

STANDARD PATENT LICENSE AGREEMENT

This patent license agreement (hereinafter referred to as the “**AGREEMENT**”), is made and entered into by and between :

GEMALTO N.V., a company organized and existing under the laws of the Netherlands, registered under the number 272 550 26 and having its principal place of business at Joop Geesinkweg 541-542, 1096 AX AMSTERDAM, The Netherlands (hereinafter referred to as “**LICENSOR**”), and acting for itself and on behalf of its **AFFILIATED UNDERTAKINGS** for the purposes of Section 2.1,

and

....., a corporation existing and organized under the laws of, and having its principal place of business (hereinafter referred to as “**LICENSEE**”), and who is an actual or potential smart card competitor of **LICENSOR** operating in the EEA, and who is acting for itself and on behalf of its **AFFILIATED UNDERTAKINGS** for the purposes of Sections 1.2, 1.5 and 6.4 ,

Both being hereinafter individually referred to as a “**Party**” and collectively as the “**Parties**”.

WITNESSETH :

WHEREAS, **LICENSOR** and its **AFFILIATED UNDERTAKINGS** are the owners of patent rights (hereinafter referred to as “**LICENSED PATENTS**”),

WHEREAS, **LICENSOR**, acting for itself and on behalf of said **AFFILIATED UNDERTAKINGS** desires to grant to **LICENSEE** a license under the **LICENSED PATENTS** pursuant to the terms and conditions hereinafter set forth,

WHEREAS, **LICENSEE** desires to be granted such license under the **LICENSED PATENTS** pursuant to the terms and conditions hereinafter set forth, and accordingly **LICENSEE** sent to a written request to **LICENSOR** for such license on xx/yy/zzzz (hereinafter referred to as “**REQUEST DATE**”) ,

NOW THEREFORE, in consideration of the mutual covenants hereafter set forth, **LICENSOR** and **LICENSEE** hereby agree as follows :

ARTICLE 1 - DEFINITIONS :

Terms in this **AGREEMENT** which are capitalized shall have the meanings set forth below or as defined elsewhere in this **AGREEMENT**. Any term, whether used in a plural or a singular form, shall have the same meaning.

- 1.1 “**AFFILIATED UNDERTAKINGS**” shall mean, with respect to an undertaking, other undertakings controlled by the first undertaking and/or by the ultimate parents of the first undertaking, whereby the notion of control shall be interpreted pursuant to Article 3 of Council Regulation (ECC) No. 139/2004 as amended (“**Merger Regulation**”) and in light of the Commission Notice on the concept of concentration under the **Merger Regulation**.
- 1.2 “**BLOCKING PATENT**” shall mean a patent or patent application owned by **LICENSEE** and/or its **AFFILIATED UNDERTAKINGS** covering **SIM**, smart payment card or smart ID

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(government, corporate, healthcare and all other types of smart ID cards) technology for which no practical alternative technology exists.

- 1.3 **“COMMITMENTS”** shall mean the conditions and obligations entered into by the LICENSOR to the European Commission in Case COMP/M.3998, dated May 18, 2006.
- 1.4 **“EFFECTIVE DATE”** shall mean the **REQUEST DATE**.
- 1.5 **“ESSENTIAL PATENT”** shall mean as applied to a patent or patent application owned by LICENSEE and/or its AFFILIATED UNDERTAKINGS that it is not possible on technical (but not commercial) grounds, taking into account normal technical practice and the state of the art generally available to make, sell, lease, or otherwise dispose of, repair, use or operate LICENSED PRODUCTS which comply with a standard or widely accepted specifications without infringing that patent or patent application. For the avoidance of doubt in exceptional cases where a standard or widely accepted specification can only be implemented by technical solutions, all of which are infringements of patents or patent applications, all such patents or patent applications shall be considered ESSENTIAL PATENTS.
- 1.6 **“GEMALTO GROUP”** shall mean LICENSOR and its AFFILIATED UNDERTAKINGS.
- 1.7 **“LEGAL GROUP”** shall mean when used in relation to a given entity, any and all physical and/or legal persons, corporation(s) or business entity/ies which directly or indirectly (i) – is/are controlled by, (ii) control(s), or (iii) is/are under common control of said given entity. For this purpose, the meaning of the word "control" shall mean the direct or indirect ownership of more than fifty percent (50%) of the voting shares of interest of such legal persons, corporations or business entities.
- 1.8 **“LICENSED PATENTS”** shall mean those patents and patent applications that are listed in Exhibit 1 and any other potential LICENSOR’S PATENT PORTFOLIO patents and patent applications belonging to the PATENT FAMILIES comprising said patents and patent applications listed in Exhibit 1, their divisions, continuations, continuations in part, patents issuing therefrom and all reissues or renewals of the same. LICENSED PATENTS shall not include any other intellectual property rights such as, but not limited to, patents and/or patents applications not listed in Exhibit 1 (except if expressly stated herein), trade marks, know how, trade secrets, copyrights or models.
- 1.9 **“LICENSED PRODUCTS”** shall mean :
 - (a) - any and all portable devices (ex: smartcards, tokens, USB keys, etc...) for use by an end user and comprising at least one chip, said portable devices comprising means for establishing connection (with or without contact) or communicating with associated devices (e.g., terminals, readers or servers with applications software), one of the main functions of said portable devices being :
 - a. identification and/or authentication of the portable device itself and/or of the bearer thereof, and/or
 - b. exchange and/or storage of information and/or history relating to said bearer and/or portable device,

provided that the portable device is of pocket size or smaller, and where said portable device(s) can as such be used by the final user, subject to the personalization, which can be done by a third party; and

 - (b) - any part of such portable devices (modules, components whose purpose is to communicate with other parts of portable device, etc.) as defined above.

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LICENSED PRODUCTS include for example SIM cards, smart payment cards and smart identification cards (government, corporate, healthcare and all other types of smart ID cards).

LICENSED PRODUCTS exclude any associated devices (e.g : terminals, readers or servers with applications software).

- 1.10 **“NET SALES PRICE”** shall mean actual revenues recognized under generally accepted accounting principles actually received from the sale, use or other disposition of the LICENSED PRODUCTS under license less (a) - sales, use, excise, added value and withholding taxes and (b) - shipping charges.
- 1.11 **“PATENT FAMILIES”** shall mean a one or more patents and/or patent applications in the PATENT PORTFOLIO which (a) are filed in one or more EEA countries for protecting a single invention and (b) claim or have a same priority date under the Paris Convention.
- 1.12 **“PATENT PORTFOLIO”** shall mean, with respect to a legal or natural person, all rights in patents and patent applications relating to SIM, smart payment cards and smart ID (government, corporate, healthcare and all other types of smart ID cards) segments owned by such person and its AFFILIATED UNDERTAKINGS.
- 1.13 **“TERRITORY”** means the countries included in the European Economic Area.

ARTICLE 2 - LICENSE GRANT :

- 2.1 Subject to LICENSEE's performance of the payment obligations and declaration obligations set forth in Article 3, GEMALTO GROUP hereby grants to LICENSEE who accepts it, a non exclusive, non transferable, personal and direct license under the LICENSED PATENTS to make, use, sell and import LICENSED PRODUCTS anywhere in the TERRITORY and to export LICENSED PRODUCTS from the TERRITORY anywhere outside of the TERRITORY. For the avoidance of doubt, LICENSEE's AFFILIATED UNDERTAKINGS are not granted any license pursuant to the present AGREEMENT.
- 2.2 LICENSEE is not hereby entitled to sublicense or subcontract, in whole or in part, the rights granted to it hereunder, except as expressly agreed upon under this AGREEMENT.
- 2.3 LICENSEE may subcontract to a third party the manufacturing and assembly, including personalisation, of LICENSED PRODUCTS provided that LICENSEE remains responsible for the performance of the obligations deriving from this AGREEMENT.
- 2.4 No license right other than those expressly granted under this Article is granted by LICENSOR to LICENSEE under this AGREEMENT. Notwithstanding the previous sentence, LICENSEE shall be granted the right to license any improvement patent covering improvements to the LICENSED PATENTS (“improvements to the LICENSED PATENTS” shall mean that when carrying out at least one of the claims of said improvement patent, it implies an infringement of a least one claim of the LICENSED PATENTS).

ARTICLE 3 - ROYALTIES AND PAYMENTS :

- 3.1. Royalties

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3.1.1 In consideration of the rights granted to LICENSEE under Article 2 herein above, LICENSEE agrees to pay LICENSOR a lump sum of Euros on or before XX/XX/XXXX and% (xx, xx percent) of the NET SALE PRICES of any and all LICENSED PRODUCTS made, used, sold, or imported in the TERRITORY or exported from the TERRITORY outside of the TERRITORY. All payments under this AGREEMENT are exclusive of VAT, withholding and other taxes. In case VAT and/or similar tax applies to any such payment, the required amount of such tax shall be payable by the LICENSEE in addition to such payment.

3.2. Declaration & Payment

LICENSEE shall make payments to, and report the running of royalties above, to LICENSOR in accordance with the following :

3.2.1 a) LICENSEE agrees to submit written declarations to LICENSOR, within thirty (30) days following the first day of the month of January, April, July and October for each calendar year during the period in which the running royalty is payable under this AGREEMENT, stating in each such declaration in reasonable detail by country, the quantity and description of all LICENSED PRODUCTS used, sold or otherwise disposed of by LICENSEE during the preceding quarterly period and specifying the type of LICENSED PRODUCTS with respect to which the running royalties are payable hereunder, and the amounts of such royalty. Such declaration shall be sent to LICENSOR at the communication address set forth in article 10 or at such other address as shall be given in writing by a duly authorized officer of LICENSOR.

b) LICENSEE shall keep true and accurate records containing all data necessary for the proper computation of the running royalty payable hereunder. Such records shall be available not more than once a calendar year for inspection by a mutually agreed upon Certified Public Accountant during the term of this AGREEMENT plus one (1) year after. Prompt adjustment shall be made by LICENSEE to compensate for any errors or omissions relating to the amounts payable under this AGREEMENT, disclosed by any such inspection. The costs of any such inspection shall be borne by LICENSEE in the event that errors or omissions amounting to Euro 5 000 (Five Thousand Euros) or more are found; in such case, adjustment shall not prejudice LICENSOR's rights to seek any appropriate remedies, including the right to terminate this AGREEMENT in accordance with Paragraph 6.2 hereof.

3.2.2 Information obtained from the above identified records and reports shall be held in strict confidence by LICENSOR and such Certified Public Accountant, and is not to be used for any other purpose except to verify the accuracy of the royalties and fees paid to LICENSOR hereunder. In case of dispute relating to the amount of the royalties owed or paid and of further litigation relating thereto, LICENSOR shall be free to make use of the information collected by the Certified Public Accountant.

3.2.3 Any amounts payable by LICENSEE that remain unpaid after the due date shall be subject to a late payment charge equal to 1.5 times the then current EURIBOR statutory rate for payment default, from the due date until such amount is paid.

All payments under this AGREEMENT shall be made to LICENSOR by bank transfer to the account listed hereafter, or at such other account as shall be furnished in writing by duly authorized officer of LICENSOR.

Bank Reference

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ARTICLE 4 - LIMITED WARRANTIES - INDUSTRIAL PROPERTY CLAIMS :

- 4.1. In no event shall any amount paid hereunder by LICENSEE be refundable to it, including in case of cancellation by a court of final jurisdiction or in case of any final invalidation of any LICENSED PATENT licensed under this AGREEMENT, or in case of termination pursuant to Section 6.
- 4.2. LICENSOR guarantees only the existence of LICENSED PATENTS. In the event that during the term of this AGREEMENT, the existence of any LICENSED PATENT is threatened for any reason, LICENSOR may, in its discretion and at its expense, use reasonable commercial efforts to preserve such existence and will keep LICENSEE informed of such actions and procedures when required in writing by LICENSEE. LICENSEE will cooperate with LICENSOR, at LICENSOR's expense, by providing any information and assistance reasonably requested by LICENSOR and necessary to initiate and bring the above referred actions and procedures to a satisfactory conclusion.
- 4.3. **Except as set forth in this article, LICENSOR disclaims all warranties, express or implied, including warranty of non-infringement, warranties of merchantability and fitness for a particular purpose, arising out of this AGREEMENT and the rights provided hereunder.**
- 4.4. **In no event shall either Party be liable under this AGREEMENT for any indirect, special or consequential damages including, but not limited to, lost profits or demands against the other Party by any person, or other commercial loss. LICENSOR shall have no obligation to maintain or enforce any of the LICENSED PATENTS, and shall have the sole discretion to start, continue or abandon the maintenance or prosecution of its own patent rights.**

ARTICLE 5 - TERM :

This AGREEMENT and the rights granted hereunder to LICENSEE shall expire upon the date on which all LICENSED PATENTS shall have expired in the TERRITORY unless terminated earlier pursuant to the terms hereof. Ninety (90) days prior to expiration of the AGREEMENT the Parties may discuss possible extension of the term of this AGREEMENT if they wish to do so.

ARTICLE 6 - TERMINATION :

- 6.1 Termination with prior notice :
 - (a) If either Party (the "**Defaulting Party**") shall fail to substantially perform any of its material obligations under this AGREEMENT, the other Party (the "**Aggrieved Party**") may give written notice to the Defaulting Party specifying the respects in which the Defaulting Party has so failed to perform its obligations under this AGREEMENT, and stating that the Aggrieved Party intends to terminate this AGREEMENT in the event of continued default. In the event that any default so specified is not remedied within forty five (45) days after the giving of such written notice, the Aggrieved Party may forthwith terminate this AGREEMENT by giving written notice of termination to the Defaulting Party. Such termination shall be effective thirty (30) days after the date of such notice of termination. Failure of the Aggrieved Party to so terminate this AGREEMENT shall be without prejudice to the rights of the Aggrieved Party to terminate for a later breach, and any termination or failure to terminate hereunder shall be without prejudice to any other rights the Aggrieved Party may have under this AGREEMENT.
 - (b) LICENSEE may end the term of this AGREEMENT with six (6) months written notice to LICENSOR at the LICENSEE'S discretion.

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6.2 Upon termination of this AGREEMENT pursuant to Articles 6.1, if the Defaulting Party is LICENSEE, then LICENSEE shall immediately cease using the rights licensed under Article 2 hereinabove and shall send to LICENSOR a certificate signed by a duly authorized officer of LICENSEE stating that it no longer has any right to use the aforesaid rights and/or to make, use, sell or import the LICENSED PRODUCTS.

6.3 It is expressly agreed that the royalties accrued on the date of any termination of this AGREEMENT will be due and payable to LICENSOR thirty (30) from such date.

It is further agreed between the Parties that on the date of any termination of this AGREEMENT, royalties on LICENSED PRODUCTS manufactured or assembled but not sold, used or otherwise disposed of on such date, shall become automatically due and are deemed to be accrued.

6.4 Should LICENSEE and/or any of its AFFILIATED UNDERTAKINGS sue LICENSOR and/or its AFFILIATED UNDERTAKINGS for an alleged infringement of any ESSENTIAL PATENT and/or BLOCKING PATENT, then LICENSOR shall be entitled to terminate the present AGREEMENT if LICENSOR and/or its AFFILIATED UNDERTAKINGS has previously made a good faith request to LICENSEE for a license under such ESSENTIAL PATENT or BLOCKING PATENT on fair, reasonable and non-discriminatory terms. Any such termination shall take effect retroactively as of the date of this AGREEMENT.

ARTICLE 7 – CURRENCY, TAXES and REFUNDABILITY :

All payments under the AGREEMENT will be payable in Euro. In the event any withholding or similar taxes are due in respect of any royalty or other payments hereunder, the amount of such payments shall be grossed up such that the LICENSOR shall receive the same amount of royalty or such other payment as if such withholding or similar tax(es) had not applied. LICENSEE shall pay any withholding or similar taxes in a timely manner and shall promptly provide LICENSOR with a receipt evidencing such payment. Any payment made under this AGREEMENT shall be non-refundable in any and all cases, for example, in case of, but not limited to, termination of the AGREEMENT before the termination date.

ARTICLE 8 - ASSIGNMENT :

8.1. LICENSEE shall in no event have the right to assign this AGREEMENT or any of its rights and obligations hereunder to any person, firm or corporation, including in case of acquisition, merger, consolidation of LICENSEE with or transfer of assets to another corporation without the prior written consent of LICENSOR.

8.2. This AGREEMENT shall be binding upon and inure to any corporation or other legal entity, with which LICENSOR may be merged or consolidated, or to the benefit of the assignee of the assets of LICENSOR to which this AGREEMENT relates. Otherwise, this AGREEMENT may be assigned by LICENSOR to any corporation directly or indirectly majority owned or controlled by, or under the same control as LICENSOR.

ARTICLE 9 - EXPORT and IMPORT CONTROLS and OTHER LAWS or REGULATIONS :

Nothing herein shall be construed to require LICENSOR or LICENSEE to take any action contrary to any export or import control regulation or other applicable laws or regulations of France or any other country having competent jurisdiction.

ARTICLE 10 - NOTICES – COMMUNICATIONS - AUTHORIZATIONS :

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10.1. Any and all official notices, authorizations or other communications, required or permitted pursuant to this AGREEMENT shall be sufficiently given only if written in the English language and hand delivered or sent by registered or certified airmail, return receipt requested, postage prepaid, to the addresses set forth in Article 10.2. below.

10.2. All the notices or communications shall be addressed to the following

If to LICENSOR : GEMALTO
Intellectual Property and Licensing Department

Atten.: Licensing Manager

If to LICENSEE : Name
Address

Atten. : Contact person

or at such other addresses and to such other persons as shall be furnished from time to time in writing by the Party entitled to receive such notices and communications, and such communications shall be deemed to have been given as of the date so delivered or mailed.

ARTICLE 11 - DISCLAIMER OF AGENCY :

This AGREEMENT shall not constitute either Party the legal representative or agent of the other, nor shall either Party have the right, or authority, to assume, create or incur any liability or any obligation of any kind, express or implied against or in the name of or on behalf of the other Party.

ARTICLE 12 - PUBLICITY :

The existence of this AGREEMENT is not confidential, but LICENSEE and LICENSOR shall not disclose the terms and conditions of this AGREEMENT to any third party without the prior written consent of the other Party, except as required by law or by governmental requirement or court order or as required under the COMMITMENTS, provided that the disclosing Party shall promptly notify the other Party of such governmental requirement or court order.

ARTICLE 13 - EFFECT of HEADINGS :

The Article headings appearing on this AGREEMENT are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of an Article, nor in any way affect this AGREEMENT, except with respect to the definitions.

ARTICLE 14 - FORCE MAJEURE :

Neither Party shall be liable to the other or deemed to be in breach of any obligation hereunder if its performance is prevented or delayed by causes such as war, riots, acts of civil or military authorities, flood, storm, and acts of God, if those events are beyond its control, provided that the affected Party exercises due diligence in promptly notifying the other Party of conditions which will result in delay or in non-performance and will cure such non-performance as soon as it is reasonably able to do so.

ARTICLE 15 – NON-WAIVER :

The failure of either Party at any time to require performance by the other Party of any provision hereof shall not affect in any way the full right to require such performance at any

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time thereafter. Nor shall the waiver by either Party of a breach of any provision hereof be taken or held to be a waiver of the provision itself.

ARTICLE 16 - SEVERABILITY :

If any term, provision, covenant or condition of this AGREEMENT is held invalid or unenforceable for any reason, the remainder of the provisions shall continue in full force and effect as if this AGREEMENT had been executed with the invalid or unenforceable portion thereof eliminated and the parties shall endeavour to replace such invalid or unenforceable portion by a similar but valid or enforceable one.

ARTICLE 17 - GOVERNING LAW and ARBITRATION :

17.1. This AGREEMENT, its validity, interpretation, construction and performance shall at all times be governed by the laws of France, without reference to its rules of conflicts of laws. The official text of this AGREEMENT shall be in English and any interpretation or construction of this AGREEMENT shall be based solely on the English language text.

17.2. Any dispute or controversy arising out of or in connection with the interpretation or performance of this AGREEMENT during its term or thereafter that cannot be resolved by a mutually amicable arrangement between the parties hereto, will be finally settled according to either: (i) the Fast Track Dispute Resolution provisions pursuant to Section F of the COMMITMENTS; or (ii) the Rules of Conciliation and Arbitration of the International Chamber of Commerce by three arbitrators appointed in accordance with the said Rules. Arbitration proceedings shall be constructed in the English language and shall take place in the city of Paris, France.

ARTICLE 18 - INTEGRATION, AMENDMENTS AND MODIFICATIONS :

This AGREEMENT and its appendix contain the entire agreement and understanding of the parties with respect to the subject matter of this AGREEMENT and supersedes any and all prior agreements and understandings, written or oral, of the parties with respect thereto. For the avoidance of doubt, this AGREEMENT shall have no effect on any other agreement between any member of the GEMALTO GROUP and LICENSEE, which shall remain in full force and effect in accordance with their terms. There are no representations, warranties, covenants or agreements, except as herein set forth. No modification, alteration, amendment or waiver of any term or covenant of this AGREEMENT shall be valid unless made in writing and signed by an authorized representative of each Party.

Nothing in this AGREEMENT or any related agreement connected herewith shall be construed as: (i) creating any obligation or any expectation on the part of either Party to enter into a business relationship with the other Party; (ii) creating any partnership or any other legal entity between the Parties; (iii) creating an obligation to furnish any manufacturing or technical information or assistance; (iv) prohibiting or discouraging any Party from filing or supporting oppositions or any similar proceedings against any LICENSED PATENTS or other patents of the other Party or challenging the validity thereof; (v) restraining or discouraging competition among the Parties or any other entities in any market.

IN WITNESS THEREOF, the parties hereto have duly executed this AGREEMENT, including the one appendix which is incorporated herein and made a part hereof, in duplicate, by either respective duly authorized officers to be effective as of the EFFECTIVE DATE.

For and on behalf of

For and on behalf of

LICENSOR :

LICENSEE

LICENSOR initials.....

LICENSEE initials

By :

By :

Title :

Title :

Date : _____

Date : _____

Signature : _____

Signature : _____

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