

## **NFC FORUM, INC. TRADEMARK LICENSE AGREEMENT**

### **FOR THE NFC FORUM CERTIFICATION MARK**

This trademark license agreement ("Agreement") is a legal agreement between the NFC Forum, Inc., a not for profit Delaware membership corporation with principal offices at 401 Edgewater Place, Suite 600, Wakefield, MA 01880 USA ("NFC Forum" or "Licensor"), which is the owner of the trademark and the related material that will be downloaded upon completion of this Agreement, and the "Licensee," which is the company, entity or individual that is acquiring a license under this Agreement.

By clicking on the "ACCEPT" button below, the Licensee agrees to be bound by and to become a party to this Agreement. If Licensee is an entity, and an individual is entering into this Agreement on its behalf, then Licensee will be bound by this Agreement when that individual clicks on the "ACCEPT" button. When they do so, that acceptance will also constitute a representation by the individual that s/he is authorized to bind you as a party to this Agreement. If the Licensee does not agree to all of the terms of this Agreement, click the "CANCEL" button at the end of this Agreement. The Effective Date of this Agreement shall be the date upon which you click on the "ACCEPT" button.

In consideration of the mutual representations, covenants, and other terms and conditions contained herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, Licensee agrees as follows:

#### Background

Products complying with the NFC Forum Certification Policy and the NFC Forum Device Requirements Policy that have successfully completed the NFC Forum Certification Program and are compliant with the specification names and revision numbers identified in a given implementation package, which may be comprised of multiple specifications (the "Certification Release"), shall be listed on an approved product registry on Licensor's website. Licensee now desires to license from Licensor the trademark, known as "the Licensed Mark", namely, the "N NEAR FIELD COMMUNICATION CERTIFIED & DESIGN" Mark (the "NFC Forum Certification Mark"), comprised of a stylized "N" and the wording "NEAR FIELD COMMUNICATION CERTIFIED" appearing within a rectangle, set forth in Exhibit A hereto, for use in connection with the Products, and Licensor desires to grant such license.

In consideration of the mutual representations, covenants, and other terms and conditions contained herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

#### **Terms and Conditions**

1. License. Licensor hereby grants to Licensee, and its subsidiaries, as defined in the NFC Forum, Inc. by-laws, as may be amended from time to time, a limited, non-exclusive, non-transferable, revocable license to use the Licensed Mark in connection with each Product, for so long as the Product remains compliant with the Certification Release, and subject to the provisions in Sections 3 and 4 of this Agreement. In the event that a Product fails the NFC Forum Certification Program or fails to remain in compliance with the Certification Release, this Agreement shall remain in effect to the extent the Licensee's other Product(s) have successfully passed the NFC Forum Certification Program and remain compliant with the Certification Release. The NFC Forum's current by-laws define "subsidiaries" as being entities controlled by a Licensee due to the Licensee having either directly or indirectly more than 50% of the voting rights in such subsidiaries. Licensor shall provide Licensee with a minimum of six (6) months' notice in the event that the NFC Forum's by-laws are amended to redefine the term

“subsidiaries.” Licensee further agrees that it shall require its subsidiaries, distributors, resellers, and partners to comply with the terms of this Agreement.

2. Licensee Fees. Licensor shall not require Licensee to pay annual License Fees for use of the Licensed Mark, but Licensor reserves the right to implement annual License Fees in the future for use of the Licensed Mark. Licensor shall provide Licensee with a minimum of six (6) month’s written notice before imposing any License Fee for use of the Licensed Mark.

3. Quality Standards and Maintenance. Licensee acknowledges and agrees that its use of the Licensed Mark shall at all times comply with Licensor’s then-current Trademark Guidelines, as Licensor may from time to time approve and amend for such purpose in its sole discretion, the current version of which is attached hereto as Exhibit B. Each Product also must at all times comply with the Certification Release for which certification was sought and with its corresponding NFC Forum Device Requirements. From time to time, upon request and without cost to Licensor, Licensee shall submit to Licensor, or its duly authorized representative, a reasonable, limited number of samples of each commercially available Product, as well as reasonable evidence that the Product continues to comply with the Certification Release and NFC Forum Device Requirements. If, at any time, in the Licensor’s sole discretion, Licensor determines that Licensee’s use of the Licensed Mark fails to comply with the Trademark Guidelines or that the Product fails to comply with the NFC Forum Device Requirements in effect at the time of certification, use of the Licensed Mark in connection with the Product shall constitute a breach of this Agreement. Licensor may notify Licensee of such determination and shall request that Licensee cure such failure through one of the actions and within the timescales defined in the NFC Forum Certification Policy.

4. Form of Use.

(a) Attribution. Licensee agrees to use the Licensed Mark only in the form and manner and with appropriate legends as prescribed from time to time by Licensor. The NFC Forum Certification Mark may be used only to indicate that a Product has successfully completed the NFC Forum Certification Program and is in compliance with the NFC Forum Certification Policy and the NFC Forum Device Requirements.

The following statement must accompany all uses of the NFC Forum Certification Mark on permitted product packaging, Internet pages, and collateral:

“The NFC Certification Mark is a trademark or registered trademark of NFC Forum, Inc. in the United States and in other countries.”

(b) Notice. Licensee shall mark each use of the Licensed Mark with the “TM” symbol unless advised by the Forum to use the “®” symbol. If the Licensed Mark is used multiple times in related document, advertisement or other material, the symbol need only be used in connection with the most prominent use of the Licensed Mark in such document, advertisement or other material, or if all uses are substantially the same in terms of prominence, then the symbol need only be used in connection with the first use of the Licensed Mark in such document, advertisement or other material. Licensee shall use best efforts in complying with Licensor’s trademark attribution requirements, but in the event that the placement of the trademark attribution is not commercially feasible, Licensee may include the trademark attribution on printed matter distributed together with the Product, provided that the trademark attribution statement above is prominently displayed.

(c) Statements of Compliance. Licensee may not refer to any product, tags, smart posters, System level Software, Software Applications, or service offering as being NFC Forum-certified, NFC Forum-conformant, or NFC Forum-compliant. Licensee may refer to a device as being NFC Forum-certified, NFC Forum-conformant, or NFC Forum-compliant, provided that the device is NFC Forum-certified as defined by the NFC Forum Certification Policy and the NFC Forum Device Requirements. The Trademark Guidelines, attached hereto as Exhibit B of this License Agreement, provide specific detail on required usage of the Licensed Mark.

5. Reservation of Rights in Marks. Licensor expressly reserves the sole and exclusive ownership of the Licensed Mark and all of Licensor's other intellectual property rights. The parties expressly agree that except for the license granted hereunder, Licensee shall not have any right, title or interest in or to the Licensed Mark or any of Licensor's other intellectual property rights. Licensee agrees that it will do nothing inconsistent with such ownership and that its use of the Licensed Mark shall inure to the benefit of Licensor. This Agreement does not grant Licensor any right, title, or interest in Licensee's trademarks, service marks, or trade names. Licensee shall not acquire or attempt to acquire trademark or domain name registrations containing the Licensed Mark, alone or in combination with Licensee's other marks. Upon termination of this Agreement, Licensee will cease all use of the Licensed Mark, except as provided herein.

6. Term and Termination of Agreement.

(a) Term. This Agreement shall commence as of the Effective Date and may be terminated in accordance with the terms of this Agreement. Licensee may terminate this Agreement upon forty-five (45) days' written notice to Licensor.

(b) Termination for Cause. This Agreement also may be terminated by forty-five (45) days' written notice to Licensee upon the default by Licensee in the performance of any of the material terms, conditions, or covenants of this Agreement, and failure to remedy such default within one hundred twenty (120) days after written notice or demands.

(c) Termination for Insolvency, Bankruptcy, Cessation of Operations. Either party may terminate this Agreement upon written notice to the other party if the other party (i) applies for or consents to the appointment of a receiver, trustee or liquidator for substantially all of its assets, or such a receiver, trustee or liquidator is appointed for the other party; (ii) has filed against it an involuntary petition for bankruptcy that has not been dismissed within sixty (60) days thereof; (iii) files a voluntary petition for bankruptcy or a petition or answer seeking reorganization, becomes or is insolvent or bankrupt, admits in writing its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors; or (iv) ceases to operate in the ordinary course for a period of thirty (30) days or more (in the case of Licensor, it will be deemed to have ceased operating in the ordinary course if it is no longer actively pursuing the development and promotion of near field communication technology specifications and standards). In no event shall Licensor's merger with or assignment of rights and obligations to a successor entity that carries on with the Licensor's purpose constitute a material breach or cessation of operations under the terms of this Agreement. Termination of this License Agreement in any manner shall not discharge the liability of Licensee for License Fees accrued or unpaid at the time of such termination.

(d) Effect of Termination.

(i) Upon termination of this Agreement for cause, Licensor shall remove Licensee's Product(s) from the approved product registry on its website, and Licensee shall immediately discontinue all use of the Licensed Mark and any advertising, marketing collateral, product packaging or any other materials or documentation that might make it appear that Licensee is still handling, selling, or promoting products or services under the Licensed Mark.

(ii) In the event that this Agreement is terminated for insolvency, bankruptcy, or cessation of operations, Licensee shall immediately discontinue all use of the Licensed Mark in connection with any advertising, marketing collateral, product packaging or any other materials or documentation that might make it appear that Licensee is still handling, selling or promoting products or services under the Licensed Mark; provided, however, that if (A) Licensee possesses any inventory of such Product(s) or such Product(s) are under production as of the effective date of such termination and (B) such Product(s) in inventory or under production conform to the Certification Release and Trademark Guidelines, Licensee may advertise and sell off such Product(s) in inventory and under production for a period of six (6) months after such effective termination or withdrawal date; provided further that after such six (6) month sell-off period, Licensee shall no longer use, either directly or indirectly, the Licensed Mark or any other name, title, expression or mark so nearly resembling the Licensed Mark as to be likely to lead to

confusion or uncertainty or to deceive the public, or in connection with such Product(s). For the avoidance of doubt, Licensee shall not have the right to contract for the manufacture of additional advertising, marketing collateral, product packaging or any other materials or documentation bearing the Licensed Mark after the effective termination or withdrawal date.

7. Representations and Warranties.

(a) NFC Forum Warranty. Licensor represents and warrants that it has the unencumbered right to license the NFC Forum Certification Mark in those jurisdictions in which the NFC Forum Certification Mark is registered and that use of the NFC Forum Certification Mark in connection with the products or services recited in the registration in a given jurisdiction does not and will not infringe any third party trademark rights. A list of countries where registration of the NFC Forum Certification Mark has been completed or is pending can be found at [http://www.nfc-forum.org/members/certification\\_members/marks/certmark\\_jurisdictions/](http://www.nfc-forum.org/members/certification_members/marks/certmark_jurisdictions/)

(b) Disclaimer of Warranties. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION 7, THE LICENSED MARK AND THE SPECIFICATION(S) ASSOCIATED THEREWITH ARE PROVIDED "AS IS," WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, OR COMPLETENESS.

8. Indemnity. Except for claims of trademark infringement, Licensor assumes no liability to Licensee or to any third party with respect to the Product(s) sold by Licensee under the NFC Forum Certification Mark, and Licensee will indemnify Licensor against losses incurred through claims of third persons against Licensor involving the manufacture or sale of such Product(s). Licensor will indemnify Licensee for claims of trademark infringement of the NFC Forum Certification Mark in those jurisdictions where the NFC Forum Certification Mark is registered. Licensor shall not indemnify Licensee for claims of trademark infringement in jurisdictions in which the NFC Forum Certification Mark is not registered or in connection with products or services not specified in the registration of the jurisdiction in which trademark infringement is alleged. A list of countries where registration of the NFC Forum Certification Mark has been completed or is pending can be found at [http://www.nfc-forum.org/members/certification\\_members/marks/certmark\\_jurisdictions/](http://www.nfc-forum.org/members/certification_members/marks/certmark_jurisdictions/)

9. Limitation of Liability. EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT IN NO EVENT SHALL LICENSOR BE LIABLE FOR ANY CLAIM, OR ANY DIRECT, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, OR ANY DAMAGES WHATSOEVER RESULTING FROM LOSS OF USE, DATA OR PROFITS, BUSINESS INTERRUPTION, LOSS OF GOODWILL OR OTHERWISE, WHETHER IN AN ACTION OF CONTRACT, NEGLIGENCE OR OTHER TORTIOUS ACTION, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE USE OR PERFORMANCE OF THE SPECIFICATION(S) OR THE LICENSED MARK, EVEN IF LICENSOR IS EXPRESSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATIONS OF LIABILITY AND EXCLUSION OF CERTAIN DAMAGES SHALL APPLY REGARDLESS OF THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDIES AVAILABLE TO EITHER PARTY.

10. Infringement Proceedings. Licensor shall have the sole authority and responsibility to prosecute any infringement of the Licensed Mark, at its sole option.

11. Relationship of the Parties. This Agreement shall not be construed to make either party the agent, partner or legal representative of the other, and neither party may assume or create any obligations for, on behalf of, or in the name of the other party, or commit any act, make any representation, or advertise in any manner that may adversely affect any rights of the other party or be detrimental to its name or reputation.

12. Assignment. Licensee may not assign, sell, transfer or delegate any rights or obligations under this Agreement to another party without Licensor's prior written consent. Any such purported assignment, sale, transfer, delegation or other disposition by Licensee, except as permitted herein, shall be null and void. Subject to the foregoing, this Agreement shall be binding

upon and shall inure to the benefit of the parties and their respective successors and permitted assigns.

13. Injunctive Relief. Licensee acknowledges that any breach of its obligations under this Agreement, including, without limitation, its obligations set forth in Sections 3 or 4, may cause the Licensor irreparable damage. Accordingly, Licensee agrees that in the event of such breach or threatened breach, in addition to remedies at law, Licensor shall have the right to seek injunctive or other equitable relief to prevent Licensee's violation of its obligations hereunder.

14. Survival of Terms. Without intending to exclude other provisions of this Agreement that by their nature survive terminations hereof, notwithstanding anything to the contrary in this Agreement, Sections 5-11 shall survive any termination of this Agreement.

15. Severability. If any provision of this Agreement, or the application thereof to any person, place or circumstance, shall be held by a court of competent jurisdiction to be invalid, void or otherwise unenforceable, such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties, or, if incapable of such enforcement, shall be deemed to be deleted from this Agreement, and the remainder of this Agreement and such provisions as applied to other persons, places and circumstances shall remain in full force and effect.

16. Waivers. The waiver by either party of a breach of or a default under any provision of this Agreement, shall not be effective unless in writing and shall not be construed as a waiver of any subsequent breach of or default under the same or any other provision of this Agreement, nor shall any delay or omission on the part of either party to exercise or avail itself of any right or remedy that it has or may have hereunder operate as a waiver of any right or remedy.

17. Governing Law. This Agreement shall be governed by and construed under, and the legal relations among the parties hereto shall be determined in accordance with, the laws of the Commonwealth of Massachusetts, excluding conflicts of law principles that would cause the application of the laws of any other jurisdiction. Each of the parties hereto irrevocably consents to the exclusive jurisdiction of any court located within Suffolk County, Massachusetts, in connection with any matter based upon or arising out of this Agreement or the matters contemplated hereby and it agrees that process may be served upon it in any manner authorized by the laws of the Commonwealth of Massachusetts for such persons and waives and covenants not to assert or plead any objection which it might otherwise have to such jurisdiction and such process.

18. Independent Contractors. Except for the specific obligations set forth in this Agreement, nothing hereunder shall be deemed to constitute, create, give effect to or otherwise recognize a joint venture, partnership or business entity of any kind, nor shall anything in this Agreement be deemed to constitute either party the agent or representative of the other. Neither party may assume or create any obligations for, on behalf of, or in the name of the other party, or commit any act, make any representation, or advertise in any manner that may adversely affect any rights of the other party or be detrimental to its name or reputation.

19. Notices. All notices, requests, demands and other communications required or permitted under this Agreement shall be written in English and shall be (i) delivered by hand, (ii) deposited in the United States mail from any jurisdiction, postage prepaid and registered or certified with return receipt, (iii) transmitted by electronic mail or facsimile so long as such transmission is followed by transmission confirmation or demonstrated by electronic or other means or (iv) delivered by prepaid courier service. All such notices, requests, demands and other communications shall be deemed to have been duly delivered upon receipt and shall be delivered:

If to Licensor, to:

NFC Forum, Inc.  
401 Edgewater Place  
Suite 600  
Wakefield, MA 01880  
Facsimile: +1 781-610-9864  
email: info@nfc-forum.org

If to Licensee, to the address supplied by Licensee at the end of this Agreement or at such other address as may be furnished in writing to Licensor.

20. Headings. Headings used in this Agreement are for reference purposes only and shall not be deemed a part of this Agreement.

21. Entire Agreement. This Agreement, and the Schedules, Certification Release documentation and Trademark Guidelines referenced herein (each of which, as amended from time to time, is incorporated by reference into and made a part of the Agreement), together constitute the entire agreement of the parties hereto with respect to its subject matter. This Agreement may be amended or modified only in writing and signed by duly authorized officers of both parties; provided however that Licensor may amend Certification Release materials or amend the Trademark Guidelines at any time and from time to time in its sole discretion. Licensee acknowledges and agrees that it will periodically review the Certification section on the Forum's website at <http://www.nfc-forum.org> (the "Forum Website") from time to time to ensure that Licensee is using the then current versions thereof. This Agreement supersedes all previous, contemporaneous and inconsistent agreements, negotiations, representations and promises between the parties, written or oral, regarding the subject matter hereunder. There are no oral or written collateral representations, agreements or understandings except as provided herein. This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which, when taken together, shall constitute one and the same Agreement.

**Required information:** Licensee represents and warrants that it agrees to be bound by the terms of this Agreement.

**Exhibit A**

**The “NFC Forum Certification Mark”**



Note: a high resolution file of the NFC Forum Certification Mark is available from the NFC Forum

**Exhibit B**  
**Trademark Guidelines**  
**for the NFC Forum Certification Mark**

<http://certification.nfc-forum.org/certification-mark-trademark-usage-guidelines>