

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

Attention: \_\_\_\_\_  
Tel.: \_\_\_\_\_  
Fax.: \_\_\_\_\_  
Email: \_\_\_\_\_

### **WiMEDIA TRADEMARK LICENSE AGREEMENT**

This Trademark License Agreement ("***License Agreement***") is made and entered into as of the Effective Date described below by and between the WiMedia Alliance, a California corporation ("***WiMedia***"), and the company described above ("***Company***").

#### **RECITALS**

**WHEREAS**, WiMedia owns good and valuable trademarks and logos;

**WHEREAS**, WiMedia wants to encourage the distribution of high quality UWB products through the maintenance of a WiMedia Test Procedure (as defined below); and

**WHEREAS**, Company wants to license and use the Mark(s) (as defined below) in accordance with the terms and conditions described below; and

**WHEREAS**, WiMedia may provide Company with the right to use additional logos from time-to-time in accordance with the terms and conditions described below; and

**NOW THEREFORE**, in consideration of the mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree to the foregoing and as follows:

#### **1. DEFINITIONS**

For purposes of this License Agreement the following terms shall have the following meanings:

(a) "***Mark(s)***" shall mean, as applicable: (i) the WiMedia Alliance trademarks and logos, for use with WiMedia approved marketing and promotional use, as depicted in **Exhibit A**; (ii) WiMedia based End Product trademarks and logos as depicted in **Exhibit B**; and (iii) other WiMedia Alliance trademarks and logos as depicted and described in the **Exhibit C**.

(b) "***Product***" shall mean the specific model or version of Company's product, a representative sample of which has been submitted to WiMedia, that has passed the applicable WiMedia Test Procedure and is posted on the WiMedia Integrators List.

(c) "***End Product***" An implementation that has passed the required PHY, MAC, and Upper Layer Protocol tests and is intended for retail or commercial resale and availability in volume as a stand-alone product. A "certified" End-Product must contain functionality that conforms to a Final Deliverable (as defined in the WiMedia Intellectual Property Rights Policy).

(d) "**WiMedia Test Procedure**" shall mean the applicable WiMedia product testing, compliance and interoperability requirements as set forth on the WiMedia website and as may be amended by WiMedia from time to time.

(e) "**Territory**," subject **Section 2(e)**, shall be worldwide.

(f) "**Effective Date**" shall be the date of execution of the License Agreement by WiMedia.

(g) "**Subsidiary(ies)**" shall mean a company, corporation or other entity in which, on a class by class basis, more than fifty percent (50%) of the stock entitled to vote for the election of directors is owned or controlled directly or indirectly by Company, but only so long as such ownership or control exists and Subsidiary is bound by all terms and conditions of this License Agreement to the same extent as Company.

## **2. LICENSE GRANT AND PRODUCT QUALIFICATION**

(a) Subject to and expressly conditioned upon compliance with the terms and conditions of this License Agreement, WiMedia hereby grants to Company and any applicable Subsidiaries of Company a nonexclusive, personal right (including through manufacturing and distribution agents of Company and Subsidiaries) to use in the Territory, solely in the manner described in the WiMedia Trademark & Logo Usage Guidelines set forth in the attached **Exhibit E** and as may be amended by WiMedia from time to time with reasonable notice: (i) the Marks set forth on **Exhibit A**, solely in conjunction with marketing and promotional purposes; (ii) the Marks set forth on **Exhibit B** solely in conjunction with End Product that has been submitted to and passed the WiMedia Test Procedure for WiMedia based End Products, and that has been posted on the WiMedia Certified End-Products List; (iii) the Marks set forth on **Exhibit C**. The license right set forth in this **Section 2(a)** is not intended as a "certification" program, *i.e.*, the Mark(s) do not represent that WiMedia certifies Company's Product in any way.

(b) Upon the passing of the WiMedia Test Procedure by Company's End Product and the posting of the End Product on the WiMedia Integrators List, WiMedia shall so notify Company within thirty (30) calendar days, substantially in the form of the communication set forth in **Exhibit F**, authorizing Company to utilize the applicable Mark(s).

(c) Company hereby ensures its Subsidiaries' compliance with the terms and conditions of this License Agreement. Company agrees that it shall be jointly and severally liable for any breach of the terms and conditions of this License Agreement by such parties.

(d) WiMedia represents and warrants that, to the best of its knowledge, it has the right to enter into this License Agreement, including the right to license the Mark(s). WiMedia may, but shall not be obligated to, use its reasonable efforts to maintain and enforce the validity and its ownership of the Mark(s) in the Territory. If WiMedia declines to take action with regard to a particular instance of suspected infringement or challenge to the Mark(s), within ten (10) business days of Company's written notice to assure the defense, Company shall have the right to pursue such infringement or challenge at its own expense and cost. In such event, WiMedia will provide Company with reasonable cooperation.

(e) WiMedia may modify the license right set forth in **Section 2(a)** above to eliminate any country or jurisdiction from this License Agreement if WiMedia determines, in its reasonable judgment, that use or continued use of the Mark(s) in such country or jurisdiction may subject WiMedia or any third party to legal liability, or may jeopardize WiMedia's rights in the Mark(s) or any other WiMedia trademarks in that or any other country or jurisdiction. In such event, and upon notice from WiMedia, Company shall with reasonable promptness cease all use of the Marks in such country or jurisdiction.

(f) Company may not use or reproduce the Mark(s) in any manner whatsoever other than as expressly described in **Exhibit E**.

(g) Company agrees and acknowledges that WiMedia retains all right, title and interest in and to the Mark(s). Except as expressly granted in this License Agreement, Company shall have no rights in the Mark(s). Under no circumstances will anything in this License Agreement be construed as granting, by implication, estoppel or otherwise, a license to any WiMedia technology or proprietary right other than the permitted use of the Mark(s) pursuant to **Section 2(a)**. Company will not at any time do or cause to be done any act, directly or indirectly, contesting or in any way impairing WiMedia's right, title or interest in the Mark(s). In connection with its permitted use of the Mark(s), Company shall not in any manner represent that it has any ownership interest in the Mark(s), and Company specifically acknowledges that its permitted use of the Mark(s) shall not create in Company any right, title or interest in the Mark(s).

(h) Company represents and warrants that it will use the Mark(s) solely as provided in this License Agreement and will not use the Mark(s) for promotional goods or products which will diminish or otherwise damage WiMedia's goodwill in the Mark(s), including without limitation, uses which could be deemed to be obscene, pornographic, excessively violent or otherwise in poor taste or unlawful, or which purpose or objective is to encourage unlawful activities.

### **3. NO SUBLICENSE, ASSIGNMENT OR OTHER TRANSFER**

The license grant in **Section 2(a)** is personal to Company, and Company shall not assign, sublicense or otherwise transfer this License Agreement or any right granted herein in any manner without the prior written consent of WiMedia, which consent WiMedia may withhold in its sole discretion. Notwithstanding the foregoing, where Company transfers to a third party all or substantially all of the business of Company that is responsible for the manufacture and distribution of a Product, that party shall be entitled to use the Mark(s) under the terms of this version of the License Agreement upon execution of same.

### **4. LOGO ADMINISTRATION FEE**

The logo administration fee is set forth in **Exhibit D** and shall be due and payable by Company if a Company End Product uses a Mark. The logo administration fee is non-refundable, except in the instance where WiMedia does not countersign the Agreement, in which case such fee shall be returned to Company.

### **5. QUALITY, INSPECTION AND APPROVAL**

(a) Company represents and warrants that, to the best of its knowledge, each of its Products is in compliance with the applicable WiMedia specification, and Company shall maintain the quality of each of its Products at least at a level that meets industry standards and is commensurate with the quality of Products previously distributed by Company.

(b) Company shall supply WiMedia with suitable specimens of its Product(s) and Company's use of the Marks in connection with such Product(s) at any time upon thirty (30) calendar days notice from WiMedia. Company shall cooperate fully with WiMedia to facilitate periodic review of Company's use of the Mark(s) and of Company's compliance with the quality standards described in this License Agreement and **Exhibit E**. In any periodic review of Company's compliance, its Product(s) will be tested under the compliance requirements that were in effect when Product was last submitted to the WiMedia Test Procedure.

(c) If WiMedia, in its sole discretion, determines that any use of the Mark(s) or that the quality of any Product submitted to WiMedia for quality control purposes fails to conform, WiMedia shall provide the Company with written notice of such failure or deficiency. The Company shall have thirty (30) calendar days thereafter to satisfy WiMedia that the Company has fully corrected and remedied any such deficiencies. If Company fails to cure the deficiencies within the thirty (30) day period, WiMedia may terminate this License Agreement with respect to such deficient Product.

(d) Company represents and warrants that the representative sample of the specific model or version of Company's Product submitted to WiMedia for testing accurately represents the specific model or version of Company's Product available at all times during the term of this License Agreement.

(e) Company represents and warrants that it will comply with all applicable laws, rules, and regulations regarding promotion and sale of each of its Products displaying or marketed with any of the Marks, and will not violate or infringe any right of any third party therein.

## **6. IDENTIFICATION AND USE**

(a) Company shall mark every use of the Mark(s) with the trademark designation as described in **Exhibit E** and shall otherwise comply with WiMedia Trademark & Logo Usage Guidelines as may be amended by WiMedia from time-to-time.

(b) Company acknowledges WiMedia's ownership of the Marks. Company shall use best efforts to use the Mark(s) in a manner that does not derogate from WiMedia's rights in any of the Marks and will take no action that will interfere with or diminish WiMedia's rights in the Marks. Company shall not adopt, use or register any corporate name, trade name, trademark, domain name, product name, service mark or certification mark, or other designation similar to the Mark(s). Company agrees that all use of the Mark(s) by Company will inure to the benefit of WiMedia. Company may not use the Mark(s) in any way that implies endorsement or sponsorship by WiMedia of Company's Product or services.

## **7. DEFENSE OF CLAIMS**

(a) If WiMedia receives information concerning an intellectual property infringement claim related to the Mark(s), WiMedia may, at its sole discretion and at its expense, either: (i) procure for Company the right to continue to use the alleged infringing Mark(s) as set forth in **Section 2(a)**; or (ii) replace or modify the Mark(s) to make it non-infringing, in which case, Company shall with reasonable promptness thereafter cease use of the alleged infringing Mark(s).

(b) WiMedia shall have no liability for any intellectual property infringement claim based on Company's manufacture or distribution of Product, or its use of the Mark(s).

(c) **WIMEDIA MAKES NO WARRANTIES EITHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE WITH RESPECT TO THE MARK(S), INCLUDING ANY WARRANTY OF NON-INFRINGEMENT, TITLE, IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE**

(d) Company shall indemnify, defend, and hold harmless WiMedia, and its members, participants, directors, employees, agents (including management company), successors and assigns (collectively, the "**Indemnified Parties**") from and against any and all claims, damages, costs, liabilities and expenses (including attorneys' fees) and pay the amount of any adverse judgment (or settlement to which Company and the Indemnified Parties consent) arising out of or related to the Product in any manner, including without limitation, user claims regarding Product's defect, failure or malfunction, provided Com-

pany is notified promptly in writing of any claim, and Company has sole control over its defense or settlement.

## **8. DAMAGES**

**EXCEPT WITH REGARD TO LIABILITY SET FORTH IN PARAGRAPH 7(d), NEITHER PARTY SHALL BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE OR SPECIAL DAMAGES (INCLUDING LOSS OF BUSINESS PROFITS) ARISING FROM OR RELATED TO COMPANY'S MARKETING OR DISTRIBUTION OF PRODUCT, OR ANY USE OF THE MARK(S), REGARDLESS OF WHETHER SUCH LIABILITY IS BASED ON BREACH OF CONTRACT, TORT, STRICT LIABILITY, BREACH OF WARRANTIES, INFRINGEMENT OF INTELLECTUAL PROPERTY, FAILURE OF ESSENTIAL PURPOSE OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL WIMEDIA BE LIABLE FOR ANY DAMAGES FOR COMPANY'S USE MARK(S) IN VIOLATION TERMS AND CONDITIONS LICENSE AGREEMENT.**

## **9. INFRINGEMENT NOTIFICATION; ENFORCEMENT**

Company shall, to the best of its knowledge, promptly notify WiMedia of any and all infringements, imitations, simulations, illegal uses or misuses of the Mark(s). Except as provided in **Section 2(d)**, Company further undertakes that it shall not at any time take any action in the courts, administrative agencies or otherwise to prevent the infringement, imitation, simulation, illegal use, or misuse of the Mark(s), it being clearly understood by Company that such action falls wholly within the authority of the Company as sole owner of the Mark(s) and can only be taken by WiMedia in its own name and by its own initiative.

## **10. TERM OF LICENSE AGREEMENT**

(a) The term of this License Agreement shall be for a period of two (2) years from the Effective Date, except as to certain Products described in **Section 10(b)** below, as to which the term of this License Agreement shall be indefinite; provided, however, that WiMedia shall have the right to terminate this License Agreement with cause upon five (5) calendar days prior written notice.

(b) Subject to a separate written renewal agreement with WiMedia, upon expiration of this License Agreement, the license right set forth herein may be renewed for an additional term. Notwithstanding the foregoing, with respect to Product that at the time of the expiration of this License Agreement has passed the WiMedia Test Procedure and is posted on the WiMedia Integrator's List, Company shall have the right to continue to use the Mark(s) in conjunction with that Product under the terms of this version of the License Agreement.

(c) From and after termination of this License Agreement, Company shall cease and desist from all use of the Mark(s). However, unless the License Agreement is terminated for breach in connection with more than a single Product, the Company may distribute then-existing units of complying Product, and advertising materials containing the Mark(s) for a period of six (6) months from the termination date provided use of the Mark(s) in connection with such inventory and such inventory is in compliance with the terms and conditions of this License Agreement.

## **11. NOTICES**

All notices and other communications under this License Agreement shall be in writing and shall be deemed given if delivered personally, mailed by registered or certified mail, return receipt requested, or sent by email or telecopy with a receipt confirmed electronically, to the parties at the addresses herein or

to such other addresses as a party may from time to time notify the other parties. Provision of an email address at which each party may be contacted is mandatory.

**WIMEDIA:**

WiMedia Alliance  
2400 Bishop Drive, Suite 375  
San Ramon, CA 94583  
Phone: +1.925.275.6604  
Fax: +1.925.886.3809  
[admin@wimedia.org](mailto:admin@wimedia.org)

**COMPANY:**

Information listed at the top of this License Agreement

**12. ENTIRE LICENSE AGREEMENT; AMENDMENT**

Upon execution by both WiMedia and Company, this License Agreement, including all Exhibits and all documents referenced herein, contains the entire agreement of the parties with respect to the subject matter hereof, and shall supersede and merge all prior and contemporaneous communications. It shall not be amended except by a written agreement subsequent to the Effective Date and signed on behalf of the parties by their respective authorized representatives; provided, however, that the terms and/or content set forth on **Exhibits A, B, C and E** may be unilaterally updated, altered or amended by WiMedia at such time as the terms and/or content on the applicable websites is updated, altered or amended.

**13. GOVERNING LAW; ATTORNEYS' FEES; EQUITABLE RELIEF**

(a) This License Agreement shall be governed by and construed in accordance with the laws of the State of California and the applicable federal laws. Company hereby consents to the exclusive jurisdiction and venue in the state and federal courts sitting in the Northern District of California. The parties agree to accept service of process by U.S. certified or registered mail, return receipt requested, or by any other method authorized by applicable law.

(b) If either party employs attorneys to enforce any rights arising out of or related to this License Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees, costs and other expenses, as determined by a court of competent jurisdiction.

(c) Company acknowledges that a breach by it of this License Agreement may cause WiMedia irreparable damage which cannot be remedied in monetary damages in an action at law, and may also constitute infringement of the Mark(s). In the event of any breach that could cause irreparable harm to WiMedia, or cause some impairment or dilution of its reputation or trademarks, WiMedia shall be entitled to an immediate injunction, in addition to any other legal or equitable remedies.

**14. HEADINGS**

Section headings are used in this License Agreement for convenience of reference only and shall not affect the meaning of any provision of this License Agreement.

**15. WAIVER**

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

#### **16. SEVERABILITY**

If any provision of this License Agreement (or any other agreements incorporated herein) shall be held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect.

#### **17. RELATIONSHIP**

Neither this License Agreement, nor any terms and conditions contained hereto, shall be construed as creating a partnership, joint venture or agency relationship or as granting a franchise. WiMedia is not a guarantor of the fitness or quality of the Products.

#### **18. SURVIVAL**

Any terms of this License Agreement that would by their nature or through the express terms of this Agreement survive the expiration or termination of this License Agreement, including without limitation, the provisions of **Sections 1, 2(g), 6(b), 7, 8, 10, 11, 12 and 13** shall survive expiration or termination of this License Agreement.

**IN WITNESS WHEREOF**, the parties hereto have executed this License Agreement as of the Effective Date and do each hereby warrant and represent that their respective signatory whose signature appears below has been and is on the date of this License Agreement duly authorized by all necessary and appropriate corporate action to execute this License Agreement.

#### **WiMEDIA ALLIANCE**

\_\_\_\_\_  
\_\_\_\_\_, Executive Director

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

COMPANY: \_\_\_\_\_

\_\_\_\_\_  
Its:

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

**EXHIBIT A**

**WIMEDIA ALLIANCE LOGOS**

[wimedia.org/tm\\_logo\\_guides/wma\\_logos](http://wimedia.org/tm_logo_guides/wma_logos)



**EXHIBIT B**

**WIMEDIA-BASED END PRODUCT LOGOS**

[wimedia.org/tm\\_logo\\_guides/cert\\_logos](http://wimedia.org/tm_logo_guides/cert_logos)

**EXHIBIT C**

**OTHER WIMEDIA LOGOS**  
**(LIST AND EXPLAIN USE)**

wimedia.org/tm\_logo\_guides/others

**EXHIBIT D**

**LOGO ADMINISTRATION FEE SCHEDULE**

<b>Membership Level</b>	<b>Fee</b>
Promoter	\$0
Contributor	\$0
Adopter	\$2,000
Supporter	\$4,000
Non-member	\$5,000

Logo administration fees are payable for each type of Company End Product that uses a Mark.

**EXHIBIT E**

**TRADEMARK & LOGO USE GUIDELINES**

[wimedia.org/tm\\_logo\\_guides](http://wimedia.org/tm_logo_guides)

**EXHIBIT F**  
**NOTIFICATION**

WiMedia Trademark & Logo License Grant

This document certifies that the information required for compliance, interoperability tests necessary to achieve End-Product certification has been completed by the Company and accepted by the WiMedia Compliance Review Board. In addition, this document certifies that the appropriate trademark and licensing agreement has been signed and submitted to WiMedia by the Company.

Test ID Assigned by WiMedia:

Product Description:

Company name:

Product name:

Model number:

SKU number (if known):

System hardware version number:

WiMedia-based PHY/MAC IC vendor and product numbers:

Firmware version number (if applicable):

Software version number (if applicable):