shall immediately cease the Manufacture, use, importation, offer for Sale, Sale, and any other disposition of Licensed Products unless and until Licensee has executed a new license agreement under Licensed Patents for Licensed Products in the Licensed Field. Should Licensee or any Affiliates breach the above representation by failing to cease the Manufacture, use, importation, offer for Sale, Sale, or any other disposition of Licensed Products after termination of this Agreement as required by this



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Section 10.03, Licensee agrees to pay: (i) the amount of Fifty Euro cents (0.50€) for each Licensed Product Manufactured, used, imported, offered for Sale, Sold, or otherwise disposed of by Licensee or Affiliates after the date of termination of this Agreement to partially reimburse Sisvel for the administrative and legal costs which Licensee understands will be incurred in connection with such breach; and (ii) any additional costs or fees, including attorneys' fees, incurred by Sisvel in connection with such breach. As an exception to immediate cessation, within three (3) months of the date of termination of this Agreement, Licensee may use, Sell, or otherwise dispose of Licensed Products that are already Manufactured as of the date of termination of this Agreement, provided, however, that: (x) all such Licensed Products are included by Licensee and/or Affiliates in a royalty statement according to the form shown in Exhibit 3 to be provided to Sisvel within five (5) Days of the date of termination of this Agreement; (y) a royalty pursuant to Section 4.02 is paid to Sisvel for all such Licensed Products within five (5) Days of the date of termination of this Agreement; and (z) upon request from Sisvel, Licensee provides Sisvel with evidence that all such Licensed Products were Manufactured on or before the date of termination of this Agreement. Licensee and Affiliates agree not to oppose any proceedings to enjoin them from any other activity involving Licensed Products if they do not immediately cease the Manufacture, use, import, offer for Sale, Sale, or other disposition of Licensed Products.

10.04 Should Licensee breach Articles 4 and/or 5 by either not providing Sisvel with a royalty statement by its due date, or failing to pay all the royalties due to Sisvel by their due date, (regardless of whether Sisvel learns of such breach through an audit or from other evidence) any Licensed Products Manufactured, used, imported, offered for Sale, Sold, or otherwise disposed of after the end of the last reporting period for which Licensee has both provided Sisvel with a royalty statement by its due date and paid to Sisvel all the corresponding royalties due according to Articles 4 and 5 above, will not be covered by the license granted under Section 2.01 above, until Licensee cures all such breaches under this Agreement. Should Licensee breach Article 6 of this Agreement, by refusing or obstructing the audit described therein, any Licensed Products Manufactured, used, imported, offered for Sale, Sold, or otherwise disposed of after the day Sisvel has notified Licensee of this breach will not be covered by the license granted under Section 2.01 above, until Licensee cures all such breaches under this Agreement. In both of the above cases in this Section 10.04 in which Licensee is in breach of this Agreement Sisvel will have the right to communicate to third parties the fact that such products are not covered by the license granted under this Agreement and



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exclude the name of Licensee and Affiliates from any list of companies licensed under the Licensed Patents in good standing until Licensee cures all such breaches under this Agreement.

10.05 In the event that Licensee breaches Section 11.01, Sisvel may terminate this Agreement by means of written notice to Licensee as per Section 10.01. In addition, Licensee agrees that it will pay to Sisvel, for administrative costs: (i) an amount of Fifty Euro cents (0.50 €) for each product declared by Licensee as Sold, purchased, or disposed of by Licensee or Affiliates in breach of Section 11.01 to partially reimburse Sisvel for the administrative and legal costs which Licensee understands will be incurred in connection with such breach; and (ii) any further costs or fees, including attorneys' fees, incurred by Sisvel in connection with such breach. Such payments will be in addition, and without prejudice, to all royalty or other payments to Sisvel hereunder or any other legal remedies that Sisvel may have with respect to those products, including but not limited to the right to claim damages for patent infringement.

10.06 The following provisions of this Agreement shall survive expiration or termination of this Agreement: (i) the obligation of Licensee to pay all royalties accrued pursuant to Article 4 as of the effective date of expiration or termination; (ii) the obligation of Licensee to provide royalty statements under Article 5 for periods before the effective date of expiration or termination; (iii) the Parties' rights and obligations under Article 6, including the obligation of Licensee and all entities that existed as Affiliates at any time during the term of this Agreement to maintain adequate books and records as specified under Article 6 for a period of three (3) years after the effective date of expiration or termination and the right of Sisvel to have audited the books and records of Licensee and all entities that existed as Affiliates at any time during the term of this Agreement pursuant to Article 6 for a period of three (3) years after the effective date of expiration or termination; (iv) the confidentiality obligations under Article 13 below; and (v) Section 10.03.

#### **Article 11. LICENSEE'S COVENANTS**

11.01 Licensee agrees that neither Licensee nor Affiliates will use the licenses and rights granted by Sisvel under this Agreement in any way to circumvent the purpose of this Agreement, Sisvel's wireless technology licensing program, or the licensing and enforcement of the Licensed Patents against unlicensed entities. Licensee will not attempt to treat products Manufactured and/or distributed by unlicensed entities and supplied to other unlicensed entities as licensed under this Agreement unless: (i) Licensee is actually Selling or purchasing such products, and (ii) prior to distribution of such products Licensee is a party of record to either a written supply agreement or a



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written purchase agreement for the products in question with at least one of the unlicensed entities that is Manufacturing or distributing the products in question.

11.02 As an assurance of fulfillment of its obligations under the terms of this Agreement, including, but not limited to, payment of amounts due under this Agreement by their due date, submission of royalty statements by their due date, compliance with the audit procedures according to Article 6, and renewal or replacement of the bank guarantee according to this Section 11.02, Licensee covenants that it will provide Sisvel with a continuing bank guarantee from a first class international bank according to the form shown and for the amount indicated in Exhibit 4 hereto on or before the date of Licensee's signature of this Agreement. Sisvel will have: (a) the right to call up to the full amount of such bank guarantee each time Licensee should fail to fulfill its obligations under the terms of this Agreement, including, but not limited to, payment of amounts due under this Agreement by their due date, submission of royalty statements by their due date, compliance with the audit procedures according to Article 6 above, or renewal or replacement of the bank guarantee according to this Section 11.02; (b) the right to keep any amounts from the bank guarantee sufficient to compensate for any damages caused by Licensee's failure to fulfill its obligations, including costs and attorney's fees as they are incurred; (c) the right to keep up to the full amount of such bank guarantee until such time as the extent of such damage can be determined with certainty; and (d) the right to keep the full amount of the bank guarantee as liquidated damages if the extent of the damage described in (c) above cannot be determined with certainty within one (1) year from the date on which Sisvel calls the bank guarantee. It is understood that, should Licensee or any Affiliates (1) fail to submit the royalty statements pursuant to Section 5.02 by their due date, (2) refuse an audit request or obstruct an audit pursuant to Article 6, or (3) fail to renew or replace the bank guarantee according to this Section 11.02, Sisvel will have: (a) the right to call the full amount of such bank guarantee each time Licensee fails or refuses to do so; (b) the right to keep any amounts from the bank guarantee sufficient to compensate for any damages caused by Licensee's failure or refusal, including costs and attorney's fees as they are incurred; (c) the right to keep up to the full amount of such bank guarantee until such time as the extent of such damage can be determined with certainty; and (d) the right to keep the full amount of the bank guarantee as liquidated damages if the extent of the damage described in (c) above cannot be determined with certainty within one (1) year from the date on which Sisvel calls the bank guarantee. Any amount drawn from the bank guarantee will not be considered as a full or partial fulfillment of any obligations of Licensee under the terms of this Agreement, including the not fulfilled obligations for



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which the bank guarantee was called. Should the original bank guarantee or any subsequent bank guarantee provided by Licensee under this Section 11.02 expire prior to expiration of this Agreement, Licensee covenants that it will obtain and provide Sisvel with a renewed or replaced bank guarantee for the same period and in the same amount as the original bank guarantee at least three (3) months before the expiration of the existing bank guarantee. Should Licensee fail to obtain or provide a renewed or replaced bank guarantee at least three (3) months before the expiration of the existing bank guarantee, Sisvel may, at its discretion, expressly terminate this Agreement in accordance with the provisions of Article 10 and/or call the full amount of the existing bank guarantee and keep such full amount as a deposit for use as if it were the bank guarantee until Licensee provides a renewed or replaced bank guarantee. Licensee agrees that the bank guarantee will not be returned before its expiration even if Licensee and Affiliates no longer Manufacture, use, import, purchase, offer to Sell, Sell, or otherwise dispose of Licensed Products. Licensee further agrees that its obligation to obtain and provide Sisvel with a renewed or replacement bank guarantee will persist until the expiration or termination of this Agreement even if Licensee and Affiliates no longer Manufacture, use, import, purchase, offer to Sell, Sell, or otherwise dispose of Licensed Products.

#### **Article 12. SISVEL COVENANTS**

12.01 Sisvel represents that, to the best of its knowledge, the Licensed Patents contain claims that would necessarily be infringed or used by implementing or otherwise practicing the Wireless Standards, including any portion of such Wireless Standards. Sisvel covenants that if any Licensed Patent is determined not to be essential to any Wireless Standard in the country which issued or published such patent, upon a final adjudication of a tribunal of competent jurisdiction from which no appeal is taken or allowed, and such patent is to be deleted from the list of Licensed Patents, Sisvel shall give notice to Licensee of such deletion, and Licensee shall have the option to retain its license under such patent for the remainder of the term of this Agreement, and during any renewal pursuant to Article 9 above, by providing written notice to Sisvel of such election within thirty (30) Days of the notice by Sisvel.

12.02 Sisvel covenants that Patents will not be removed from the list of Licensed Patents for reasons other than stated in this Article 12.

12.03 Except as provided in Section 12.04 below, in the event that Sisvel grants a license under the Licensed Patents for Licensed Products within the Licensed Field to another entity at royalty rates more



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favorable than those set forth in Article 4 of this Agreement, whether or not such more favorable royalty rates are on terms and/or conditions that are different from those set forth in this Agreement, Sisvel shall send a written notice to Licensee specifying the more favorable royalty rates and any terms and/or conditions that are different from those set forth herein (the “Notice”). Licensee shall be entitled to an amendment of this Agreement to provide for royalty rates as favorable as those available to such other party by notifying Sisvel of such election within thirty (30) Days of the receipt and acceptance of the Notice by Licensee; provided, however, that this Agreement shall also be amended to include any additional terms and/or conditions as specified in the Notice. Any amendment made pursuant to this Section 12.03 shall be effective only as of the date it is made, and such more favorable royalty rates shall not be retroactively applicable in favor of Licensee and shall not be a basis for claiming any refund of royalties paid prior to the date such amendment is made. Sisvel’s obligations under this Section 12.03 to offer any amendment shall be satisfied by offering to Licensee a license under terms and/or conditions which are identical (subject to Section 12.04 below) to those terms and/or conditions of the license which contains the more favorable royalty rates.

12.04 Section 12.03 shall not apply to: (i) settlement of litigation with any person or entity; (ii) determination by Sisvel of back royalties owed by a licensee under the Licensed Patents; (iii) compromise or settlement of royalty payments owed by a licensee in financial distress; (iv) any cross-license; and (v) any license, compromise, or settlement following an order of a court or an administrative body.

### **Article 13. CONFIDENTIALITY**

13.01 Subject to Sections 5.05, 13.02, and 13.03, during the term of this Agreement and for a period of three (3) years after the last to expire of the Licensed Patents, each Party hereto (on its own behalf and, respectively, on behalf of all Sisvel Affiliates and Affiliates) agrees and acknowledges that it shall not disclose, publish, or disseminate or otherwise distribute Confidential Information, outside of those employees, officers, attorneys, auditors or consultants who have a need to know Confidential Information. Each Party may announce or otherwise disclose the fact that this Agreement has been signed, and, subject to Section 10.04 above, that there are no legal or administrative actions pending between the Parties.

13.02 Disclosure of Confidential Information shall be permitted: (i) if required by an order or request of a court, government or governmental body; (ii) as otherwise required by law; (iii) as necessary in court proceedings to establish rights under this Agreement; or (iv) if necessary in a proceeding before a



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governmental tax authority. If disclosure is made pursuant to this Section 13.02, it shall be limited to only those sections of this Agreement strictly necessary to comply with the order, request, law or proceeding, or to establish such rights. The Party making a disclosure under this Section 13.02 shall provide ten (10) Days advance written notice, or if compliance with an applicable order is required earlier then as much time as possible before such compliance, to the other Party before making such disclosure.

13.03 The obligations specified in Section 13.01 will not apply to any information that: (i) is or becomes publicly available without breach of this Agreement; (ii) is released for disclosure by written consent of the other Party; (iii) was already in the receiving Party’s possession at the time of its receipt from the disclosing Party; or (iv) is disclosed to the receiving Party by a third party without the receiving Party’s knowledge of any breach of any obligation of confidentiality owed to the other Party.

**Article 14. COMMUNICATIONS**

14.01 Any communication, including notices, relating to this Agreement shall be made in the English language, and sent either by e-mail, fax, certified mail with return receipt requested, or by overnight delivery by commercial or other service which can verify delivery to the following addresses and such notice so sent shall be effective as of the date it is received by the other Party:

for Sisvel:

for Licensee:

**SISVEL INTERNATIONAL S.A.**

**<COMPANY NAME>**

Wireless Program Manager

<Company representative>

6, Avenue Marie Thérèse

<Company address>

L-2132 Luxembourg

<Company address>

Grand Duchy of Luxembourg

<Company country>

Email: wireless\_manager@sisvel.com

Email: <Representative’s email address>

Fax: +352 28 22 50 40

Fax: <Company fax number>

14.02 A Party shall notify the other Party in writing of any change in the communication information contained in Section 14.01 within fifteen (15) Days of such change.

14.03 Notwithstanding anything to the contrary herein, amendments to the list of Licensed Patents in Exhibit 1 of this Agreement, if any, shall be effective upon the posting of the new Exhibit 1



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on the website of Sisvel [www.sisvel.com](http://www.sisvel.com) and such posting shall constitute notice under this Article 14.

**Article 15. GENERAL PROVISIONS**

15.01 Licensee shall be considered directly responsible for any breach and/or non-performance of any provision of this Agreement by itself and/or by any Affiliates. In particular, Licensee agrees that any Affiliate's breach of its obligations under this Agreement shall be deemed to be a breach by Licensee under this Agreement of the same obligations.

15.02 Affiliates shall not be considered third-party beneficiaries under this Agreement and shall have no right to enforce any of the provisions hereof against Sisvel. Affiliates' sole rights and remedies shall be against Licensee.

**Article 16. MISCELLANEOUS**

16.01 This Agreement, including its exhibits and any amendments, sets forth the entire agreement and understanding between the Parties as to the subject matter hereof and supersedes and replaces all prior arrangements, discussions and understandings between the Parties relating to the subject matter hereof.

16.02 All definitions and exhibits form an integral part of this Agreement. The Article headings contained in this Agreement are for reference purposes only and shall not in any way control the meaning or interpretation of this Agreement.

16.03 Except for supplementation of or deletion from the list of Licensed Patents, no amendment of or addition to this Agreement shall be effective unless such amendment or addition is made in written form and specifically references this Agreement, and is signed by authorized representatives of all Parties.

16.04 Nothing in this Agreement shall be construed as prohibiting or restricting the Parties from independently developing, purchasing, selling, or otherwise dealing in any product regardless of whether such product is competitive with the product licensed in this Agreement.

16.05 Nothing in this Agreement shall be construed to create a principal-agent relationship, partnership or joint venture between the Parties, or give rise to any fiduciary duty from one Party to the other Party.

16.06 Nothing in this Agreement shall be construed to confer any rights on any third party.





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16.07 The failure of either Party at any time to require performance by the other Party of any provision of this Agreement shall not be construed as acquiescence or waiver of such failure to perform such provision. The failure of either Party to take action upon the breach of any provision of this Agreement shall not be construed as acquiescence or waiver of any such breach.

16.08 No right or remedy available to a Party upon the breach of any provision of this Agreement is intended to be exclusive. The Parties hereto agree that all of the rights and remedies available to each Party hereunder shall be cumulative and not exclusive, and are in addition to any and all other remedies available to each Party at law or in equity.

16.09 This Agreement is in the English language and two (2) copies have been executed. Sisvel and Licensee shall receive one (1) copy each. Any costs to translate or record this Agreement will be paid by Licensee and the executed English language version of this Agreement will control.

16.10 Should any provision of this Agreement be finally determined void or unenforceable in any judicial proceeding, such determination shall not affect the operation of the remaining provisions hereof. In such event, to the extent possible, such void or unenforceable provision shall be conformed to a valid provision closest to the intended effect of the invalid or unenforceable provision.

16.11 This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement shall not be binding on the Parties until all Parties have signed the same Agreement or identical counterparts thereof and each Party has received the signature page signed by the other Party, whether that signature page is an original or an electronic copy of an original.

#### **Article 17. APPLICABLE LAW AND JURISDICTION**

17.01 This Agreement shall be governed by, interpreted, and construed in accordance with the laws of Germany regardless of its conflicts of laws principles.

17.02 Subject to Section 17.03 below, all disputes arising out of or in connection with this Agreement, including any questions regarding its existence, validity, or termination, shall be finally settled according to the Arbitration Rules of the German Institution of Arbitration e.V. (DIS) without recourse to the ordinary courts of law. The place of arbitration shall be Frankfurt am Main, Germany. The number of arbitrators shall be three (3). The language of the arbitral proceedings shall be English. The Supplementary Rules for Expedited Proceedings shall apply only if the Parties



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so agree in writing within fifteen (15) Days from the date of either Party's notice to the other Party of a dispute under this Agreement. The arbitral award shall be final, non-appealable and binding upon the Parties and their respective successors and permitted assigns. Judgment upon the award may be entered in any court having jurisdiction thereof.

17.03 Notwithstanding Section 17.02 above, in cases where Sisvel is the plaintiff, Sisvel shall also have the right, at its sole discretion, to commence litigation regarding all disputes arising out of or in connection with this Agreement, including any questions regarding its existence, validity, or termination, before the District Court of Mannheim, Germany, or any competent court in the venue of Licensee's or Affiliates' registered offices, or any of the competent courts where Licensee's Licensed Products are Manufactured, used, imported, offered for Sale, Sold, or otherwise disposed of.

AS WITNESS, the Parties entered into this Agreement on the last signature date written below.

SISVEL INTERNATIONAL S.A.

[Licensee]

By: .....

By: .....

Name: .....

Name: .....

Title: .....

Title: .....

Date: .....

Date: .....



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**Exhibit 1 – Licensed Patents**

<b>Family Ref.</b>	<b>Publication Number</b>
NKO-02	CA 2318480
NKO-02	CN ZL200610005844.0
NKO-02	DE 69838854.2
NKO-02	EP 1051870
NKO-02	ES 1051870
NKO-02	FI 106172
NKO-02	FR 1051870
NKO-02	GB 1051870
NKO-02	IT 1051870
NKO-02	JP 4002731
NKO-02	NL 1051870
NKO-02	US 6826406
NKO-02	US 7599384
NKO-03	AT 0852885
NKO-03	AU 715225
NKO-03	BE 0852885
NKO-03	CA 2232792
NKO-03	CN ZL96197188.6
NKO-03	DE 69635453.5
NKO-03	EP 0852885
NKO-03	ES 0852885
NKO-03	FI 101337
NKO-03	FR 0852885
NKO-03	GB 0852885
NKO-03	GR 0852885
NKO-03	HK 1015598
NKO-03	IE 0852885
NKO-03	IT 0852885
NKO-03	NL 0852885
NKO-03	NO 325994
NKO-03	NZ 318789
NKO-03	US 6646998
NKO-04	US 6137836
NKO-05	AT 1119997
NKO-05	BE 1119997
NKO-05	CN ZL99811826.5
NKO-05	DE 69924130.8
NKO-05	EP 1119997
NKO-05	ES 1119997
NKO-05	FI 106288



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NKO-05	FR 1119997
NKO-05	GB 1119997
NKO-05	IT 1119997
NKO-05	JP 4226786
NKO-05	NL 1119997
NKO-05	PT 1119997
NKO-05	SE 1119997
NKO-05	US 7957736
NKO-06	US 6678527
NKO-07	AT 1005767
NKO-07	BE 1005767
NKO-07	CA 2295608
NKO-07	CN ZL99800725.0
NKO-07	DE 69923412.3
NKO-07	EP 1005767
NKO-07	ES 1005767
NKO-07	FR 1005767
NKO-07	GB 1005767
NKO-07	IE 1005767
NKO-07	IT 1005767
NKO-07	NL 1005767
NKO-07	US 6721304
NKO-08	BE 1059822
NKO-08	BR PI0002069.9
NKO-08	CH 1059822
NKO-08	CN ZL00118184.X
NKO-08	DE 60007485.4
NKO-08	EP 1059822
NKO-08	ES 1059822
NKO-08	FI 1059822
NKO-08	FR 1059822
NKO-08	GB 1059822
NKO-08	HK 1033062
NKO-08	IN 213919
NKO-08	IT 1059822
NKO-08	JP 3961742
NKO-08	KR 10-0474566
NKO-08	NL 1059822
NKO-08	SE 1059822
NKO-08	US 6591116
NKO-09	BR PI9915081.6
NKO-09	CN ZL200510106324.4
NKO-09	CN ZL99813850.9



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NKO-09	DE 69929535.1
NKO-09	DE 69943947.7
NKO-09	EP 1125449
NKO-09	EP 1610474
NKO-09	FI 106494
NKO-09	FR 1125449
NKO-09	GB 1125449
NKO-09	JP 3519688
NKO-09	US 7085294
NKO-10	BE 1198917
NKO-10	BR PI0012141.0
NKO-10	CH 1198917
NKO-10	CN ZL00809948.0
NKO-10	DE 60002884.4
NKO-10	EP 1198917
NKO-10	ES 1198917
NKO-10	FR 1198917
NKO-10	GB 1198917
NKO-10	IT 1198917
NKO-10	JP 3533385
NKO-10	KR 10-539720
NKO-10	NL 1198917
NKO-10	SE 1198917
NKO-10	US 7603606
NKO-10	US 7849376
NKO-11	AT 2139272
NKO-11	BE 2139272
NKO-11	CH 2139272
NKO-11	DE 2139272
NKO-11	DK 2139272
NKO-11	EP 2139272
NKO-11	ES 2139272
NKO-11	FI 2139272
NKO-11	FR 2139272
NKO-11	GB 2139272
NKO-11	GR 2139272
NKO-11	HK 1132411B
NKO-11	IE 2139272
NKO-11	IT 2139272
NKO-11	LI 2139272
NKO-11	LU 2139272
NKO-11	NL 2139272
NKO-11	PT 2139272
NKO-11	SE 2139272
NKO-11	US 7035621



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**SISVEL**



**Exhibit 2 - Affiliates**

[INSERT NAME AND FULL ADDRESS OF EACH AFFILIATE]

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**Exhibit 3 – Royalty Statement Form**

ROYALTY STATEMENT FOR THE ____ CALENDAR QUARTER OF THE YEAR YYYY IN ACCORDANCE WITH THE SISVEL WIRELESS LICENSE							
<b>LICENSEE</b>							
<b>CONTACT PERSON</b>							
<b>E-MAIL ADDRESS</b>							
Table (a) Licensed Products Sold or otherwise disposed of by Licensee and/or Affiliates in the calendar quarter							
Model Number	Description or product type	Brand or Trademark	Customer name	Country of Sale	Manufacturer or supplier name	Country of Manufacture	Total Units
<b>TOTALS</b>							
Table (b) Information on customers and manufacturers (or direct suppliers, as the case may be) of Licensed Products included in Table (a) above							
Name			Address				Total Units
<b>TOTALS</b>							
Table (c) Licensed Products purchased from licensed manufacturers or direct suppliers or Sold to licensed customers							
Model Number	Description or product type	Brand or Trademark	Customer name	Country of Sale	Manufacturer or supplier name	Country of Manufacture	Total Units
<b>TOTALS</b>							
Table (d) Information on customers and manufacturers (or direct suppliers, as the case may be) of Licensed Products included in Table (c) above							
Name			Address				Total Units
<b>TOTALS</b>							



**Exhibit 4 – Form of Bank Guarantee**

**SISVEL INTERNATIONAL S.A.**

6, Avenue Marie Thérèse  
L-2132 Luxembourg  
Grand Duchy of Luxembourg

We hereby open our irrevocable guarantee no. \_\_\_\_\_ in your favor

By order of: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PLEASE INSERT  
LICENSEE'S  
DETAILS

On behalf of: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

In Favor of: SISVEL INTERNATIONAL S.A.

Valid: From [INSERT EFFECTIVE DATE] until [INSERT DATE FIVE YEARS AFTER EFFECTIVE DATE]

We have been informed that [INSERT LICENSEE'S NAME], hereinafter called Licensee, and you, as the licensor, have entered into a license agreement and have been asked by Licensee to issue this Letter of Guarantee in your favor to guarantee the fulfillment of its contractual obligations under the terms of such license agreement.

In consideration of the aforesaid, we [INSERT NAME OF BANK], by order of our customer, Licensee, acting on behalf of Licensee, irrespective of the validity and the legal effects of the above-mentioned license agreement, and waiving all rights to objections and defences arising therefrom, hereby irrevocably undertake to pay to you on receipt of your first written demand any sum or sums claimed by you up to but not exceeding One Hundred Thousand Euros (100.000,00 €) over the life of this Letter of Guarantee, provided always that such written demand is accompanied by your signed statement that Licensee

has failed to fulfill its contractual obligations under the terms of the above-mentioned license agreement.

We shall not be obliged to verify any statements contained in any of the notices of other documents which may be served on or presented to us in accordance with the terms of this guarantee and shall accept the statements therein as conclusive evidence of the facts stated.

This guarantee is valid until [INSERT DATE FIVE YEARS AFTER EFFECTIVE DATE], and any claim under it must be received by us in writing on or before 1 (one) year after that date.

References to 'you' herein shall be construed as references to SISVEL INTERNATIONAL S.A.