

DVD+RW/+R RECORDER PATENT LICENSE AGREEMENT

This Agreement is entered into this _____ day of _____, 2003 by and between

KONINKLIJKE PHILIPS ELECTRONICS N.V., having its registered office in Eindhoven, The Netherlands, (hereinafter referred to as "Philips")

and

[_____], having its registered office in [_____] (hereinafter referred to as "Licensee")

WHEREAS, Sony Corporation of Japan ("Sony"), Hewlett-Packard Company of California, U.S.A. ("HP"), Ricoh Company, Ltd. of Japan ("Ricoh"), Mitsubishi Chemical Corporation of Japan ("Mitsubishi"), Yamaha Corporation of Japan ("Yamaha") and Philips (the aforementioned companies hereinafter collectively referred to as "the DVD+RW Format Group") have defined a new rewritable system, which system has been presented under the name DVD+RW System (as hereinafter defined) and have defined a new recordable system, which system has been presented under the name DVD+R System (as hereinafter defined);

WHEREAS, Philips owns certain patents relating to the DVD+RW System and the DVD+R System;

WHEREAS, in order to prevent the unauthorised copying of content material and in view of the legitimate interests of copyright owners Philips has decided to provide for certain content protection measures, which adopters of the DVD+RW/+R Systems will be required to comply with on the basis of the DVD+RW/+R Recorder Content Protection Agreement;

WHEREAS, Licensee has requested from Philips a license under Philips' patents relating to DVD+RW/+R Recorders (as hereinafter defined) and wishes such DVD+RW/+R Recorders to be compatible with DVD+RW Discs (as hereinafter defined) and/or DVD+R Discs (as hereinafter defined) conforming to the relevant DVD+RW/+R Format Specifications (as hereinafter defined) for the relevant DVD+RW/+R Systems; and

WHEREAS, Philips is willing to grant Licensee a license under its patents and to make available certain basic information relating to the DVD+RW/+R Systems, on the conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual obligations and covenants hereinafter set forth, the parties hereto have agreed as follows:

Article 1 - Definitions

The following terms when used in this Agreement shall have the respective meanings ascribed thereto below:

- 1.01 **“Disc”** shall mean a reflective disc-shaped information carrier, having either a single or dual information layer(s) (which is/are readable from one side of the disc), on which any kind of information including but not limited to, audio, video, text and/or data-related information can be recorded, such information being stored in one or more information layers of such disc which is optically readable by playback devices using a laser-beam.
- 1.02 **“DVD+R Disc”** shall mean a recordable Disc with a capacity of no more than 4.7 Gbytes per recording layer, designed and manufactured for recording and irreversibly storing thereon digital information, and which conforms to the DVD+R Basic Format Specifications (as hereinafter defined).
- 1.03 **“DVD+R System”** shall mean the Digital Versatile Disc Recordable System which is capable of recording, irreversibly storing and subsequently reproducing signals in digital form from DVD+R Discs.
- 1.04 **“DVD+R Basic Format Specifications”** shall mean the specifications for the DVD+R System, as specified in the document “DVD+R 4.7 Gbytes Basic Format Specifications”, version 1.0 of January 2002, or any updated version thereof, as defined by the DVD+RW Format Group.
- 1.05 **“DVD+R Video Format Specifications”** shall mean the specifications for the DVD+R Video Format, as defined by Philips and as specified in the document “DVD+R Video Format System Description, version 1.0 of January 2002, or any updated version thereof.
- The DVD+R Basic Format Specifications and the DVD+R Video Format Specifications together are referred to as the **“DVD+R Format Specifications”**.
- 1.06 **“DVD+RW Disc”** shall mean a recordable Disc with a capacity of no more than 4.7 Gbytes per recording layer, designed and manufactured for recording, erasing and rewriting thereon digital information and which conforms to the DVD+RW Basic Format Specifications (as hereinafter defined).
- The DVD+R Disc and the DVD+RW Disc together are referred to as **“DVD+RW/+R Discs”**.
- 1.07 **“DVD+RW System”** shall mean the Digital Versatile Disc Rewritable System which is capable of recording, erasing, rewriting and subsequently reproducing signals in digital form from DVD+RW Discs.
- The DVD+R System and the DVD+RW System together are referred to as **“DVD+RW/+R Systems”**.
- 1.08 **“DVD+RW Basic Format Specifications”** shall mean the specifications for the DVD+RW System, as specified in the document “DVD+RW 4.7 Gbytes Basic Format Specifications”, version 1.0 of March 2001, or any updated version thereof, as defined by the DVD+RW Format Group.
- 1.09 **“DVD+RW Video Format Specifications”** shall mean the specifications for the DVD+RW Video Format, as defined by Philips and as specified in the document “DVD+RW Video Format System Description”, version 1.0 of March 2001, or any updated version thereof.

The DVD+RW Basic Format Specifications and the DVD+RW Video Format Specifications together are referred to as the “**DVD+RW Format Specifications**”.

The DVD+R Format Specifications and the DVD+RW Format Specifications together are referred to as the “**DVD+RW/+R Format Specifications**”.

- 1.10 “**DVD+RW Data Recorder**” shall mean a single spindle recording device for recording and rewriting on DVD+RW Discs digital information for the subsequent optical reading of such information from such Discs, which information is bit-encoded in accordance with the DVD+RW Basic Format Specifications, by a DVD-ROM Player (as hereinafter defined), which converts such information into digital electrical signals in accordance with the DVD-ROM Standard Specifications (as hereinafter defined), which signals are directly capable of and intended to be used for the reproduction of audio, video, text and/or data-related information through data handling and/or data processing equipment.
- 1.11 “**DVD+RW/+R Data Recorder**” shall mean a DVD+RW Data Recorder which, in addition to its ability to record and rewrite information on DVD+RW Discs, is capable of recording information on DVD+R Discs in accordance with the DVD+R Basic Format Specifications.
- 1.12 “**DVD+RW Video Recorder**” shall mean a single spindle recording device for recording and rewriting on DVD+RW Discs digital information for the subsequent optical reading of such information from such Discs, which information is bit-encoded in accordance with the DVD+RW Format Specifications, by a DVD-Video Player (as hereinafter defined), which converts such information into digital electrical signals in accordance with the DVD Standard Specifications (as hereinafter defined), which signals are directly capable of and intended to be used for the reproduction of audio and video information through standard television receivers and/or video monitors. A DVD+RW Video Recorder may include MPEG Audio recording functionality and/or AC-3 Audio recording functionality, if so selected by Licensee pursuant to Article 1.22.
- 1.13 “**DVD+RW/+R Video Recorder**” shall mean a DVD+RW Video Recorder which, in addition to its ability to record and rewrite information on DVD+RW Discs, is capable of recording information on DVD+R Discs in accordance with the DVD+R Format Specifications. A DVD+RW/+R Video Recorder may include MPEG Audio recording functionality and/or AC-3 Audio recording functionality, if so selected by Licensee pursuant to Article 1.22.

The DVD+RW Data Recorders, the DVD+RW/+R Data Recorders, the DVD+RW Video Recorders and the DVD+RW/+R Video Recorders together are referred to as “**DVD+RW/+R Recorders**”.

- 1.14 “**DVD-ROM Disc**” shall mean a replicated optical disc comprising any kind of information including, but not limited to, audio, video, text, and/or data-related information, encoded in digital form, which is optically readable by a DVD-ROM Player and which conforms to the DVD-ROM Standard Specifications.
- 1.15 “**DVD-ROM System**” shall mean the Digital Versatile Disc ROM System which is capable of storing and reproducing data signals in digital form from DVD-ROM Discs.

- 1.16 **“DVD-ROM Standard Specifications”** shall mean the specifications for the DVD-ROM System, as specified in the document "DVD Specification for Read-Only Disc, version 1.0 (Parts 1 and 2)" of August 1996, or any updated version thereof, as issued by the DVD Format/Logo Licensing Corporation based in Tokyo, Japan.
- 1.17 **"DVD-Video Disc"** shall mean a replicated optical disc comprising any kind of information including, but not limited to, audio, video, text, and/or data-related information, encoded in digital form, which is optically readable by a DVD-Video Player and by a DVD-ROM Player and which conforms to the DVD Standard Specifications.
- 1.18 **“DVD-Video System”** shall mean the Digital Versatile Disc Video System which is capable of storing and reproducing video and audio signals in digital form from DVD-Video Discs.
- 1.19 **“DVD-Video Standard Specifications”** shall mean the specifications for the DVD-Video System, as specified in the document "DVD Specification for Read-Only Disc, version 1.0 (Part 3)" of August 1996, or any updated version thereof, as issued by the DVD Format/Logo Licensing Corporation.

The DVD-ROM Standard Specifications and the DVD-Video Standard Specifications together are referred to as the **“DVD Standard Specifications”**.

- 1.20 **“DVD-ROM Player”** shall mean a single spindle optical disc player capable of reproducing information stored on a DVD-ROM Disc and/or a DVD-Video Disc and converting such information into electrical signals, in accordance with the DVD-ROM Standard Specifications or the DVD Standard Specifications, which electrical signals are directly capable of and intended to be used for the reproduction of video, text and/or data-related information through data handling and/or data processing equipment.
- 1.21 **“DVD-Video Player”** shall mean a single spindle optical disc player capable of reproducing information stored on a DVD-Video Disc and converting such information into electrical signals, in accordance with the DVD Standard Specifications, which electrical signals are directly capable of and intended to be used for visual reproduction through standard television receivers and/or video monitors.
- 1.22 **“Licensed Product(s)”** shall mean a
- Option A:** DVD+RW Data Recorder
 - Option B:** DVD+RW/+R Data Recorder
 - Option C:** DVD+RW Video Recorder
 - Option D:** DVD+RW/+R Video Recorder
 - Option E:** DVD+RW Video Recorder and/or DVD+RW/+R Video Recorder incorporating MPEG Audio recording functionality
 - Option F:** DVD+RW Video Recorder and/or DVD+RW/+R Video Recorder incorporating AC-3 Audio recording functionality

as selected by Licensee, manufactured and/or sold in accordance with the provisions hereof, which has been duly reported and on which the royalties due hereunder are paid in accordance with the provisions of this Agreement.

Option(s): A B C D E F

(please tick any combination as appropriate)

Initial: _____

1.23 “**Licensed Patents**” shall mean any one or more of the essential patents (with the exception of the Non-Asserted Patents (as hereinafter defined) (if any) identified as such in the relevant Exhibits) for the manufacture and/or sale of

- (a) DVD+RW Data Recorders, as listed in Exhibit E1.
- (b) DVD+RW/+R Data Recorders, as listed in Exhibit E1 and Exhibit E2.
- (c) DVD+RW Video Recorders, as listed in Exhibit E1 and Exhibit E3.
- (d) DVD+RW/+R Video Recorders, which patents are listed in Exhibit E1, Exhibit E2, Exhibit E3 and Exhibit E4.
- (e) DVD+RW Video Recorders and/or DVD+RW/+R Video Recorders incorporating MPEG Audio recording functionality, as listed in Exhibit E5.
- (f) DVD+RW Video Recorders and/or DVD+RW/+R Video Recorders incorporating AC-3 Audio recording functionality, as listed in Exhibit E6.

The term “**essential**” as used in relation to patents in this Agreement shall refer to patents, the use of which is necessary (either directly or as a practical matter) for compliance with the relevant DVD+RW/+R Format Specifications.

Philips will commission an independent patent expert to review the European, Japanese and US patents listed as essential in Exhibits E1, E2, E3, E4, E5 and E6 in order to confirm the essentiality of such patents. In the event that said independent expert would find that any of the patents does not qualify as essential as defined in this Agreement, Philips shall delete such patent (as well as the equivalent national patents) from the relevant Exhibit and such patent will be put on a list of non-essential patents. Any such finding and deletion however, shall not affect the obligation of Licensee to pay the royalty on each DVD+RW/+R Recorder as specified in Article 5.02, provided that, in the event that the manufacture by Licensee of DVD+RW/+R Recorders within the Territory would not infringe any of the Licensed Patents nor any of the Non-Asserted Patents, Licensee shall have no obligation to pay royalties in respect of DVD+RW/+R Recorders manufactured within the Territory and which are directly sold for final use within the Territory or directly exported for final use to a country in which no such patents subsist. Notwithstanding such deletion, Licensee shall retain the right to continue the use of such deleted patent(s) in accordance with this Agreement, without any additional payment, unless Licensee explicitly notifies Philips in writing of its decision to waive such right.

In the event that Philips or any of its Associated Companies (as hereinafter defined) would have additional patents relevant to DVD+RW Data Recorders and DVD+RW Video Recorders (except for MPEG Audio recording functionality and AC-3 Audio recording functionality of DVD+RW Video Recorders and other than patents acquired from third parties after the date of May 1, 2001), or DVD+RW/+R Data Recorders and DVD+RW/+R Video Recorders (except for MPEG Audio recording functionality and AC-3 Audio recording functionality of DVD+RW/+R Video Recorders and DVD+RW recording functionality and other than patents acquired from third parties after the date of March 1, 2002) in its patent portfolio which are essential to the manufacture, sale or other disposal of DVD+RW/+R Recorders and which have a filing date or are entitled to a priority date prior to either May 1, 2001 for DVD+RW Data Recorders and DVD+RW Video Recorders or March 1, 2002 for DVD+R recording functionality of DVD+RW/+R Data Recorders and DVD+RW/+R Video Recorders, or July 1, 1994 for MPEG Audio recording functionality of DVD+RW Video Recorders and DVD+RW/+R Video Recorders, or January 1, 1997 for AC-3 Audio recording functionality of DVD+RW Video Recorders and DVD+RW/+R Video Recorders, but which have not been listed as essential patents in the respective Exhibits hereto, Philips will notify Licensee accordingly and such additional patents will be added to the Licensed Patents. Any patents as may be added as essential patents to any of the respective Exhibits hereto, will similarly be subject to the review by the independent patent expert in accordance with the preceding paragraph.

The patent lists provided to Licensee upon execution of the Agreement are subject to change in accordance with the provisions of this Agreement. With regard to the rights granted to Licensee hereunder, the patent lists published by Philips on its website (www.licensing.philips.com) or otherwise communicated by Philips to Licensee after the date of execution hereof shall prevail over the lists provided to Licensee upon execution of this Agreement.

- 1.24 “**Non-Asserted Patents**” shall mean the patents essential for the manufacture, sale or other disposal of DVD+RW/+R Recorders, which are jointly owned by Philips and other companies and identified as such in the relevant Exhibits.
- 1.25 “**Associated Company**” shall mean any one or more business entities (1) owned or controlled by Philips or Licensee, (2) owning or controlling Philips or Licensee, or (3) owned or controlled by the business entity owning or controlling Philips or Licensee at the material time. For the purposes of this definition a business entity shall be deemed to own and/or to control another business entity if more than 50% (fifty per cent) of the voting stock of the latter business entity, ordinarily entitled to vote in the election of directors (or, if there is no such stock, more than 50% (fifty per cent) of the ownership of or control in the latter business entity) is held by the owning and/or controlling business entity.
- 1.26 “**Territory**” shall mean the geographic area known as the United States of America, its territories and possessions.

Article 2 - Grant of rights

Subject to the provisions of this Agreement:

- 2.01 For the term of this Agreement, Philips hereby grants to Licensee a non-exclusive, non-transferable license under the Licensed Patents to manufacture Licensed Products (as selected by Licensee pursuant to Article 1.22), within the Territory in accordance with the relevant DVD+RW/+R Format Specifications and to sell or otherwise dispose of such Licensed Products so manufactured in all countries of the world.
- 2.02 Philips undertakes that it shall not, during the term of this Agreement assert any of the Non-Asserted Patents against the manufacture, sale or other disposal of Licensed Products by Licensee, subject to the full and unconditional compliance by Licensee with all provisions hereof. This undertaking shall be without prejudice to the position of the other co-owners as regards these jointly owned patents. Licensee agrees that, to the extent that it may already have obtained a license or an undertaking not to assert from another company under such jointly owned patents, this circumstance shall not affect the obligation of Licensee to pay the royalty as specified in Article 5.02.
- 2.03 Philips further agrees, for as long as this Agreement is in force and effect and Licensee is in full compliance with its obligations hereunder, to grant Licensee upon Licensee's request a non-exclusive, non-transferable license, on reasonable, non-discriminatory conditions, to manufacture Licensed Products in the Territory and to sell or otherwise dispose of Licensed Products so manufactured in all countries of the world, under any patents not yet licensed hereunder and which are essential to the manufacture, sale or other disposal of Licensed Products, for which Philips and its Associated Companies may hereafter acquire from third parties the free right to grant licenses. It is acknowledged and agreed by the parties that in respect of the patents as may be licensed pursuant to this Article 2.03, additional royalties may have to be paid over and above the royalties specified in Article 5.02.
- 2.04 Philips further agrees, for as long as this Agreement is in force and effect and Licensee is in full compliance with its obligations hereunder, to grant Licensee upon Licensee's request as well as to those of Licensee's Associated Companies who so request, a non-exclusive, non-transferable license, on reasonable, non-discriminatory conditions, to manufacture DVD+RW/+R Discs and to sell or otherwise dispose of such DVD+RW/+R Discs so manufactured in all countries of the world, under any and all present and future patents essential to the manufacture, sale or other disposal of DVD+RW/+R Discs for which Philips and its Associated Companies may hereafter acquire the free right to grant licenses.
- 2.05 In consideration of the undertakings set forth in Articles 2.01, 2.02, 2.03 and 2.04 and similar undertakings by third party licensees of Philips and without prejudice to the provisions of Article 11, for a period of ten years from the Effective Date (as hereinafter defined) Licensee agrees to grant to Philips and its Associated Companies and to other third parties who have entered or will enter into a license agreement with Philips concerning DVD+RW/+R Recorders, non-exclusive, non-transferable licenses, on reasonable, non-discriminatory conditions comparable to those set forth herein, to manufacture, sell or otherwise dispose of DVD+RW/+R Recorders, as correspond with the selection made by Licensee pursuant to Article 1.22, under any and all present and future patents, for which Licensee or its Associated Companies have or may hereafter acquire the right to grant licenses and which are essential to the manufacture, sale or other disposal of such DVD+RW/+R Recorders and which patents were first filed in any country of the world prior to the date of termination of this Agreement. For the avoidance of doubt, the undertaking set out in this Article 2.05 shall only apply to those companies

which accept or have accepted a similar undertaking as contained in this Article 2.05 and only to those DVD+RW/+R Recorders as have been selected both by Licensee and such companies.

- 2.06 In addition, in consideration of the undertakings set forth in Articles 2.01, 2.02, 2.03 and 2.04 and similar undertakings by third party licensees of Philips or any of its Associated Companies and without prejudice to the provisions of Article 11, for a period of ten years from the Effective Date, Licensee agrees to grant to Philips and its Associated Companies and to other third parties who have entered or will enter into a license agreement with Philips concerning DVD+RW/+R Discs, non-exclusive, non-transferable licenses, on reasonable, non-discriminatory conditions, to manufacture, sell or otherwise dispose of i) DVD+RW Discs in the event Licensee has chosen to include DVD+RW recording functionality pursuant to the Options of Article 1.22, and ii) DVD+R Discs in the event Licensee has chosen to include DVD+R recording functionality pursuant to the Options of Article 1.22, under any and all present and future patents, for which Licensee or its Associated Companies have or may hereafter acquire the right to grant licenses and which are essential to the manufacture, sale or other disposal of such Discs and which patents were first filed in any country of the world prior to the date of termination of this Agreement. For the avoidance of doubt, the undertaking set out in this Article 2.06 shall only apply to those companies which accept or have accepted a similar undertaking as contained in this Article 2.06 and only to those DVD+RW Discs and/or DVD+R Discs as have been selected both by Licensee and such companies.
- 2.07 Philips undertakes that it will offer, at the request of any of Licensee's Associated Companies to any such Associated Company, a non-exclusive and non-transferable license under the Licensed Patents on reasonable and non-discriminatory conditions comparable to those set forth herein, to manufacture, sell or otherwise dispose of DVD+RW/+R Recorders.

In consideration of Philips' undertaking as set out in the preceding paragraph, Licensee undertakes that all of its Associated Companies which have or may hereafter acquire patents essential to the manufacture, sale or other disposal of DVD+RW/+R Recorders and which patents were first filed in any country of the world prior to the date of termination of this Agreement, shall make available licenses under such patents, on reasonable, non-discriminatory conditions comparable to those set forth herein to Philips, any of Philips' Associated Companies and to other third parties who have entered or will enter into a license agreement with Philips in respect of DVD+RW/+R Recorders.

- 2.08 IT IS EXPRESSLY ACKNOWLEDGED AND AGREED THAT:
- (I) THE LICENSES AND LICENSE UNDERTAKINGS HEREIN CONTAINED WITH RESPECT TO THE MANUFACTURE OF LICENSED PRODUCTS DO NOT EXTEND TO THE MANUFACTURE OF COMPONENTS FOR LICENSED PRODUCTS (INCLUDING BUT NOT LIMITED TO SEMICONDUCTOR DEVICES, INTEGRATED CIRCUITS, LASERS, MOTORS AND LENSES), EXCEPT FOR PATENT RIGHTS RELATING TO CIRCUITRY AND/OR SYSTEM ASPECTS SPECIFIC TO THE DVD+RW/+R SYSTEMS, NOR DO THE LICENSE UNDERTAKINGS WITH RESPECT TO THE MANUFACTURE OF DISCS EXTEND TO MASTERING EQUIPMENT OR METHODS FOR THE

REPLICATION OF DISCS, THE MANUFACTURE OF MATERIALS OR REPRODUCTION RIGHTS FOR INFORMATION SUCH AS AUDIO, VIDEO, TEXT AND/OR DATA-RELATED INFORMATION TO BE RECORDED ON DISCS BY A LICENSED PRODUCT; AND

(II) THE RIGHTS AND LICENSES GRANTED UNDER THIS AGREEMENT APPLY ONLY TO SUCH PART OF A COMBINATION OF ONE OR MORE LICENSED PRODUCTS OR DVD+RW/+R DISCS WITH ANY OTHER ELEMENTS, PRODUCTS, SYSTEMS, EQUIPMENT OR SOFTWARE WHICH IS IN COMPLIANCE WITH THE DVD+RW/+R FORMAT SPECIFICATIONS.

- 2.09 As a condition precedent to the entry into force of this Agreement, Licensee shall enter into a DVD+RW/+R Content Protection Agreement with Philips, in the form as attached hereto.
- 2.10 Licensee is required to enter into (and be in full compliance with) the DVD Video Player and DVD ROM Player Patent License Agreement with Philips, in the event that Licensee wishes to add the playback functionality of a DVD-ROM Player to DVD+RW Data Recorders and/or DVD+RW/+R Data Recorders and/or the playback functionality of a DVD-Video Player to DVD+RW Video Recorders and/or DVD+RW/+R Video Recorders and, if applicable, the Patent License Agreement for the use of AC-3 technology in the manufacture of DVD-Video Players and/or the MPEG Audio Patent License Agreement, in the event Licensee wishes to add the AC-3 Audio and/or MPEG Audio playback functionality to DVD+RW Video Recorders and/or DVD+RW/+R Video Recorders.

**Article 3 - Standard Specifications
Technical Information and Support**

- 3.01 Upon receipt of the payment provided for in this Article 3.01 and the payments provided for in Article 5.01 and Article 5.12, Philips shall make available to Licensee for use by Licensee in accordance with the provisions hereof, a copy of the then current version of the relevant DVD+RW/+R Format Specifications, as correspond with the Licensed Products as selected by Licensee pursuant to Article 1.22, together with such other information and support as Philips considers necessary for the interpretation and/or correct application of the relevant DVD+RW/+R Format Specifications.
- Licensee shall pay to Philips an amount of either i) US\$ 5,000 (five thousand US Dollars) for the DVD+RW Format Specifications or ii) US\$ 10,000 (ten thousand US Dollars) for the DVD+R Format Specifications and the DVD+RW Format Specifications.
- 3.02 Licensee shall be notified in writing of any addition or modification to any of the relevant DVD+RW/+R Format Specifications and shall be provided with relevant information in connection therewith.
- 3.03 Philips and Licensee undertake to keep each other generally informed of developments or initiatives, which may have an impact on the relevant DVD+RW/+R Format Specifications.

Article 4 – Have made

- 4.01 The rights granted to Licensee pursuant to Article 2 and the right to use the information pursuant to Article 3, include the right for Licensee to have third parties manufacture for Licensee's use and account, in accordance with the provisions hereof, such components as Licensee requires in connection with the manufacture of Licensed Products. Licensee shall ensure that such third parties use the information obtained by Licensee pursuant to Article 3 only for the manufacture of such components for DVD+RW/+R Recorders ordered by Licensee and further that such third party supplier has agreed in writing to comply with the confidentiality obligations of Article 8 with respect to the use of the information supplied by Philips pursuant to Article 3. Licensee shall notify Philips of the name of any such third party supplier(s).
- 4.02 The rights granted to Licensee pursuant to Article 2 and the right to use the information pursuant to Article 3, include the right for Licensee to have Licensed Products made for it by third party manufacturers, duly licensed by Philips under an agreement similar to this Agreement, provided that Licensee will properly identify such third party manufacturer in the royalty reporting forms to be submitted to Philips hereunder, together with the quantities of Licensed Products so purchased. Conversely, Licensee shall refrain from purchasing or selling DVD+RW/+R Recorders manufactured by any third party not licensed by Philips, where such purchase or sale would constitute an act of infringement of any of the Licensed Patents or Non-Asserted Patents.

Article 5 - Royalties, Reports and Payments

- 5.01 In consideration of the rights granted hereunder by Philips, Licensee shall, upon execution of this Agreement, make a non-refundable payment of either i) US\$ 10,000 (ten thousand US Dollars) to Philips, in the event Licensee has chosen to include DVD+RW recording functionality pursuant to the Options of Article 1.22 or ii) US\$ 20,000 (twenty thousand US Dollars) in the event Licensee has chosen to include DVD+RW recording functionality as well as DVD+R recording functionality pursuant to the Options of Article 1.22.
- Of the amount of US\$ 10,000 (ten thousand US Dollars), an amount of US\$ 5,000 (five thousand US Dollars) shall be regarded as an advance payment against royalties payable pursuant to Article 5.02.
- Of the amount of US\$ 20,000 (twenty thousand US Dollars) an amount of US\$ 10,000 (ten thousand US Dollars) shall be regarded as an advance payment against royalties payable pursuant to Article 5.02.
- 5.02 In further consideration of the rights granted hereunder by Philips to Licensee, Licensee agrees to pay to Philips a royalty for each DVD+RW/+R Recorder sold by Licensee in which any one or more of the Licensed Patent(s) or any one or more of the Non-Asserted Patent(s) is (are) used, irrespective of whether such patent(s) is (are) used in the country of manufacture, sale or other disposal.

The royalty shall amount to US\$ 2.60 (two US Dollars and sixty US Dollar cents) for each DVD+RW Data Recorder, DVD+RW Video Recorder or DVD+RW Video Recorder incorporating MPEG Audio recording functionality and/or AC-3 Audio recording functionality.

The royalty shall amount to US\$ 5.20 (five US Dollars and twenty US Dollar cents) for each DVD+RW/+R Data Recorder, DVD+RW/+R Video Recorder or DVD+RW/+R Video Recorder incorporating MPEG Audio recording functionality and/or AC-3 Audio recording functionality.

For the purpose of clarification, the royalty for MPEG Audio recording functionality and AC-3 Audio recording functionality (but excluding playback functionality) are included in the royalty rates mentioned above.

A DVD+RW/+R Recorder shall be considered sold when invoiced or, if not invoiced, when delivered to a party other than Licensee.

No royalties shall be payable for DVD+RW/+R Recorders purchased by Licensee on a "have made" basis in accordance with Article 4 from third party manufacturers, duly licensed by Philips, provided that Licensee can demonstrate to Philips' satisfaction, that such third party manufacturer has paid to Philips the royalties due in respect of such DVD+RW/+R Recorders.

For the avoidance of doubt, in the event that the manufacture by Licensee of DVD+RW/+R Recorders within the Territory would not infringe any of the Licensed Patents nor any of the Non-Asserted Patents, Licensee shall have no obligation to pay royalties in respect of DVD+RW/+R Recorders manufactured within the Territory and which are directly sold for final use within the Territory or directly exported for final use to a country in which no such patents subsist.

5.03 Within 30 days following 31 March, 30 June, 30 September and 31 December of each year during the term of this Agreement, Licensee shall submit to Philips (even in the event that no sales have been made) a written statement in the form as attached hereto as Exhibit C2 (Royalty Reporting Form), signed by a duly authorized officer on behalf of Licensee, setting forth with respect to the preceding quarterly period:

- (1) the quantities of DVD+RW/+R Recorders manufactured by Licensee, specified per individual type of DVD+RW/+R Recorder;
- (2) the quantities of DVD+RW/+R Recorders purchased from other licensed manufacturers in accordance with the provisions of Article 4, specified per individual type of DVD+RW/+R Recorder;
- (3) on a per-country basis, specifying for each individual type of DVD+RW/+R Recorder:
 - (a) the quantities of DVD+RW/+R Recorders sold or otherwise disposed of, specifying the identity of the buyers and the trademarks used on or in connection with the DVD+RW/+R Recorders;

(b) the quantities of DVD+RW/+R Recorders sold to other manufacturers, duly licensed by Philips, specifying the identity of such other manufacturers and the trademarks used on or in connection with the DVD+RW/+R Recorders;

(4) a computation of the royalties due under this Agreement.

Licensee shall pay the royalties due to Philips within 30 days after the end of each quarterly period, in US Dollars.

- 5.04 In the event that Licensee fails to submit to Philips a Royalty Reporting Form for any royalty reporting period within 30 days from the end of the relevant reporting period in accordance with the provisions of Article 5.03, Licensee shall be obliged to pay to Philips within 30 days after the end of the relevant quarterly period for which the Royalty Reporting Form was not submitted, an estimated royalty (hereinafter referred to as an "Advance"), being an amount equal to the highest amount of royalties due for any royalty reporting period over the preceding eight royalty reporting periods (or over all preceding royalty reporting periods if fewer than eight). Such payment shall be treated as a non-refundable advance, primarily against the royalties and interest for the relevant royalty reporting period and then, if any sum remains, against any future royalties or other payments payable by Licensee hereunder. Licensee acknowledges and agrees that any Advance shall not be due by way of penalty but that such payment shall constitute a non-refundable advance as aforesaid. For the avoidance of doubt, such payment shall be payable without any further notice or action by Philips, legal or otherwise, and shall take effect by virtue of the failure to submit a Royalty Reporting Form on time; the payment by Licensee of an Advance shall not affect Licensee's obligation to submit a Royalty Reporting Form; the payment by Licensee of an Advance shall be without prejudice to any other rights or remedies of Philips, including, without limitation, Philips' right to charge 2% interest per month on overdue payments (including overdue payments of the Advance), and Philips' right to terminate this Agreement in accordance with its provisions. The Advance will not be set off against other sums due to Philips until a Royalty Reporting Form has been submitted in respect of the relevant royalty reporting period. In respect of any royalty reporting period for which an Advance has been paid and the Royalty Reporting Form subsequently submitted, Philips will first set off against the Advance all royalties and interest due for that period. Any remaining sum from the Advance will be set off against further royalty, interest or Advance payments due to Philips hereunder (if any).
- 5.05 Licensee shall submit to Philips, once per calendar year, an audit statement by its external auditors, who shall be certified public auditors as specified in the Audit Guidelines attached hereto as Exhibit C1, confirming that the quarterly royalty statements as submitted by Licensee to Philips for the last four quarterly periods, are true, complete and accurate in every respect. Such statement must meet Philips' requirements as specified in the Audit Guidelines and shall be submitted to Philips within 90 days following the end of Licensee's financial year. The correctness of this audit statement may be verified by Philips by means of a work paper review, conducted by one of the certified public auditors selected by Philips. Licensee shall procure that its auditors provide full cooperation with said work paper review. Notwithstanding this audit statement, Philips reserves the right to inspect the books and records of Licensee from time to time in accordance with Article 5.10.

- 5.06 Within 30 days following the expiration or termination of this Agreement, Licensee shall submit to Philips a certified report on the number of DVD+RW/+R Recorders in stock at the time of expiration or termination of this Agreement. Royalties, calculated in accordance with Article 5.02 and 5.12, shall be due and payable on all DVD+RW/+R Recorders manufactured prior to, but remaining in stock with Licensee on the date of expiration or termination of this Agreement. For the avoidance of doubt, this Article 5.06 shall be without prejudice to the provisions of Article 11.06.
- 5.07 Any payment under this Agreement which is not made on the date(s) specified herein, shall accrue interest at the rate of 2% (two per cent) per month (or part thereof) or the maximum amount permitted by law, whichever is lower.
- 5.08 All payments to Philips under this Agreement shall be made by transfer in such currency, convertible in the sense of Articles VIII and XIX of the Articles of Agreement of the International Monetary Fund, as designated by Philips. The rate of exchange for converting the currency of the Territory shall be the telegraphic transfer selling rate of the designated currency as officially quoted in the Territory by the officially authorized foreign exchange bank for payment of currency transactions on the day that the amount is due and payable.
- 5.09 All costs, stamp duties, taxes and other similar levies arising from or in connection with the conclusion of this Agreement shall be borne by Licensee. In the event that the government of a country imposes any income taxes on payments made by Licensee to Philips hereunder and requires Licensee to withhold such tax from such payments, Licensee may deduct such tax from such payments. In such event, Licensee shall promptly provide Philips with tax receipts issued by the relevant tax authorities so as to enable Philips to support a claim for credit against income taxes which may be payable by Philips and/or its Associated Companies in The Netherlands and to enable Philips to document, if necessary, its compliance with tax obligations in any jurisdiction outside The Netherlands.
- 5.10 In order that the royalty statements provided for in this Article 5 may be verified, Licensee shall keep complete and accurate books and records and shall keep the books and records available for a period of 5 years following the manufacture, sale or other disposal of each DVD+RW/+R Recorder.

Philips shall have the right to inspect the books and records of Licensee from time to time, in order to verify the correctness of the aforementioned royalty statements. Any such inspection shall take place no more than once per calendar year and shall be conducted by a certified public auditor appointed by Philips. Philips shall give Licensee written notice of such inspection at least 7 days prior to the inspection. Licensee shall willingly co-operate and provide all such assistance in connection with such inspection as Philips and/or the auditor may require. The inspection shall be conducted at Philips' own expense, provided that in the event that Licensee has failed to submit royalty statements and/or yearly written statement(s) by its external auditors, as provided for in Article 5.03 and Article 5.05, in respect of the period to which the inspection relates or in the event that any discrepancy or error exceeding 3% (three per cent) of the monies actually due is established, the cost of the inspection shall be borne by Licensee, without prejudice to any other claim or remedy as Philips may have under this Agreement or under applicable law.

Philips' right of inspection as set out in this Article 5.10 shall survive termination or expiration of this Agreement.

5.11 Without prejudice to the provisions of Article 5.10, Licensee shall provide all relevant additional information as Philips may reasonably request from time to time, so as to enable Philips to ascertain which products manufactured, sold or otherwise disposed of by Licensee are subject to the payment of royalties to Philips hereunder, the patents which have been used in connection with such products, and the amount of royalties payable.

5.12 **OPTIONAL:**
CHOOSE BETWEEN OPTIONS A and B

DELETE WORDING IN BOLD AND CLAUSES WHICH ARE NOT APPLICABLE

Option A: from joint agreement to Philips only

As a condition precedent to the entry into force of this Agreement, Licensee shall pay to Philips the total amount of royalties due for the use of Philips', Sony's and HP's patents in respect of its production and sale of DVD+RW/+R Recorders for which no royalties have been paid to Philips under a patent license agreement covering the use of the patents of Philips, Sony and HP, prior to the date of execution of this Agreement.

The aforementioned amount shall be calculated by Philips on the basis of the number of DVD+RW/+R Recorders manufactured and sold by Licensee prior to the date of execution hereof, by applying i) the royalty rate of US\$ 5.00 for each DVD+RW Data Recorder, DVD+RW Video Recorder or DVD+RW Video Recorder incorporating MPEG Audio recording functionality and/or AC-3 Audio recording functionality and ii) the royalty rate of US\$ 10.00 for each DVD+RW/+R Data Recorder, DVD+RW/+R Video Recorder or DVD+RW/+R Video Recorder incorporating MPEG Audio recording functionality and/or AC-3 Audio recording functionality. Philips will determine the number of DVD+RW/+R Recorders manufactured and sold by Licensee prior to the date of execution hereof on the basis of Licensee's Royalty Reporting Forms and, where available, the external auditor's statement submitted under the aforementioned patent license agreement. Where such reports are not available, Philips will determine the number of DVD+RW/+R Recorders on the basis of information contained in Licensee's annual reports, or, where annual reports are not available, Philips will make said determination on the basis of market information obtained from independent market intelligence sources.

Option B: from unlicensed to Philips only

As a condition precedent to the entry into force of this Agreement, Licensee shall submit to Philips a royalty statement in respect of DVD+RW/+R Recorders manufactured and sold or otherwise disposed of by Licensee before the Effective Date of this Agreement in accordance with the provisions of Article 5.03. Within 7 days following the execution of this Agreement, Licensee shall pay to Philips the royalties on such DVD+RW/+R Recorders, calculated by applying i) the royalty rate of US\$ 2.60 for each DVD+RW Data Recorder, DVD+RW Video Recorder or DVD+RW Video Recorder incorporating MPEG Audio recording functionality and/or AC-3 Audio recording functionality and ii) the royalty rate of US\$ 5.20 for each DVD+RW/+R Data Recorder, DVD+RW/+R Video Recorder or DVD+RW/+R Video Recorder incorporating MPEG Audio recording functionality and/or AC-3 Audio recording functionality. The royalty statement

shall similarly be subject to Philips' right of audit as set out in Article 5.10. Within 45 days following the execution of this Agreement, Licensee shall submit to Philips an audit statement by its external auditors, who shall be certified public auditors, confirming that this royalty statement is true, complete and accurate in every respect.

Article 6 - Most Favourable Conditions

- 6.01 In the event that licenses under the patents referred to in Article 2 are granted by Philips for DVD+RW/+R Recorders to a third party under substantially similar conditions, but at a royalty rate more favourable than the rate payable by Licensee under this Agreement, Licensee shall be entitled to the same royalty rate as applicable to such third party, provided always that this right of Licensee shall not apply in respect of cross-license agreements or other agreements providing for a consideration which is not exclusively based on payment of royalties and further provided that this right of Licensee shall not apply in respect of licenses or other arrangements made pursuant to a court decision or the settlement of a dispute between Philips and a third party, irrespective of the nature of such dispute, the terms of the court decision or the settlement terms.

Article 7 – No Warranty and Indemnification

- 7.01 Whereas Philips has made efforts to ensure that the information to be supplied by it hereunder is complete and accurate, Philips makes no representation or warranty as to the completeness or accuracy of such information, nor with respect to the ability of Licensee to achieve interchangeability with respect to DVD+RW/+R Recorders through the use of such information.
- 7.02 It is acknowledged by Licensee that third parties may own industrial and/or intellectual property rights in the field of DVD+RW/+R Recorders. Philips makes no warranty whatsoever that the manufacture, sale or other disposal of DVD+RW/+R Recorders or the use of information supplied by Philips hereunder does not infringe or will not cause infringement of any industrial and/or intellectual property rights other than the Licensed Patents. Philips and its Associated Companies shall be fully indemnified and held harmless by Licensee from and against any and all third party claims in connection with DVD+RW/+R Recorders manufactured, sold or otherwise disposed of by Licensee.

Article 8 - Confidentiality

- 8.01 Licensee shall at all times maintain strict confidentiality with regard to the DVD+RW/+R Format Specifications and shall not disclose same to any third party without the prior written consent of Philips.
- 8.02 Without prejudice to Article 8.01 and save as provided in Article 4, Licensee shall, during the term of this Agreement as specified in Article 11.01 and for a period of 3 years thereafter, not disclose to any third party any information acquired from Philips or any of Philips' Associated Companies in connection with this Agreement, or use such information for any other purpose than the manufacture or disposal of DVD+RW/+R Recorders in accordance with this Agreement. This obligation shall not apply to the extent

information so acquired:

- (a) was known to Licensee prior to the date on which such information was acquired from Philips or any of Philips' Associated Companies, as shown by records of Licensee or otherwise demonstrated to Philips' satisfaction;
- (b) is or has become available to the public through no fault of Licensee;
- (c) was or is received from a third party who was under no confidentiality obligation in respect of such information.

In protecting information acquired from Philips or any of Philips' Associated Companies, Licensee shall take all necessary measures and precautions, including but not limited to measures requiring its present and future employees to give suitable undertakings of secrecy both for the period of their employment and thereafter, and shall protect such information in the same manner and with the same degree of care (but no less than a reasonable degree of care) with which Licensee protects its own information of a confidential nature.

- 8.03 The obligations concerning confidentiality contained in Article 8.01 and Article 8.02 shall survive termination of this Agreement.
- 8.04 Philips shall, during the term of this Agreement as specified in Article 11.01 and for a period of 3 years thereafter, not disclose to any third party any confidential information obtained in connection with Article 5.03 and/or Article 5.05, except that Philips may disclose such information to its external auditors, legal representatives and to the competent courts to the extent this is necessary for Philips in connection with the enforcement of its rights hereunder. Further, Philips shall not use such information for other purposes than to verify Licensee's compliance with its royalty reporting and payment obligations as provided in this Agreement and to enforce Philips' rights hereunder. Philips' obligations set out in this paragraph shall not apply to information referred to in sections a, b and/or c of Article 8.02.

Article 9 - Patent Markings

- 9.01 If requested by Philips, Licensee shall place appropriate patent markings on an exposed surface of the Licensed Products made, sold or otherwise disposed of hereunder. The content, form, location and language used in such markings shall be in accordance with the laws and practices of the country, where such markings are used.

Article 10 – No Assignment

- 10.01 This Agreement shall inure to the benefit of and be binding upon each of the parties hereto and their respective assignees. It may not be assigned in whole or in part by Licensee without the prior written consent of Philips.

Article 11 - Term and Termination

- 11.01 This Agreement shall enter into force on the “Effective Date”, being the date first written above. In the event that validation of this Agreement is required by the competent governmental authorities, the Effective Date shall be the date of such validation. This Agreement shall remain in force for a period of 10 years from the Effective Date, unless terminated earlier in accordance with the provisions of this Article 11.
- 11.02 Without prejudice to the provisions of Article 11.03 through 11.06, each party may terminate this Agreement at any time by means of written notice to the other party in the event that the other party fails to perform any obligation under this Agreement and such failure is not remedied within 30 days after receipt of a notice specifying the nature of such failure and requiring it to be remedied. 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 royalties or other payment obligations under this Agreement accrued prior to such termination.
- 11.03 Philips may terminate this Agreement forthwith by means of notice in writing to Licensee in the event that a creditor or other claimant takes possession of, or a receiver, administrator or similar officer is appointed over any of the assets of Licensee or in the event that Licensee makes any voluntary arrangement with its creditors or becomes subject to any court or administration order pursuant to any bankruptcy or insolvency law.
- 11.04 Without prejudice to any other right or remedy Philips may have under this Agreement or at law, this Agreement shall automatically terminate upon the termination of the DVD+RW/+R Content Protection Agreement.
- Additionally, insofar as legally permitted, Philips may terminate this Agreement at any time by means of written notice to Licensee in case Licensee or an Associated Company of Licensee has been found liable by a competent court or administrative authority to have committed an act of copyright piracy.
- 11.05 Philips shall have the right to terminate this Agreement forthwith or to revoke the license granted under any of Philips' patents in the event that Licensee or any of its Associated Companies brings a claim of infringement of any of Licensee's or any of Licensee's Associated Companies' essential patents relating to DVD+RW/+R Recorders or DVD+RW/+R Discs against Philips or any of its Associated Companies and Licensee refuses to license such patents on fair and reasonable conditions.
- 11.06 Upon the termination of this Agreement by Philips for any reason pursuant to Article 11.02 through 11.05, Licensee shall immediately cease the manufacture, sale or other disposal of DVD+RW/+R Recorders in which any one or more of the Licensed Patents are used. Further, upon such termination, any and all amounts outstanding hereunder shall become immediately due and payable.
- 11.07 All provisions of this Agreement which are intended to survive (whether express or implied) the expiry or termination of this Agreement, shall so survive.

Article 12 - Miscellaneous

12.01 Any notice required under this Agreement to be sent by either party shall be given in writing by means of a letter, facsimile or electronic mail directed:

in respect of Licensee, to:

in respect of Philips, to:

Koninklijke Philips Electronics N.V.
c/o Philips Intellectual Property & Standards - Legal Department
Building WAH-2
P.O. Box 220
5600 AE Eindhoven
The Netherlands
Fax +31 40 2743489

with a copy to:

U.S. Philips Corporation
580 White Plains Road
Tarrytown, New York 10591

or such other address as may have been previously specified in writing by either party to the other.

12.02 This Agreement sets forth the entire understanding and agreement between the parties as to the subject matter hereof and supersedes and replaces all prior arrangements, discussions and understandings between the parties relating thereto. Neither party shall be bound by any obligation, warranty, waiver, release or representation, except as expressly provided herein, or as may subsequently be agreed in writing between the parties.

12.03 Nothing contained in this Agreement shall be construed:

- (a) as imposing on either party any obligation to instigate any suit or action for infringement of any of the patents licensed hereunder or to defend any suit or action brought by a third party which challenges or relates to the validity of any such patents. Licensee shall have no right to instigate any such suit or action for infringement of any of the patents licensed by Philips hereunder, nor the right to defend any such suit or action which challenges or relates to the validity of any such patent licensed by Philips hereunder;
- (b) as imposing any obligation to file any patent application or to secure any patent or to maintain any patent in force;

- (c) as conferring any license or right to copy or imitate the appearance and/or design of any product of Philips or any of its Associated Companies;
- (d) as conferring any license to manufacture, sell or otherwise dispose of any product or device other than a Licensed Product. This sub-clause (d) shall however not be considered a prohibition for Licensee to manufacture Licensed Products as part of and incorporated in combination products.

12.04 Neither the failure nor the delay of either party to enforce any provision of this Agreement shall constitute a waiver of such provision or of the right of either party to enforce each and every provision of this Agreement.

12.05 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, provided that, in such event, Philips shall have the right to terminate this Agreement by written notice to Licensee.

12.06 This Agreement shall be governed by and construed in accordance with the laws of The State of New York.

Any dispute between the parties hereto in connection with this Agreement (including any question regarding its existence, validity or termination) shall be submitted to any state or federal courts in The State of New York, provided always that, in case Philips is the plaintiff, Philips may at its sole discretion submit any such dispute either to the state or federal courts in the venue of Licensee's registered office, or to any of the state or federal courts in the Territory having jurisdiction. Licensee hereby irrevocably waives any objection to the jurisdiction, process and venue of any such court and to the effectiveness, execution and enforcement of any order or judgment (including, but not limited to, a default judgment) of any such court in relation to this Agreement, to the maximum extent permitted by the law of any jurisdiction, the laws of which might be claimed to be applicable regarding the effectiveness, enforcement or execution of such order or judgment.

AS WITNESS, the parties hereto have caused this Agreement to be signed on the date first written above.

KONINKLIJKE PHILIPS ELECTRONICS
N.V.

[LICENSEE]

Name:
Title:

Name:
Title: