

## **Terms and Conditions:**

These terms and conditions of sale are the terms and conditions upon which Celeno Communications (Israel) Ltd. and its affiliates (together "Celeno") make all sales of its products and constitute an agreement between Celeno and you (the "Buyer") (the "Agreement"). Celeno will not accept any other terms and conditions of sale, unless Buyer and Celeno have executed a master contract which specifically supersedes and replaces this Agreement. Acceptance of all purchase orders is expressly made conditional upon Buyer's assent, expressed or implied, to the terms and conditions set forth herein without modification or addition.

1. ACCEPTANCE: Receipt of the Products constitutes acceptance of these terms and conditions.

2. PRODUCT: Celeno's products herein as specified in the corresponding purchase order and invoice, comprise of hardware and proprietary software, including firmware (the "Software") (collectively, the "Product"). Celeno also licenses Buyer Antenna design and drawings for use solely with Celeno's chipset Product under a separate license agreement.

3. LICENSE: Subject to the terms and conditions of this Agreement, Celeno hereby grants to Buyer and Buyer hereby accepts a personal, non-exclusive, non-transferable license to integrate the Product with and into Buyer's products and to market, distribute and sell the integrated product to its end customers. Buyer will only sell the Products when integrated into its products and not as stand alone. Buyer will have in place written agreement with its end customers containing terms sufficient to bind the end customer to comply with the terms of this Agreement.

### **4. SOFTWARE AND ANTENNA TERMS:**

Title to the Software: Buyer acknowledges that Celeno is the owner of all rights, title, and interest, including all trademarks, copyrights to all of the documentation and computer-recorded data comprising or included in the Software (including the firmware fixed to Celeno's chipsets) and the Antenna design and drawings and proprietary information, documentation and source code relating thereto. Notwithstanding anything herein to the contrary, this Agreement does not grant Buyer, or any third party any title or rights of ownership in the Software and the Antenna design and drawings and proprietary information.

Buyer may use the Software (including the firmware fixed to Celeno's the chipsets) only with Celeno's chipset Products. Buyer may not separate the Software from Celeno's Product or use it on chipsets that are not Celeno's Products.

Buyer may use the Antenna design and drawings and proprietary information only with Celeno's chipset Products.

Restrictions: BUYER MAY NOT REVERSE ENGINEER, DECOMPILE, DISASSEMBLE OR OTHERWISE REDUCE THE SOFTWARE AND THE ANTENNA DESIGN AND DRAWINGS TO ANY HUMAN OR MACHINE PERCEIVABLE FORM. BUYER MAY NOT MODIFY, ADAPT, TRANSLATE, RENT, LEASE, LOAN OR CREATE DERIVATIVE WORKS BASED UPON THE SOFTWARE AND THE ANTENNA DESIGN AND DRAWINGS OR ANY PART THEREOF.

### **5. INTELLECTUAL PROPERTY**

Title, Ownership: As between the parties, Celeno owns and shall retain all intellectual property rights, in and to the Product, including its related reference designs, any new version releases, updates, enhancements, modifications or improvements thereto made available to Buyer; and in and to Celeno's Confidential Information.

Proprietary Legends: Buyer shall not remove or alter any patent, copyright notice, trademark or other proprietary or restrictive notice or legend affixed to, contained or included in, the Product and any material provided by Celeno.

Protection of Rights: Buyer shall cooperate fully with Celeno in protecting the rights of Celeno and its licensors in the Product, its related reference designs and in the Confidential Information, as may be reasonably requested by Celeno.

### **6. LIMITED WARRANTY:**

General: Celeno warrants to Buyer that (i) for a period of sixty (60) days from the date of Product shipment from Celeno, (i) the Software shall operate substantially in conformance with its then-current Celeno published specifications, and (ii) the Product's hardware shall be free of defects in material and workmanship and operate substantially in accordance with the then-current Celeno published specifications. Celeno's sole obligation to Buyer under this limited warranty shall be, at Celeno's option, to either repair or replace the nonconforming Product, provided (a) Celeno has received written notice of any nonconformity during the 60-day warranty period, (b) after Celeno's written authorization to do so, Buyer has returned the nonconforming Product to Celeno, freight prepaid; and (c) Celeno has determined that the Product is non conforming and that such non conformity is not a result of Buyer's conduct. The foregoing are Buyer's sole and exclusive remedies for breach of the foregoing Product warranty. This limited warranty shall not apply to Product or any part thereof that is defective due to Buyer's unauthorized or improper installation, alteration or repair, any modification, combination with other components or products or the result of misuse, abuse, neglect, accident, misapplication or excessive physical or electrical stress. The limited warranty hereunder shall apply to the Products which are sold by Celeno to Buyer and shall in no event apply to Buyer's products, components, features or otherwise, into which the Products are integrated.

EXCEPT AS EXPRESSLY SET FORTH ABOVE, THE PRODUCTS ARE PROVIDED "AS IS", AND NO OTHER WARRANTIES, EITHER EXPRESSED OR IMPLIED, WRITTEN OR ORAL ARE MADE WITH RESPECT TO THE PRODUCTS, INCLUDING, WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. CELENO DOES NOT WARRANT THAT THE OPERATION OF THE PRODUCT WILL BE UNINTERRUPTED OR ERROR-FREE.

7. LIMITATION OF REMEDIES AND DAMAGES: Buyer's sole remedies and Celeno's entire liability are as set forth above. IN NO EVENT SHALL CELENO OR ANY OF ITS LICENSORS, DIRECTORS, OFFICERS, EMPLOYEES OR AFFILIATES BE LIABLE TO BUYER FOR ANY CONSEQUENTIAL, INCIDENTAL, EXEMPLARY, INDIRECT, SPECIAL OR SIMILAR DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION AND THE LIKE), WHETHER FORESEEABLE OR UNFORESEEABLE, ARISING OUT OF THE USE OR INABILITY TO USE THE PRODUCT OR ACCOMPANYING WRITTEN MATERIALS,

REGARDLESS OF THE BASIS OF THE CLAIM AND EVEN IF CELENO OR A CELENO REPRESENTATIVE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. CELENO'S LIABILITY TO BUYER FOR DIRECT DAMAGES FOR ANY CAUSE WHATSOEVER, AND REGARDLESS OF THE BASIS OF THE FORM OF THE ACTION, WILL BE LIMITED TO THE PRICE PAID FOR THE PRODUCT THAT CAUSED THE DAMAGES. THIS LIMITATION WILL NOT APPLY IN CASE OF PERSONAL INJURY ONLY WHERE AND TO THE EXTENT THAT APPLICABLE LAW REQUIRES SUCH LIABILITY WITHOUT THIS LIMITATION. SOME JURISDICTIONS MAY NOT ALLOW THE LIMITATION OR EXCLUSION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES FOR CONSUMER PRODUCTS, SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO BUYER.

8. EXPORT LAW ASSURANCES: Buyer agrees that the Product will not be shipped, transferred or re-exported, directly or indirectly, into any country prohibited by the United States Export Administration Act and the regulations thereunder or will be used for any purpose prohibited by this Act.

9. DELIVERY: Products purchased under this Agreement shall be delivered Ex-Works (Incoterms 2000), Celeno's designated site. Risk of loss and damage regarding the Products shall pass to the Buyer upon delivery to the common carrier as set forth above. Delivery is subject to the payment provisions set forth herein and to Celeno's receipt from Buyer of all necessary information and documentation including all import certificates, exemption and/or resale certificates, licenses and other documents as may be required from Buyer for export of the Product. Buyer shall promptly notify Celeno, in no event later than five (5) business days after delivery, of any claimed shortages or rejection as to any delivery. Such notice shall be in writing and shall be reasonably detailed, stating the grounds for any such rejection. Failure to give any such notice within such time shall be deemed an acceptance in full of any such delivery. Celeno shall not be liable for any shipment delays beyond the reasonable control of Celeno which affect Celeno or any of Celeno's suppliers, including, but not limited to, delays caused by unavailability or shortages of Products from Celeno's suppliers; natural disasters, acts of war; acts or omissions of Buyer; fire, strike, riot, or governmental interference; unavailability or shortage of materials, labor, fuel or power through normal commercial channels at customary and reasonable rates; failure or destruction of plant or equipment arising from any cause whatsoever; or transport failures.

10. PRICE AND PAYMENT: Buyer shall bear all applicable government taxes (such as sales, use and similar taxes), as well as import or customs duties, license fees and similar charges, however designated or levied on the sale of the Products (or the delivery thereof) or measured by the purchase price paid for the Products. Celeno's prices set forth on the front side of the invoice do not include such taxes, fees and charges. Exemption certificates must be presented prior to shipment if they are to be honored. Unless otherwise specified, payment terms are in United States Dollars, T/T upon invoice. Celeno, at its discretion, may require reasonable advance assurances of payment through irrevocable bank letters of credit or otherwise. All unpaid invoices shall bear interest at an amount equal to 2% of the outstanding balance per month (or the maximum rate of interest allowed to be contracted for by applicable law, whichever is less), commencing upon the date payment is due.

11. PRODUCT CHANGES: Celeno has and will have the right, in its sole discretion, without liability to Buyer, to (a) change the design, or discontinue developing, producing, licensing or distributing any of the Products covered by this Agreement, (b) change the prices for the Products and (c) announce new products to which the terms and conditions of this Agreement do not apply.

12. SECURITY AGREEMENT. To secure the purchase price, Buyer hereby grants Celeno a first-priority security interest in the Products, parts and accessories, and the proceeds thereof, purchased pursuant to this Agreement. Buyer grants Celeno a limited power of attorney, coupled with an interest, to execute financing statements and other documents or to take any other action in the name of Buyer necessary to perfect the security interest granted herein. Buyer unconditionally agrees to execute such other or additional documents as may be necessary for the enforcement or protection of Celeno's security interest granted herein.

13. CONFIDENTIALITY.

For the purpose of this Section 13, "Confidential Information" means any proprietary information of Celeno, designated as confidential by Celeno or of a confidential nature, including but not limited to, all designs, concepts, scientific, algorithmic and structural information; information related to the Product and Software; and information of a business and commercial nature (such as prices, financial and marketing information disclosed in any form or medium whatsoever).

Non-disclosure: Buyer acknowledges and contemplates the exchange of Confidential Information. Buyer shall maintain Celeno's Confidential Information in the strictest confidence, using the same degree of care it uses to protect its own Confidential Information, and at least a reasonable degree of care. Without limiting the foregoing, Buyer shall not disclose Confidential Information to any third party, other than to personnel who have a "need to know", and only to the extent necessary for the execution of this Agreement. Buyer shall be responsible for compliance of its personnel with confidentiality undertakings substantially similar to the provisions of this Section 13.

Non-Use: Buyer shall not use the Confidential Information disclosed to it in any way whatsoever other than as necessary for the performance of this Agreement.

14. GENERAL: These terms and conditions shall constitute the final, complete and exclusive agreement of the parties with respect to all sales by Celeno to Buyer and shall supersede all prior offers, negotiations, understandings and agreements. Unless Buyer and Celeno have executed a master contract which specifically supersedes and replaces the terms and conditions herein, it is expressly agreed that no prior or contemporaneous agreement or understanding, whether written or oral, shall contradict, modify, supplement or explain the terms and conditions contained herein. No additional or different terms or conditions, whether material or immaterial, shall become a part of any agreement unless expressly accepted in writing by an authorized officer of Celeno. Any waiver by Celeno of one or more of these terms and conditions or any defaults hereunder shall not constitute a waiver of the remaining terms and conditions or of any future defaults hereunder. No failure or delay by either party in exercising or enforcing any right hereunder shall operate as a waiver thereof or preclude any other exercise or enforcement of rights hereunder. Any provision of these terms and conditions that is prohibited or unenforceable under applicable law shall be ineffective to the extent of such prohibition or unenforceability, without impairing or invalidating the remaining provisions of these terms and conditions. The terms and

performance of this Agreement shall be governed by the laws of the State of Israel. The venue for any disputes arising out of any sales agreement shall be, at Celeno's sole and exclusive option, Tel-Aviv, Israel or the courts with proper jurisdiction at Buyer's location. ALL SALES TRANSACTIONS EXCLUDE THE APPLICATION OF THE 1980 UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS, IF OTHERWISE APPLICABLE.

15. NON ASSIGNMENT. Buyer may not assign any or all of its rights or delegate any or all of its obligations hereunder to any third party, except with the prior written consent of Celeno (which consent may be withheld in Celeno's sole discretion). Celeno may assign any of its rights and/or obligations to a third party without the need to obtain the Buyer's consent thereto.

Celeno Communications (Israel) Ltd.