

בעניין:

פקודת החברות;
חוק החברות;

פקודת החברות [נוסח חדש] התשמ"ג - 1983
חוק החברות, התשנ"ט - 1999

ובעניין:

החברה;
קוריג'נט;

חברת אורכית תקשורת בע"מ (בהסדר נושים)
חברת אורכית קוריג'נט בע"מ

ובעניין:

הנאמן;

עו"ד ליאור דגן, הנאמן להסדר נושים של החברה
ממרכז עזריאלי 1 (מגדל עגול, קומה 41), תל אביב 6701101
טל: 03-6070800; פקס: 03-6097797

ובעניין:

נאמני האג"ח;

הרמטיק נאמנות (1975) בע"מ - נאמן אג"ח א'
משמרת - חברה לשירותי נאמנות בע"מ - נאמן אג"ח ב'
ע"י ב"כ משרד עורכי דין קליר בנימיני
מדרך אבא הלל 12, רמת גן
טל: 03-6423540; פקס: 03-6423541

ובעניין:

מאי פטנטים ומר
תמיר;

חברת מאי פטנטים בע"מ, ח.פ. 514434109
מר יצחק תמיר, ת.ז. 51889129
כולם ע"י באי כוחם ממשרד הרפז, אורן ושות', עורכי דין
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ובעניין:

רשות ניירות ערד;

רשות ניירות ערד
מרחוב כנפי נשרים 22 ירושלים
ע"י ב"כ עו"ד מפרקליטות מחוז תל אביב (אזרחי)
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ובעניין:

המדען הראשי;

משרד הכלכלה - לשכת המדען הראשי
באמצעות פרקליטות מחוז תל אביב אזרחי
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ובעניין:

הכנ"ר;

הכונס הרשמי
ע"י ב"כ עוה"ד אילון בריל
מרח' שלושה 2 ת.ד. 9040 תל אביב
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בקשה דחופה למתן הוראות

(לאישור הסכם למכירת הפטנטים של החברה)

בית המשפט הנכבד מתבקש ליתן הוראות כדלקמן:

א. לאשר את מכירת הפטנטים של החברה ושל חברת הבת המצויה בבעלותה המלאה של החברה, אורכית קוריג'נט בע"מ (להלן: "חברת קוריג'נט"), לחברת LANDMARK NETWORKS LLC (להלן: "הרוכשת /או Landmark"), בהתאם להסכם המכר המצ"ב כנספח 1 לבקשה (להלן יחד: "הסכם המכר" או "הסכם רכישת הפטנטים") לרבות ההסכמים הנוספים שצורפו כנספחים להסכם המכר;

ב. להסמיך את הנאמן לחתום בשם החברה על כל מסמך ולבצע כל פעולה על מנת לאפשר את ביצועו של הסכם רכישת הפטנטים ;

ג. לקבוע ולהצהיר, כי הפטנטים של החברה ו/או של חברת קוריגינט, הנמכרים ל- LANDMARK כמפורט בהסכם המכר על נספחיו, יועברו לרוכשת כשהן נקיים מכל זכות של צד שלישי לפי 34א לחוק המכר התשכ"ח-1968 (להלן: "חוק המכר").

ד. לקבוע ולהצהיר, כי מכירת הפטנטים ל- LANDMARK נעשית בהתאם להוראות סעי' 19ב(ה') לחוק עידוד למחקר ופיתוח בתעשייה, תשמ"ד - 1984 (להלן: "חוק המו"פ"), וכי לא יחולו על הרוכשת מחויבויות עתידיות כלשהן כלפי המדען הראשי בקשר עם הפטנטים ו/או בקשר עם מסחורם בחו"ל.

ה. ליתן כל סעד אחר כפי שימצא בית המשפט הנכבד כנכון וצודק בנסיבות העניין.

כבר בפתח הדברים יובהר, כי הסכם רכישת הפטנטים הוא ההסכם המוגמר היחיד המצוי בידי הנאמן ובפני הנושים, והוא הסכם ראוי בפני עצמו. במסגרת הסכם הרכישה, צפויה קופת ההסדר לקבל סך של 1.25 מיליון דולר ארה"ב, וכן סכומים מותנים ובלתי וודאיים נוספים, התלויים ביכולתה של הרוכשת למסחר את הפטנטים ולייצר הכנסות ממפרים פוטנציאליים, וזאת עד לתקרה של תמורה כוללת בסך של 5 מיליון דולר ארה"ב.

במשך למעלה משנה, השקיע הנאמן (בכובעו כמפרק זמני) זמן ומשאבים רבים על מנת לגבש עסקה ראויה בפטנטים של החברה, שהיא עסקה מורכבת ורבת פנים, קיים פגישות ומו"מ עם גורמים רבים בארץ ובחו"ל, ולבסוף הושגה ההתקשרות שאישורה מבוקש בבקשה זו.

עוד יובהר, כי קיים צורך דחוף באישור המכר והעברת הפטנטים לידי הרוכשת בהקדם האפשרי, וזאת בשל העלויות השוטפות הגבוהות הכרוכות בשימור ואחזקת הפטנטים (כ-13,000 דולר ארה"ב מדי חודש), והשחיקה שחלה בערכם בשוק ככל שעובר הזמן.

מאחר שחלק מהפטנטים של החברה פותחו במסגרת פרויקטים שנתמכו על ידי מענקי המדען הראשי במשרד הכלכלה, מכירת הפטנטים מצריכה את אישורה של ועדת המחקר ושל המדען הראשי למכירה בהתאם לחוק לעידוד מחקר ופיתוח בתעשייה, תשמ"ד-1984.

בשל הדחיפות באישורו של הסכם רכישת הפטנטים, מתבקש בית המשפט הנכבד לקצוב מועדים קצרים ככל שניתן לתגובת המשיבים. במקביל להגשת בקשה זו, יומצא העתק ממנה למדען הראשי, לכונס הנכסים הרשמי, לב"כ בעלי האג"ח, לב"כ מר יצחק תמיר וחברת מאי פטנטים בע"מ ולנושים נוספים ככל שאלה יפנו אל הנאמן.

ואלה נימוקי הבקשה:

א. רקע כללי

1. ביום 29.6.2014 הורה בית המשפט הנכבד על צו פירוק זמני בעניינה של החברה, ועל מינויו של הח"מ כמפרק זמני.

2. החברה וחברת הבת המצויה בבעלותה המלאה של החברה, חברת קוריגינט, מחזיקות בבעלותן פורטפוליו של כ-80 פטנטים ובקשות לרישום פטנטים במדינות שונות ברחבי העולם (להלן: "הפטנטים").
3. ביום 22.7.2015 אישר בית המשפט הנכבד את הסדר הנושים של החברה, המבוסס על מכירת השלד הבורסאי של החברה, ריק ונקי מזכויות ו/או נכסים ו/או התחייבויות, לקבוצת משקיעים (בקשה מס' 58) (להלן: "הסדר הנושים").
4. בהתאם להסדר הנושים, כל נכסיה וזכויותיה של החברה, מכל מין וסוג שהם, לרבות הפטנטים ו/או בקשות הפטנטים הרשומים על שם החברה וכן כל זכויות הקניין הרוחני של החברה מכל מין וסוג שהם ינותקו ויועברו במלואם לקופת ההסדר והתמורה ממכירתם תהווה אחד מהמקורות לחלוקה לנושי החברה במסגרת ההסדר.
5. הח"מ מונה לנאמן לביצוע הסדר הנושים, והוקנו לו, בין היתר, הסמכויות הדרושות לצורך אישור ומימוש עסקה למכירת הפטנטים של החברה.
6. מאז מינויו כמפרק זמני של החברה (סוף יוני 2014), פעל הח"מ למציאת אופן הפעולה במסגרתו תתקבל התמורה הגבוהה ביותר האפשרית בעבור הפטנטים של החברה, כאחת הדרכים העיקריות לשירות חובות החברה.
7. כפי שיפורט להלן, הח"מ וצוות משרדו השקיעו זמן ועבודה רבה במשך תקופה של כ-12 חודשים לטובת איתור רוכשים מתאימים וניהול מו"מ עם גורמים שונים שהביעו עניין ברכישת הפטנטים, לרבות מו"מ ארוך ואינטנסיבי עם גוף אמריקאי אשר חזר בו מהעסקה בעיצומו של המו"מ.
8. בסופו של דבר, ולאחר 6 חודשים במהלכם נוהל משא ומתן מורכב עם חברת Landmark Networks LLC, גובש עמה נוסח סופי ומוסכם של הסכם למכירת הפטנטים של החברה המובא לאישורו של בית המשפט הנכבד בבקשה זו.
9. מדובר בעסקה המגלמת תמורה וודאית בסכום משמעותי של 1,250,000 דולר ארה"ב (מתוכו סך של 1 מיליון דולר ארה"ב שישולם לקופת ההסדר במזומן במועד ה-CLOSING והיתרה בסך 250,000 דולר ארה"ב תשולם בתוך 12 חודשים ממועד ה-CLOSING), וזאת בנוסף לסכומים משמעותיים נוספים (בלתי וודאיים) מתוך התקבולים (ברוטו) שתפיק Landmark מפעילות המסחר של הפטנטים, עד לתקרה של 5,000,000 דולר ארה"ב.
10. בנוסף לתמורה שתצמח לקופת ההסדר ממימוש העסקה, מכירת הפטנטים תגרום לכך שקופת ההסדר תפסיק לשאת בעלויות הכרוכות באחזקת הפטנטים, אשר מסתכמות בסך חודשי ממוצע של כ-13,000 דולר ארה"ב, וזאת בעבור אגרות רישום שנתיות ועלויות גבוהות (שכ"ט עו"ד אמריקאי מניו המפשייר, ארה"ב ושכר עובד מפתח לשעבר של החברה) הכרוכות בניהול הליכים מול משרדי רישום פטנטים במדינות שונות ברחבי עולם (Office Actions).
11. ההסכם לרכישת הפטנטים הוא הסכם ראוי בפני עצמו, המיטיב עם הנושים ועם קופת ההסדר, הן לאור מרכיב התשלום הוודאי המובטח לקופת ההסדר (סך של 1.25 מיליון דולר ארה"ב), הפוטנציאל לקבלת תקבולים נוספים עד תקרה של 5 מיליון דולר ארה"ב, והן מבחינת העובדה שמדובר בהסכם סופי ומוגמר, שתנאיו המתלים הם אישורו של בית המשפט הנכבד ואישור המדען הראשי למכירה לפי סעי' 19(ב) לחוק המו"פ.

ג. ההליכים למכירת הפטנטים של החברה

12. ביום 27.7.2014 התיר בית המשפט הנכבד לפרסם הזמנה להציע הצעות לרכישת החברה ו/או פעילותה ונכסיה ו/או חלק מהם (בקשה מס' 12).
13. בהתאם, ביום 28.7.2014 פורסמו הזמנות להגיש הצעות בעיתונים הכלכליים "כלכליסט" ו- "גלובס".
העתק הפרסומים מיום 28.7.2014 מצ"ב **כנספח 2** לבקשה.
14. במקביל, פנה הח"מ באופן יזום לחברות ולגורמים פוטנציאליים שונים בעלי עניין בתחום הקניין הרוחני של החברה ובעלי אמצעים מתאימים להגשת הצעה לרכישתם.
15. הנאמן (בכובעו כמפרק זמני) ניהל עשרות פגישות עם חברות שונות, גורמים פרטיים, קרנות, ברוקרים וכו' שהביעו עניין ברכישת הפטנטים של החברה, ודן איתם במודלים השונים האפשריים לרכישת הפטנטים מהחברה ו/או מסחורם.
16. עיקר הגורמים הביעו עניין ברכישת הפטנטים במטרה להפיק תועלת כלכלית ממסחורם, באמצעות מכירת רישיונות לצדדי ג' וניהול הליכים משפטיים נגד גופים וצדדים שלישיים המפרים את זכויות החברה בפטנטים.
17. יצוין, כי עסקה שמטרתה מסחור של הפטנטים מגלמת יתרונות וחסרונות מסחריים לקופת ההסדר ולנושים.
18. **ראשית**, רובם המכריע של הרוכשים הפוטנציאליים, שהביעו עניין ברכישת הפטנטים לטובת מסחורם, מציעים עסקה שכוללת רכיב תמורה במזומן ותשלומים עתידיים המותנים בתקבולים שיפיקו הרוכשים הפוטנציאליים מפעילות המוניטיזציה (מסחור) של הפטנטים.
19. מצד אחד, מדובר במודל המגלם פוטנציאל כלכלי משמעותי נוסף עבור קופת ההסדר, כאשר המפרים הפוטנציאליים של הפטנטים הם בדרך כלל חברות ענק שניתן להפיק מההליכים נגדן סכומי כסף מהותיים.
20. מצד שני, הליכי המסחור של הפטנטים מתבצעים מחוץ לישראל (בעיקר בארה"ב) ועשויים לארוך פרק זמן ממושך. בנסיבות אלה, הבטחת התשלומים העתידיים לקופת ההסדר מחייבת שילוב של תנאים מסחריים אשר יבטיחו את ביצועם, לרבות מנגנון מסחרי שיאפשר שקיפות מסוימת בדבר התקבולים שמפיקה הרוכשת מפעילות המסחור וכן מנגנון שיאפשר לקופת ההסדר לאכוף את התחייבויות הרוכשת במקרה של הפרה.
21. בנסיבות אלה, פעל הנאמן, בין השאר, למציאת רוכש פוטנציאלי מתאים, בעל מיומנות בניהול הליכים נגד גופים מפרים (שהם גופים גדולים עם ממון רב), ואשר יהיה בעל האמצעים המתאימים להשקיע ולנהל הליכים אלה כאמור.
22. בנוסף, ומאחר שלמצבם המשפטי של הפטנטים ולהתחייבויות שנטלה החברה בקשר עמם לפני מועד צו הפירוק הזמני (הסכמי שיתוף פעולה עם צדדים שלישיים, הליכים משפטיים בקשר עם הפטנטים, רישיונות ללקוחות ולצדדי ג' אחרים) השפעה מהותית על היכולת של הרוכשים להפיק תועלת ממסחורם, נדרש הנאמן לגשר על המגבלות של המידע המצוי ברשותו ביחס לפטנטים ולהתחייבויות שנטלה החברה כאמור.

23. לצורך כך הסתמך הח"מ על הליך בדיקת הנאותות (due diligence) שערכה החברה בעסקה למכירת הפטנטים לחברת Networks בשנת 2013 (בגינה הוגשה תביעה בדלואר ארה"ב, ר' בקשה מס' 47), וכן על נתונים שנמסרו לו ממשרד עוה"ד האמריקאי המטפל ברישום הפטנטים של החברה, ומעובדים לשעבר של החברה.
24. נוכח האמור, ניהל הח"מ מו"מ מורכב וארוך (כ-6 חודשים) במסגרתו נדרשו הצדדים לגבש מערכת הסכמית אשר תסדיר תנאים ומנגנונים מסחריים ומשפטיים שיאפשרו לצדדים לגשר על פערי המידע ביחס למצבם של הפטנטים ועל הסיכון הגלום בהבטחת התשלומים העתידיים המותנים בפעילות המסחור של הרוכשת.
25. במהלך השנה האחרונה, ניהל הח"מ עשרות פגישות ושיחות ועידה עם גופים וגורמים שונים בעניין אפשרות מכירת הפטנטים, וכתוצאה מפעולותיו נוהל מו"מ מתקדם יותר עם 4 גופים עיקריים (בניהם הרוכשת), כאשר כל אחד מהמשאים ומתנים הני"ל מצוי בשלב שונה וכאשר שתיים מהמציעות זנחו את הצעתן, הכל כפי שיפורט להלן.

1.1. המו"מ עם חברת FORTRESS

26. לאחר מו"מ אינטנסיבי עם חברה אמריקאית בשם Fortress Credit Co LLC (להלן: "FORTRESS"), אשר כלל שיחות, פגישות, והחלפת טיוטות, גובש מסמך עקרונות (TERM SHEET) לעסקה בפורטפוליו הפטנטים של החברה.
- העתק מסמך העקרונות מיום 23.11.2014 מצ"ב כנספת 3 לבקשה.
27. המו"מ עם FORTRESS נמשך כ-4 חודשים, במהלכם הנאמן וצוות משרדו השקיעו מאות שעות עבודה בריכוז הנתונים לבדיקות נאותות וגיבוש ההסכמות המסחריות והמשפטיות של ההסכם עם FORTRESS, וכן התקיימו מספר ישיבות עדכונים שוטפות של נציגות בעלי האג"ח בדבר התקדמות הליכי המו"מ.
28. בעיצומו של המו"מ ולקראת חתימה על המערכת ההסכמית, הודיעה חברת FORTRESS לנאמן, מסיבות שעד היום אינן ידועות ואינן ברורות לנאמן, כי היא חוזרת בה מכוונתה להתקשר בעסקה עם החברה.

2.1. הצעת קבוצת ORIM

29. בחודש אוגוסט 2014 פנו לח"מ נציגי חברת ORIM Group LLC (להלן: "ORIM") האמריקאית, והביעו עניין ברכישת הפטנטים של החברה.
30. יצוין, כי נציגי ORIM מסרו לנאמן שיש להם היכרות קודמת עם מר יצחק תמיר, מייסד ומנכ"ל החברה לשעבר, וכי הפנייה נעשית בשיתוף פעולה עמו.
31. ביום 22.8.2014 הגישה קבוצת ORIM מסמך עקרונות (Term Sheet) לרכישת הפטנטים בתמורה לסך של 850,000 דולר ארה"ב במזומן (מתוכם ישולמו 85,000 דולר ארה"ב במועד ההתקשרות במסמך העקרונות) וכן תשלומים עתידיים נוספים בשיעור של 20% מתוך הרווחים נטו שתניב פעילות המסחור של הפטנטים (נטו = לאחר החזר ההשקעה של ORIM ולאחר ההוצאות פעילות המסחור), ועד לתקרה של 5 מיליון דולר ארה"ב.
- העתק מסמך העקרונות מטעם ORIM מיום 22.8.2014 מצ"ב כנספת 4 לבקשה.
32. לאור הצעת FORTRESS (המתוארת לעיל), קבוצת ORIM אף הודיעה כי היא משפרת את הצעתה הני"ל והעמידה את רכיב התמורה במזומן על סך של 1.2 מיליון דולר ארה"ב (במקום של 825,000 דולר ארה"ב).

- העתק הודעת המייל מיום 28.11.14 בה הודיעה ORIM על שיפור הצעתה מצ"ב כנספח 5 לבקשה.
33. ההצעות של קבוצת ORIM נותרו כלליות, בלתי מחייבות, ולא הבשילו לכדי הסכם סופי ומחייב, ובסופו של דבר זנחה קבוצת ORIM את המו"מ לרכישת הפטנטים, וכיום הצעתה איננה רלוונטית.
- ב.3. הצעות מר יצחק תמיר וחברת מאי פטנטים בע"מ**
34. מר יצחק תמיר (להלן: "מר תמיר"), היה ממייסדי החברה ושימש בה בתפקידים בכירים עד למועד צו הפירוק הזמני (מנכ"ל, דירקטור, נשיא).
35. במהלך חודש נובמבר 2014, פנו לנאמן מר תמיר וחברת מאי פטנטים בע"מ (להלן: "מאי פטנטים"), והביעו עניין ברכישת החברה במשותף.
36. ביום 27.11.2014, הגישה מאי פטנטים הצעה הנושאת את הכותרת " Non-Binding Proposal to Acquire Orekit Communications Ltd and its Subsidiaries". ביום 7.12.2014, הוגשה הצעה נוספת מטעם מר תמיר ומאי פטנטים.
- העתק הצעת מאי פטנטים מיום 27.11.2014 וההצעה הנוספת מיום 7.12.2014 מצ"ב כנספח 6 לבקשה.
37. ההצעות הראשונה והשנייה מטעם מאי פטנטים היו הצעות כלליות לרכישת החברה (מניות) על כלל נכסיה וזכויותיה, לרבות – פטנטים, זכויות תביעה בארה"ב (תביעת האדסון ביל), זכויות תביעה כנגד דירקטורים ונושאי משרה וכן זכויות תביעה מכל מין וסוג שהם, אחזקות בחברת הבת קוריגנט וכיו"ב.
38. בהצעותיהם הראשונה והשנייה, ייחסו המבקשים לזכויות החברה בתביעת האדסון ביל (תביעה שהוגשה מטעם החברה כנגד נטוורקס וקרנות האדסון ביל) חלק משמעותי משווי הצעתם עקב הסיכויים הגבוהים שהם ייחסו להצלחתה.
39. ואולם, ביום 28.1.2015, קבע בית המשפט בדלאוור, כי בכוונתו לסלק על הסף את תביעת האדסון ביל (ר' הודעת הח"מ בבקשה מס' 47). בעקבות זאת, הודיע הח"מ למר בינדר, מנהלה של מאי פטנטים (להלן: "מר בינדר"), את תוצאות הדיון, וביקש לדעת האם הצעתם עדיין רלוונטית.
40. ביום 5.2.2015, הודיע מר בינדר כי עמדת מאי פטנטים לגבי ההצעה תימסר "תוך מספר שבועות".
- העתק התכתובת בין המפרק הזמני למר בינדר מפברואר 2015 מצ"ב כנספח 7 לבקשה.
41. מאז הודעה זו, מר תמיר ומאי פטנטים לא הגישו הצעה אחרת, ונראה היה כי הם זנחו את כוונתם להגיש הצעה.
42. בתקופה זו, המשיך הנאמן (בכובעו כמפרק הזמני) לנהל מגעים עם מספר מתעניינים הן ביחס לפטנטים של החברה, והן ביחס למכירת השלד הבורסאי שלה.
43. ביום 7.4.2015, הגישו מר תמיר ומאי פטנטים את הצעתם השלישית לרכישת החברה **ביחד עם הפטנטים ונכסים נוספים של החברה**, בתמורה לסך של 500,000 דולר ארה"ב (300,000 דולר ארה"ב במועד החתימה על החוזה ו-200,000 דולר נוספים תוך שנה ממועד זה) וכן, תשלומים עתידיים מותנים.
- העתק הצעת מאי פטנטים ומר תמיר מיום 7.4.2015 מצ"ב כנספח 8 לבקשה.
44. ביום 13.5.2015, נפגש הנאמן עם מר בינדר ומסר לו, כי הוא מצוי במו"מ מתקדם עם מציע ביחס למכירת הפטנטים ומציע נוסף ביחס לשלד הבורסאי של החברה, וכן פירט בפניו את הבעיות והקשיים שנובעים

מהצעת מאי פטנטים, ובכלל זאת התמורה הנמוכה המוצעת על ידה, בהשוואה להצעות האחרות המצויות בפני הנאמן.

45. יוזכר, כי הצעת הרוכשת לבדה (בגין הפטנטים בלבד) עומדת על רכיב וודאי בסך של 1,250,000 דולר ארה"ב ותשלומים עתידיים נוספים עד לסך של 5,000,000 דולר ארה"ב, ולפיכך עולה באופן מהותי על הצעת מאי פטנטים ומר תמיר (סך של 500,000 דולר ארה"ב).

46. בנוסף, הזמין הנאמן את מר בינדר להגיש הצעה נפרדת אך ורק על הפטנטים ולשפר את רכיב התמורה, על מנת שיוכל להשוות את התמורה המוצעת לאלטרנטיבה הקיימת.

47. ביום 17.5.2015, העביר הח"מ למר בינדר טיוטת הסכם לרכישת הפטנטים בה פורטו התנאים המסחריים ורכיבי התמורה הבסיסיים שנדונו בפגישה הנ"ל.

העתק טיוטת ההסכם שהועברה ע"י הנאמן מיום 17.5.15 מצ"ב **כנספח 9** לבקשה.

48. ביום 27.5.2014, העבירה מאי פטנטים את הערותיה לטיוטת ההסכם. מאי פטנטים בחרה להתעלם מהנחיות הח"מ להגיש הצעה אך ורק על הפטנטים (על מנת שיוכל להשוותה מבחינה כספית לאלטרנטיבה הקיימת), והגישה הצעה לרכישת 100% מהון המניות המונפק של החברה לרבות הפטנטים ולרבות כל זכויות התביעה של החברה מכל מין וסוג שהם הכוללות, בין השאר, את זכויות התביעה כנגד דירקטורים, נושאי משרה, וכיו"ב.

49. בהודעת הדוא"ל אליה צורפה הטיוטה של מר תמיר ומאי פטנטים צוין, כי מדובר בהצעה בלתי מחייבת, וכי למר תמיר ומאי פטנטים שמורה הזכות לסגת מהליך המשא ומתן בכל עת.

העתק הודעת הדוא"ל וטיוטת ההסכם מיום 27.5.2015 מצ"ב **כנספח 10** לבקשה.

50. להשלמת התמונה יצוין כי ביום 3.6.15, הודיע ב"כ מאי פטנטים בהודעת דוא"ל כדלקמן:

"בנוסף על הצעתנו המשתקפת בטיטות ההסכם המתוקנת אותה העברתי לך ביום 27.5.15, אנו מציעים - לחילופין - לרכוש את "הפטנטים" (ללא החברה) כנגד סך במזומן של 300 אלף דולר שישולמו במועד ביצוע העסקה. אנא יידע אותי אם אתה מעוניין להתקדם עם ההצעה החלופית ואתאים את טיוטת ההסכם בהתאם"

העתק הודעת הדוא"ל מיום 3.6.2015 מצ"ב **כנספח 11** לבקשה.

51. הודעת המייל הנ"ל (מיום 3.6.15) היא ההצעה היחידה במסגרתה מציעה מאי פטנטים לרכוש את הפטנטים בלבד. הצעה זו היא ראשונית ביותר (מחזיקה ארבע שורות), הועברה לח"מ באמצעות דוא"ל, וכן היא עומדת על סך של 300,000 דולר ארה"ב בלבד – סכום שהוא נמוך לאין ערוך מסכום העסקה המתחרה לרכישת הפטנטים של החברה.

52. ביום 12.6.2015 (בסמוך לפנייתו של הנאמן לבית המשפט הנכבד בבקשה לכנס אספות נושים על מנת לאשר את עסקת המכר של השלד הבורסאי במסגרת הסדר הנושים), פנו מר תמיר ומאי פטנטים אל הנאמן וביקשו, בין היתר, לדחות את כינוס אספות הנושים על מנת לקיים התמחרות על הפטנטים של החברה (תוך מתן "כרית ביטחון" למכירת השלד הבורסאי).

העתק המכתב מיום 12.6.2015 מצ"ב **כנספח 12** לבקשה.

53. הנאמן שב והבהיר למר תמיר ומאי פטנטים, כי אין בכוונתו לקיים התמחרות על הפטנטים וככל שלמאי פטנטים עניין ברכישת הפטנטים, הרי שעליה להגיש הצעה בסכומים ובתנאים שנמסרו למר בינדר במסגרת פגישתם מיום 13.5.2015.

העתק מכתבו של הח"מ מיום 16.6.2015 מצ"ב כנספח 13 לבקשה.

54. עד למועד זה, לא נשלחה לנאמן הצעה כזאת.
55. להשלמת התמונה יצוין, כי במסגרת ההליכים לאישור הסדר הנושים של החברה – המפורטים בהרחבה במסגרת בקשה מס' 58 ובפסק דינו של בית המשפט הנכבד מיום 22.7.2015 – פנו מאי פטנטים ומר תמיר לבית המשפט הנכבד בשתי הזדמנויות שונות והביעו את הסתייגותם ממכירת השלד הבורסאי של החברה בנפרד מהפטנטים נוכח היתרון הגלום (לטענתם) במכירת הנכסים במשולב, לאור התמורות שחלו ברגולציה בארה"ב ובגישת בתי המשפט הנוטים להקשות על תובעים, שכל מטרתם היא אכיפת פטנטים (מה שמכונה – "טרול פטנטים"), בניגוד לגופים המסחריים שרשמו את הפטנטים כחלק מפעילותם השוטפת.
56. מאי פטנטים ומר תמיר דרשו, כי הח"מ יקיים התמחרות על הפטנטים של החברה בטרם אישור הסדר הנושים ואישור מכירת השלד הבורסאי של החברה.
57. במהלך הדיון שהתקיים ביום 20.7.2015 במעמד הצדדים, שבו והדגישו מר תמיר ומאי פטנטים את החשיבות שהם מייחסים לרכישת הפטנטים של החברה ביחד עם השלד הבורסאי של החברה (עמ' 4 לפרוטוקול מיום 20.7.2015 מול שורות 1-9).
58. כן, עמדו על כך שרק במסגרת התמחרות עם המציע הנוסף על הפטנטים של החברה יפעלו להגיש "הצעה משופרת" על הפטנטים מטעמם (עמ' 3 לפרוטוקול מיום 20.7.2015 מול שורות 1-15).
59. יחד עם זאת, בתום הדיון הסכימו מאי פטנטים ומר תמיר להציע הצעה לרכישת השלד הבורסאי, מבלי להתנותה בקיום התמחרות על הפטנטים של החברה.
60. הצעה זו לא אושרה על ידי נושי החברה, וביום 22.7.2015, אישר בית המשפט הנכבד את הסדר הנושים ואת הסכם מכירת השלד הבורסאי של החברה למשקיעים אחרים.
61. לסיכום, כל הצעותיהם של מר תמיר ומאי פטנטים לרכישת הפטנטים של החברה, היו ונותרו הצעות ראשוניות, בלתי מגובשות, ובלתי ישימות ולא הוגשה מטעמם הצעה משופרת על אף הנחיות הנאמן (שנמסרו להם עוד בחודש מאי 2015).

ג. המו"מ עם חברת Landmark

וההסכם למכירת הפטנטים שאישורו מתבקש במסגרת בקשה זו

62. חברת Landmark (אשר שמה שונה לאחרונה מ-MONUMENT PATENT HOLDINGS VENTURE IV LLC) היא חלק מקבוצת חברות (LEGACY PATENT HOLDINGS ו-MONUMENT PATENT HOLDINGS) שבבעלות חברת Dominion Harbor Group LLC (להלן: "Dominion Harbor"), הרשומה במדינת טקסס, ארה"ב.
63. חברת Dominion Harbor היא חברה אמריקאית המתמחה בניהול והגנה על נכסים של קניין רוחני, ובעיקר בהגנה על הפרת פטנטים ופגיעה בערכם הכלכלי, ומנהלת פעילויות מסחר של פטנטים שונים באמצעות חברות בנות המצויות בשליטתה.

64. כך, בין היתר, עוסקת Dominion Harbor באיתור ונקיטת הליכים משפטיים בתחום הקניין הרוחני נגד צדדים שלישיים שמפרים פטנטים רשומים ובכך, מייצרת רווחים מניהול התביעות ומכירת רישיונות שימוש בפטנטים.
65. בראש חברת Dominion Harbor עומד מר David Pridham (להלן: "מר Pridham"). מר Pridham הינו עורך דין במקצועו והוא עסק במשך שנים רבות בניהול תביעות בתחום של פטנטים וקניין רוחני ולאחר מכן כיהן בחברה העוסקת במסחור פטנטים בתפקיד ניהולי במשך שנים ארוכות. עיקר מומחיותו היא בהסכמי רישיון של קניין רוחני, ניהול הליכים משפטיים בתחום הקניין הרוחני והסכמי רכישה של פטנטים.
66. הליך המו"מ בין הנאמן לחברת Landmark החל עוד בראשית פברואר 2015 ונמשך למעלה מחצי שנה. לאחר חילופי טיוטות רבות בין הצדדים, ובתום עבודה מאומצת ביותר של הנאמן וצוות משרדו, הצליחו הצדדים להגיע למערכת הסכמית למכירת הפטנטים של החברה.
67. ההסכם למכירת הפטנטים מושתת על מערכת הסכמים, המורכבת מארבעה הסכמים עיקריים: 1. הסכם למכירת הפטנטים (PATENT PURCHASE AGREEMENT); 2. הסכם שעבוד תקבולים עתידיים להבטחת התחייבויות עתידיות של הרוכשת; 3. הסכם רישיון שימוש חוזר בפטנטים לחברה ולחברת הבת קוריגינט, אשר יבטיח שצדדים להסכמי רישיון קיימים לא יהיו חשופים לתביעות ו/או דרישות כתוצאה מההתקשרות בהסכם עם הרוכשת, וכן על מנת שניתן יהיה להמשיך בפעילות היצרנית והשיווקית של קוריגינט; 4. Common Interest Agreement.
68. עקרונות ההסכמים הנ"ל יפורטו בתמצית להלן.

ג.1. עיקרי הסכם מכירת הפטנטים

69. הסכם מכירת הפטנטים לחברת Landmark – PATENT PURCHASE AGREEMENT – ייקרא להלן: "PPA".
70. לפי ה- PPA, החברה תעביר ותמחה ל- Landmark את מלוא זכויותיה בפטנטים ו/או בבקשות פטנטים כשהם נקיים מכל מחויבות כלפי צדדים שלישיים, למעט התחייבויות המוחרגות באופן מפורש בהסכם ובנספחיו (כפי שיפורט להלן).
71. בתמורה למכירת הפטנטים של החברה:
- 71.1 Landmark תשלם סכום וודאי בסך של 1,250,000 דולר ארה"ב, מתוכו סך של 1,000,000 דולר ארה"ב ישולמו לקופת ההסדר במועד ה- CLOSING של העסקה, וסך נוסף של 250,000 דולר ארה"ב אשר ישולם בתוך 12 חודשים ממועד ה- CLOSING.
- 71.2 Landmark מתחייבת לשלם לקופת ההסדר שיעורים מתוך התמורות שיתקבלו כתוצאה מפעילות המסחור של הפטנטים (ברוטו לפני הוצאות), כדלקמן:
- 71.2.1 20% מתקבולים (ברוטו) בגין פעילות המסחור עד לתקרה של 2,400,000 דולר ארה"ב (להלן: "המדרגה הראשונה"), ולאחר מכן 10% מתקבולים (ברוטו) בגין פעילות המסחור עד לתקרה של 1,600,000 דולר ארה"ב (להלן: "המדרגה השנייה").
- 71.2.2 אם במהלך השנה הראשונה ממועד ה- CLOSING, Landmark תעביר לקופת ההסדר סכום שהוא פחות מסך של 250,000 דולר ארה"ב על חשבון המדרגה הראשונה

(כהגדרתה), אזי הרוכשת תשלם לקופת ההסדר את היתרה להשלמת הסך של 250,000 דולר ארה"ב.

לדוגמא, אם במהלך 12 החודשים הראשונים ממועד ה-CLOSING הרוכשת תשלם לקופת ההסדר סך של 100,000 דולר ארה"ב בלבד על חשבון המדרגה הראשונה, אזי Landmark מחויבת להשלים את יתרת התמורה הוודאית שאמורה להשתלם לקופת ההסדר בתוך 12 חודשים ממועד ה-CLOSING (סך 250,000 דולר ארה"ב), היינו, סך של 150,000 דולר ארה"ב נוספים.

71.3 הוסכם, כי בכל מקרה התמורה הכוללת שתשולם על ידי Landmark לקופת ההסדר עבור הפטנטים לא תעלה על סך של 5 מיליון דולר ארה"ב.

72. חלק מהותי נוסף בהסכם המכר הינו המצגים באשר למעמד המשפטי של הפטנטים וזכויות החברה בהם, וכן באשר להתחייבויות שנטלה החברה כלפי צדדים שלישיים בקשר עם הפטנטים.

73. כפי שפורט לעיל, חברת Landmark הינה חברה אשר עוסקת במסחור פטנטים ועיקר הרווח שיצמח לה מעסקת מכר הפטנטים הוא בפעילות זו. לפיכך, קיימת חשיבות רבה בגילוי ושקיפות אודות ההתחייבויות שניתנו בקשר עם הפטנטים של החברה. היה ומדובר במצגים שגויים שאינם נכונים הם עלולים לפגום בתכנית המסחור של הרוכשת (וזהי גם הסיבה שבשלה הוסכם על מנגנון מיוחד לבירור הסכסוך במקרים מאוד מסוימים, כפי שיובהר בהמשך).

74. ישנם שני מצגים שצוינו על ידי הרוכשת כמצגים אשר להם השפעה מכרעת על יכולתה של הרוכשת למסחר את הפטנטים הנרכשים מהחברה.

74.1 בהתאם לסעיף 2.6 להסכם המכר, מתחייבת החברה, כי למעט הרשימה המפורטת בנספח 2.6 להסכם המכר, הפטנטים אינם כפופים לפרוטוקולים של ארגוני תקינה כאלה ואחרים (Standard-Setting Organization) (להלן: "SSO").

יוסבר בקצרה, כי גופי התקינה (ה-SSO) הם גופים ו/או ארגונים שפעילותם המרכזית הינה, פיתוח, תיאום, שינוי והפצה של תקנים בינלאומיים בתחום הקניין הרוחני, שמטרתם לפקח על הליך הסטנדרטיזציה של פטנטים. חברות אשר רשמות פטנטים בארגוני SSO, מתחייבות, בין היתר, ליתן לצדדים שלישיים רישיונות במחירים הוגנים ("reasonable"), ולפיכך התחייבויות החברה כלפי גוף תקינה כאמור עלולה להגביל את סכומי הכסף שהרוכשת תוכל לדרוש ממפרי פטנטים במסגרת הליכים משפטיים.

74.2 בהתאם לסעיף 2.7 להסכם המכר, החברה מתחייבת שלא העניקה לצדדים שלישיים רישיונות לשימוש בפטנטים, למעט הרשימה המפורטת בנספח D להסכם המכר (המוחרגים מהתחייבות החברה כאמור). רישיונות שהעניקה בעבר החברה לצדדים שלישיים מעניקים לצדדים אלה הגנה מפני תביעות ו/או דרישות של הרוכשת בגין הפרת הפטנט ומכאן החשיבות הגבוהה שמייחסת הרוכשת למידע אודות הגופים להם ניתנו רישיונות כאמור.

75. יוער, כי הנאמן ערך בדיקות כמיטב יכולתו, והסתמך על הליך ה-due diligence שערכה החברה בשנת 2013 במסגרת ההסכם לרכישת הפטנטים ע"י חברת Networks. כמו כן, קיבל הנאמן מידע אודות הפטנטים והתחייבויות קודמות של החברה מעובדי מפתח לשעבר.

76. עצירת תשלומים ומגנון הבוררות:

- 76.1 בהתאם לסעיף 1.2(f) להסכם המכר, במידה ואיזה מהמצגים של החברה יתבררו כלא נכונים, באופן המונע מהותית מהרוכשת למסחר את הפטנטים, הרוכשת תהיה זכאית (בכפוף להוכחת האמור בכתב) לעכב תשלומים בגין תקבולים עתידיים מפעילות המסחר עד לריפוי הפגם על ידי החברה.
- 76.2 יחד עם זאת, הפרת התחייבויות החברה בקשר עם ה-SSO (סעיף 2.6 להסכם המכר) או אם יימצא רישיון שלא הורג בהסכם לצד שלישי (סעיף 2.7 להסכם המכר), אשר לו הכנסה שנתית העולה על 100 מיליון דולר ארה"ב או יותר; ו-אשר פועל בתחום של רשתות תקשורת או שמצוי בהליך ליטיגציה עם הרוכשת, הדבר ייחשב כהפרה יסודית ומהותית של היכולת למסחר את הפטנטים (ללא הצורך בהוכחתה) ולרוכשת תהיה זכות קנויה לעצור את התשלומים על פי ההסכם.
- 76.3 לחברה זכות לערער על זכותה של הרוכשת לעצור תשלומים על פי המגנון האמור, ובמידה והצדדים לא יגיעו להסכמה יפנו לבוררות שתנוהל על ידי בורר אמריקאי ובהתאם לדיני מדינת דלוואר, ארה"ב, ואשר לו תהיה הסמכות לדון בשאלה האם ההפרה הנטענת עולה כדי הפרה מהותית ו/או המונעת מהרוכשת לפעול למסחר הפטנטים באופן מהותי.
77. ההתקשרות בהסכם המכר למכירת הפטנטים תשתכלל בתוך 30 ימים מהמועד בו יינתן אישור בית המשפט הנכבד להסכם המכר ו- אישור המדען הראשי למכירת הפטנטים לרוכשת (ס' 1.3 להסכם המכר).
78. הסכם המכר כפוף לדיני מדינת ישראל (ס' 8.3 להסכם המכר) ולסמכות השיפוט הייחודית של בית המשפט המחוזי בתל אביב – יפו (ס' 8.4 להסכם המכר).

2.ג. הסכם שעבוד תקבולים ו- BACA

79. לצורך הבטחת התשלומים העתידיים (הבלתי ודאיים) שהתחייבה Landmark לשלם מתוך התקבולים של פעילות המסחר של הפטנטים, גובש הסכם שעבוד "Pledge Agreement", לפיו כל התקבולים מאירוע "מוניטיזציה" ישועבדו לטובת החברה, עד לגובה התמורה שהובטחה במסגרת הסכם המכר (להלן: "**הסכם השעבוד**").
80. הסכם השעבוד צורף כנספח C ל-PPA.
81. בנוסף לכך, Landmark מתחייבת להפקיד את כל התקבולים כתוצאה מאירוע "מוניטיזציה", היינו כל תקבול שישתלם בגין הסכם רישוי, תביעה משפטית, פיצוי או כל סעד אחר, מכירה או כל עסקה אחרת בקשר עם הפטנטים, בחשבון בנק ייעודי בטקסס – Blocked Account Control Agreement (ס' 2 להסכם השעבוד).
82. לקופת ההסדר תהיה הזכות לתפוס את הכספים המשועבדים במקרה של הפרת התחייבות להעביר תשלומים או במקרה שהרוכשת נקלעת להליך חדלות פירעון (ס' 1(e) להסכם השעבוד). ר' גם הסכם BACA (שבנק ג'י. פי. מורגן צ'ייס הוא צד לו), שצורף כנספח 5.2(c)(iv) ל-PPA.
83. הוסכם, כי הרוכשת תהיה זכאית לעשות שימוש בכספים המצויים בחשבון הבנק לטובת תשלום הוצאות בקשר עם פעילות המסחר של הפטנטים (ס' 2 להסכם השעבוד), וכן כי הרוכשת תהיה זכאית למשוך את

היתרה שתיוותר מתקבולים רק לאחר ששולמו לקופת ההסדר השיעורים המוסכמים (ס' 6(a) להסכם השעבוד) בגין אותם תקבולים.

84. נוכח העובדה שהשעבוד הוא על תקבולים עתידיים שיופקדו בחשבון בנק במדינת טקסס, ארה"ב, ניתן יהיה לרשום את השעבוד ברשם החברות של מדינת טקסס, ארה"ב, ובהתאם לדיני החברות שם. יוער, כי במהלך המו"מ הסתייע הנאמן, בעו"ד ממדינת טקסס המומחה בדיני פטנטים אמריקאים, והטמיע את הערותיו בהסכם השעבוד.

85. יובהר כי, שעבוד על התקבולים בחשבון בנק של הרוכשת במדינת טקסס, ארה"ב עלול להקשות על אכיפת השעבוד אם וכאשר החברה תידרש לו, שכן הדבר כרוך בעלויות גבוהות בגין ייעוץ משפטי וביצוע פעולות אכיפה מחוץ לישראל.

3.ג. הסכם הרישיון החוזר לחברת קוריגינט (License Back)

86. הסכם הרישיון החוזר צורף כנספח 4.1 ל- PPA.

87. לפי תנאי הסכם הרישיון הבלתי חוזר, העברת הזכויות בפטנטים של החברה כפופה להתחייבות הרוכשת להעניק לחברה ולחברת הבת קוריגינט, רישיון שימוש בלתי מוגבל בזמן, בלתי חוזר וללא תמורה בפטנטים לצורך המשך פעילות עסקית בקשר עם מוצרי החברה וקוריגינט (ייצור ומתן שירות), לרבות פיתוח ומכירת מוצרים של החברה (ס' 3.1 להסכם הרישיון החוזר).

88. בנוסף, הרוכשת מעניקה לצדדים שלישיים (על פי רשימה שצורפה להסכם הרישיון) להם העניקה בעבר החברה ו/או קוריגינט רישיון שימוש במוצרים ו/או הגנה מפני תביעות בגין הפרת פטנטים של החברה, רישיון לעשות שימוש בפטנטים באותו היקף שניתן לצדדים אלה במסגרת ההסכם עם החברה ו/או קוריגינט (ס' 3.2 להסכם הרישיון החוזר).

89. הסכם הרישיון החוזר כפוף לדיני מדינת ישראל ולסמכות בתי המשפט בישראל.

4.ג. Common Interest Agreement

90. הסכם ה- Common Interest Agreement צורף כנספח 5.1(c) ל- PPA.

91. הסכם זה קובע, כי כחלק מהאינטרס המשותף של הצדדים בקידום הליכים משפטיים נגד מפרים פוטנציאליים של הזכויות בפטנטים, יעבירו הצדדים מידע בקשר עם הפטנטים וההליכים המשפטיים כאמור (בכפוף לכל דין), כאשר עצם העברת המידע לא תיחשב לויתור ו/או הפרה של החיסיון שחל על מידע זה, לרבות חיסיון עו"ד - לקוח.

92. ההסכם קובע, כי הוראותיו יחולו הן על הצדדים להסכם המכר והן על צדדים שיעסקו בייצוג של מי מהצדדים בקשר עם הפטנטים נשוא הסכם המכר.

ד. סיכום

93. הצעת Landmark היא ההצעה הסופית והמגובשת היחידה שעומדת בפני הנאמן והיא מטיבה עם קופת ההסדר והנושים באופן משמעותי. כל יתר ההצעות שהתקבלו אצל הנאמן עד למועד זה, הן הצעות בלתי מגובשות, נוקבות בסכומים נמוכים יותר, כוללות התניות ותנאים שונים (וחלקן כלל לא בתוקף).

94. כמו כן, העסקה כוללת תמורה וודאית בסך של 1,250,000 דולר ארה"ב, ופוטנציאל להפיק רווחים נוספים מפעילות המסחור העתידית של הפטנטים על ידי הרוכשת, באופן שעשוי להניב עד סכום של 5 מיליון דולר ארה"ב.
95. יוער, כי כפי שפורט לעיל, ישנו קושי בהסתמכות על הפקת רווחים מפעילות המסחור נוכח היכולת המוגבלת לפקח ולבקר את הליכי המסחור המתבצעים על ידי הרוכשת, וכן היכולת לאכוף את התחייבויותיה העתידיות של הרוכשת, שהיא גוף אמריקאי שמנהל את נכסיו מחוץ לישראל. יש לקחת גם נושא זה בחשבון.
96. יחד עם זאת, העסקה עם Landmark מגלמת תמורה וודאית ראויה והשלמת העסקה תוריד מקופת ההסדר את הנטל הכספי הכרוך בשימור ואחזקת הפטנטים, ולפיכך, קיים אינטרס מובהק לאשר את הסכם המכר עם הרוכשת בהקדם האפשרי.
97. לאור כל האמור והמפורט לעיל מתבקש בית המשפט הנכבד להורות כמבוקש ברישא הבקשה.
98. יהא זה מן הדין ומן הצדק להיעתר לבקשה.



ליאור דגן, עו"ד
הנאמן להסדר הנושים של חברת אורכית תקשורת בע"מ
(בהסדר נושים)

היום, 3 באוגוסט 2015, תל אביב.

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הסכם המכר

PATENT PURCHASE AGREEMENT

BY AND BETWEEN

ORCKIT COMMUNICATIONS LTD.
(Under Creditors' Arrangement)

AND

LANDMARK NETWORKS, LLC

DATED AS OF

31 JULY 2015 (THE "EFFECTIVE DATE")

PATENT PURCHASE AGREEMENT

This PATENT PURCHASE AGREEMENT (this "**Agreement**"), dated as of July 31, 2015 (the "**Effective Date**"), is entered into by and between Orckit Communications Ltd., an Israeli company (under Creditors' Arrangement ("**Orckit**"), and Landmark Networks, LLC ("**Landmark**"). Certain capitalized terms are defined in Section 8.15.

RECITALS

- A. Orckit is currently subject to temporary liquidation proceedings pursuant to that certain ordinance, dated June 29, 2014, as issued by the Tel-Aviv - Jaffa District Court (the "Israeli Court");
- B. On June 29, 2014, the Israeli Court appointed Mr. Lior Dagan as the temporary liquidator of Orckit (the "Temporary Liquidator").
- C. The Temporary Liquidator is seeking the approval of the Israeli Court for a sale of the Purchased Assets (as defined below) pursuant to the terms and conditions of this Agreement;
- D. Orckit-Corrigent Ltd. will assign its rights in and to the Patent Rights that are owned by it to Orckit before the Closing.
- E. Orckit desires to sell all right, title and interest in the Purchased Assets to Landmark, and Landmark desires to acquire the all rights, title and interest in the Purchased Assets as set forth in this Agreement.

AGREEMENT

In consideration of the foregoing and the mutual agreements herein, the parties, intending to be legally bound, agree as follows:

1. THE TRANSACTIONS.

1.1. Patent Assignments.

- (a) Effective as of the Closing, Orckit will sell, assign, transfer and convey to Landmark all right, title and interest in and to the Patents listed in Annex A to this Agreement and all of the Patent Documents free and clear of all Encumbrances (other than the Identified Encumbrances, those set forth in Annex 2.6 and subject to Section 4.1) all pursuant to and in accordance with Section 34A of the Israeli Sale Act, 5728-1968 (the Patents, Patent Rights and Patent Documents collectively referred to herein as the "Purchased Assets"). As of the Closing, the Patent Documents will be Confidential Information of Landmark. Upon the Closing, Orckit will sell, assign, transfer, and convey to Landmark all right, title and interest in and to all Patent Rights including but not limited to the following (all of which are included in the definition of "Patent Rights" as used herein):
 - (1) patentable inventions, invention disclosures, and discoveries described in the claims of all of the Patents and Landmark shall thereby be granted the right to apply for the following:
 - (i) ~~future reissues, results of any reexamination, or any other post-issuance review of the Patents,~~ (ii) future claims resulting from any post grant proceedings on the Patents, and/or
 - (iii) future patent application and patents in any or all jurisdictions that lawfully claim priority to any of the Purchased Assets (the foregoing, shall be deemed to be part of the "Patents" for the purposes of this Agreement;
 - (2) exclusive enforcement rights under the Patents including any and all past, current and future causes of action (whether known or unknown or whether currently pending, filed, or otherwise) and other enforcement rights under, or on account of, any of the Patents, including, without limitation, all causes of action and the sole and exclusive enforcement

- rights to sue and countersue for (x) damages, (y) injunctive relief, and (z) any other remedies of any kind for past, current and future infringement under any of the Patents;
- (3) rights to collect royalties and other payments under or on account of any of the Patents and/or any of the foregoing; and
 - (4) the right to practice the Patents, including without limitation, the right to make, use and sell products and services under the Patents.
- (b) At the Closing, Orckit will (and cause the other members of the Orckit Group to) execute and deliver the Assignment Agreement to Landmark.
- (c) Orckit will (and will cause the other members of the Orckit Group to) cooperate in a reasonable manner with Landmark, at Landmark's expense, to enable Landmark to enjoy to the fullest extent of all of the rights, title and interest to the Patents in the United States and other countries. Without limiting the foregoing, at the reasonable request of Landmark, after the Closing Orckit will execute and deliver such other instruments and do and perform such other acts and things as may be necessary or desirable for effecting completely the consummation of the Transactions, including, without limitation, execution, acknowledgment, and recordation of other such papers as necessary or desirable for fully perfecting and conveying unto Landmark the benefit of the Transactions, provided that any support for litigation shall be made at Landmark's expense (including without limitation for the time sheets in respect of the hours spent by Orckit's and/or Orckit Group's personnel in connection therewith). Any costs and expenses to be reimbursed by Landmark must be preapproved in writing. Notwithstanding the foregoing, under no circumstances will Orckit be obligated to incur any expenses or bear any costs absent Landmark's written approval to reimburse Orckit.
- (d) Upon the Closing, Orckit will grant to Landmark, on behalf of itself and the Orckit Group, the right to use the Reduction to Practice Documents as follows: Landmark may use the Reduction to Practice Documents only in connection with enjoying the benefits of ownership of the Patents and will have no right to use the Reduction to Practice Documents to make products, software or services. Landmark may disclose the Reduction to Practice Documents only as permitted by Section 4.11 or under protective orders or confidentiality agreements that prevent the receiving party from using the Reduction to Practice Documents in any product, software or service. Orckit will (and will cause the other members of the Orckit Group to) provide the Reduction to Practice Documents as requested by Landmark consistent with the foregoing.
- (e) To the extent the Patents include non-United States patents and patent applications, upon the Closing Orckit will deliver to Landmark's representatives any and all executed documents, upon request of Landmark and its counsel, in a form as may be required in the non-U.S. jurisdiction in order to perfect the assignment to Landmark of the non-U.S. patents and patent applications.

1.2. Consideration

- (a) **Initial Payment.** Subject to the waiver or satisfaction of the closing conditions in Article 5, Landmark will wire transfer one million US dollars (\$1,000,000) at the Closing (the "Closing Payment"), in immediately available funds, to the account set forth in Annex 1.2 (or such other account designated by Orckit in writing).
- (b) **Additional Payments.** Following the Closing, Landmark will wire transfer, as aforesaid, the

following payments in addition to the Closing Payment: (i) twenty percent (20%) of the Gross Proceeds (the "First Stage Payments") until the First Stage Payments amount to an aggregate of two million four hundred thousand US dollars (\$2,400,000); and (ii) thereafter, ten percent (10%) of the Gross Proceeds (the "Second Stage Payments" and together with First Stage Payments, the "Additional Payments") until the Second Stage Payments amount to an aggregate of one million six hundred thousand US dollars (\$1,600,000). Notwithstanding the foregoing, if the aggregate First Stage Payments made prior to the first anniversary of the Closing Date amount to less than two hundred fifty thousand US dollars (\$250,000) (the "Minimum Additional Amount"), then Landmark will wire on said anniversary date, as aforesaid, the difference between the aggregate First Stage Payments actually made and the Minimum Additional Amount, as a payment on account of the First Stage Payments. For the avoidance of doubt, the total consideration payable by Landmark under this Agreement (including the Closing Payment, all First Stage Payments and all Second Stage Payments) will not exceed five million US dollars (\$5,000,000)(the "Consideration Cap").

Orckit acknowledges that (i) the obligations of Landmark under this Agreement are contractual only and do not create any fiduciary or other relationship between them; (ii) any Additional Payments may be subject to and may be dependent on the provision of licenses, releases and covenants not to sue with respect to the Patents, and enforcement action, all as solely determined by Landmark; and (iii) Landmark has not represented that it will be successful in its efforts to monetize the Patents and, accordingly, makes no representation as to the value, if any, of the possible Additional Payments under this Section 1.2(b) in excess of the Minimum Additional Amount.

- (c) The Additional Payments, if any, will be payable within five Business Days following the end of each quarter following the Closing in which a Monetization Event occurs. On each such date, Landmark will provide Orckit with a written or electronic statement, certified as accurate by the chief financial officer of Landmark, setting forth the amount of Gross Proceeds (including Cash and non-Cash consideration), with respect to each such Monetization Event with respect to such quarter and with respect to prior quarters, and the Additional Payments, if any, payable or paid with respect to such quarter and with respect to prior quarters. If any Monetization Event shall involve the receipt of Cash Equivalents, such statement shall also describe Landmark's plan to convert them to cash (it being understood that any such plan is non-binding and is being provided for informational purposes only). Landmark shall convert Cash Equivalents to cash as soon as commercially practical and legally permissible. The obligation to make Additional Payments up to the Consideration Cap shall run with each Patent and the transfer of such Patent or the transfer of ownership of any such Patent shall not derogate from Orckit's right to receive Additional Payments up to the Consideration Cap.
- (d) Landmark will not comingle the Patents in bundled offerings or other arrangements with the licensing of or enforcement of patent rights of other patents of Landmark or Landmark's Affiliates, without first reaching agreement with Orckit on the manner in which the Gross Proceeds obtained in such offering or arrangement will be attributable to the Patents.
- (e) Landmark will create and maintain complete and accurate books and records that (i) are sufficient to determine the amounts payable under this Agreement and (ii) are in a form meeting generally accepted accounting principles standards or the equivalent standards in the local country where the books and records are maintained. Landmark will ensure that sufficient electronic or other appropriate backup systems are in place to prevent destruction or loss of any documents related to payments under this Section. Upon no less than thirty days prior written notice, Orckit has the right to examine and audit, through a Big 4 certified public accounting firm designated by Orckit (the "Auditor") that is not the auditor of Orckit's financial

statements, all documents of Landmark that the Auditor reasonably believes may contain information bearing upon the amounts payable hereunder. The Auditor will be bound by the confidentiality requirements of Section 4.11 and under the rules of professional conduct applicable to such firm. Audits will not be performed more frequently than once per calendar year, but if any audit hereunder reveals an underpayment of more than ten percent (10%), the next audit may be conducted within the same calendar year. After an audit is complete, the Auditor will provide to Orckit and Landmark an audit report, including schedules summarizing the Auditor's findings. The parties and the Auditor will hold a joint meeting in which the Auditor explains the findings and data sources utilized to create such schedules that support the audit findings. Landmark will pay within five Business Days thereafter any amounts that the Auditor determined to be due hereunder with respect to the period under audit (except for any amount that Landmark disputes in good faith). If any party reasonably believes that such audit report or any such schedule of findings was materially flawed, such party will within ten Business Days after receipt of the audit report provide written notice to the other party of such belief. Upon receipt of such notice, the objecting party will have ten Business Days to provide the Auditor and the other party with a detailed explanation of how it believes the audit report and/or schedules of findings were flawed and supporting documentation and information that it relies upon to support that conclusion. The Auditor will take such supporting documentation and information into account in determining whether to revise the audit report and schedule of findings as deemed appropriate in the sole opinion of the Auditor. The parties and the Auditor thereafter will engage in good faith negotiations for thirty days to resolve any remaining disputes. If the Auditor determines that the unpaid amounts exceed ten percent (10%) of the Additional Payments payable at the applicable date, then Landmark will pay the reasonable costs of such audit. Landmark will pay, within five Business Days after the audit report becomes final, (A) interest at seven percent (7%) per annum on the amount determined by the Auditor to have been underpaid; and (B) audit costs to the extent Landmark is obligated to pay such costs under the preceding sentence.

- (f) Notwithstanding the foregoing, in the event that any of the representations, warranties and covenants of Orckit set forth in Sections 2.3, 2.4, 2.5, 2.6, 2.7 and 4.7 is found to be breached by Orckit (in respect of Section 2.7, as evidenced by a written agreement which is binding on Orckit towards a third party) prior to an installment payment date, in a manner that prevents Landmark from exercising its rights to monetize the Patents in any material manner, Landmark shall, within seven (7) days of becoming aware of such incorrectness, notify Orckit in writing of the underlying facts and provide a quantification of the damage actually caused therefrom, in which case Landmark may withhold any and all unpaid amounts under this Section 1.2 due on or after the date of the incorrect representation, warranty or covenant was discovered, up to the amount of the quantification as set forth in Landmark's notice. It is hereby agreed between the Parties that the following shall be deemed, *a priori*, to prevent Landmark from exercising its rights to monetize the Patents in any material manner ("**Materiality Criteria**"): (1) the existence of a breach of Section 2.6 or (2) the existence of a breach of Section 2.7, evidenced by a written agreement whereby Orckit or a third party authorized by Orckit licensed any of the Patents to an entity that (a) (i) has gross annual revenues of \$100,000,000 or more and (ii) operates in the field of networking or communications or (b) is in litigation with Landmark. In the event that Orckit cures the breach under Section 2.3, 2.4 or 2.5, within fifteen (15) days of receiving Landmark's notification, Landmark shall promptly release and pay to Orckit the withheld amounts, if any. Notwithstanding the foregoing, nothing herein shall be deemed as a waiver by Orckit to contest in good faith whether such a breach of one of the foregoing Sections occurred or whether Orckit was able to timely (as aforesaid) cure such breach. In the event Orckit chooses to contest whether such a breach of one of the foregoing Sections occurred or whether Orckit was able to timely (as aforesaid) cure such breach, Orckit shall

provide written notice to Landmark and the Parties shall attempt to settle the dispute amicably. To the extent the Parties are unable to settle the dispute within twenty (20) days of Orckit's notice, the dispute shall be referred to binding arbitration in Tel Aviv, Israel conducted by one of the following arbitrators to be selected by Orckit: Judge Robert Faulkner, David Folsom or Kip Glasscock; or, if none of them is available, an individual well versed in the subject matter and agreed by the parties in writing (the "Arbitrator"). The only question for the Arbitrator to resolve and for which the Arbitrator shall have the sole discretion, after hearing both Parties, to determine is the existence of a breach that meets the Materiality Criteria and/or that prevents Landmark from exercising its rights to monetize the Patents in a material manner. The Arbitrator will be bound by the substantive provisions of Delaware law applicable to the dispute but shall not be bound by Delaware rules of evidence and procedure. The Arbitrator will issue an award in writing that states findings of fact and conclusions of law and that awards the prevailing party its legal fees and costs in the arbitration, including the prevailing party's share of the arbitrator's fee. In the event that the Arbitrator will determine that no breach of the representations set forth in the aforementioned Sections that meets the Materiality Criteria and/or that prevents Landmark from exercising its rights to monetize the Patents in a material manner has occurred, Landmark shall immediately pay all withheld payments to Orckit. This clause constitutes an arbitration agreement under the Arbitration Law, 1968 with respect to a dispute as described in this clause. In the event that Landmark knowingly and intentionally withholds any amounts, such amounts shall bear interest at the rate of 7% per annum.

1.3. The Closing. The closing (the "Closing") of the transaction contemplated in this Agreement and in the Ancillary Agreements (the "Transactions") will take place on a date to be specified by the parties (the "Closing Date"), which will be thirty (30) days from the receipt by Landmark of a certificate of the Temporary Liquidator of Orckit confirming the receipt of the approval of the Israeli Court and the OCS approval, subject to the satisfaction or waiver of the conditions in Article 5 below unless another time or date is agreed to by Orckit and Landmark or unless this Agreement has been terminated per Article 6. The Closing will be held at 4:00 p.m. (Israel time) on the day the Closing Date occurs at the offices of Goldfarb Seligman & Co., or another time and location agreed to by Orckit and Landmark.

1.4. No Assumed Liabilities. It is expressly understood and agreed that Landmark shall not be liable for and hereby disclaims any assumption of any of the obligations, claims or liabilities of Orckit, the Orckit Group and/or their Affiliates and/or of any third party of any kind or nature whatsoever arising from or in connection with any circumstances, causes of action, breach, violation, default or failure to perform with respect to the Purchased Assets prior to the Closing.

2. ORCKIT'S REPRESENTATIONS AND WARRANTIES. Orckit represents and warrants to Landmark that:

2.1. Organization; Authority; Approvals. On June 29, 2014, the District Court of Tel Aviv appointed Adv. Lior Dagan as a temporary liquidator over Orckit. A convenience translation of the court order into English has been provided to Landmark. In such capacity, Adv. Dagan has the authority to manage the business and assets of Orckit and to obtain court approval for any material transaction. Adv. Dagan has full corporate power and authority to negotiate the sale of the Purchased Assets to Landmark. Accordingly, this Agreement shall not be binding on either Party unless and until it is approved by the Israeli Court. Upon such court approval Adv. Dagan shall be authorized to sign and deliver this Agreement on behalf of Orckit and to consummate the transactions contemplated

hereby, which transactions will be fully binding on Orckit and its Affiliates. In addition, since the Orckit Group has received certain research and development grants from the OCS pursuant to the R&D Law and since Landmark is a non-Israeli entity, the Transactions also require the OCS Approval, which Orckit shall endeavor to obtain prior to Closing; provided however, that no Closing shall occur without such OCS Approval. It is hereby acknowledged that any payments that may be required by the OCS as a result of the Transactions shall be borne by Orckit. Upon receipt of such OCS Approval, Landmark shall have no obligations, undertaking or be bound by any covenant to the OCS and/or under the R&D Law with respect to or in connection with the Purchased Assets. For the avoidance of doubt, the term "knowledge" as used within this Agreement with respect to Orckit shall collectively refer to the actual knowledge of Orckit's current employees and the Temporary Liquidator as one and the same.

- 2.2. **Information.** Orckit has provided to Landmark copies of the Patent Documents in Orckit's Possession and authorized Landmark to obtain all Patent Documents under the control of Orckit's consultants and has provided or made available to Landmark the information requested pursuant to the Document Request Form attached hereto as **Annex 2.2**, including a copy of the Strategic Investment Agreement, dated March 18, 2013, between Orckit and Networks³ Inc and a copy of the Disclosure Letter (including all annexes thereto) referenced therein. For the avoidance of doubt, Landmark was not provided with any other information or correspondence in connection with the transaction contemplated between Orckit and Networks³ Inc and no knowledge on the part of Landmark can be inferred from any document or disclosure exchanged between those parties that was not disclosed to Landmark.
- 2.3. **Non-Contravention.** Subject to the entry of the Israeli Court's Approval to this Agreement and in accordance with its terms, Orckit, through the Temporary Liquidator, has all requisite power, authority and legal capacity to execute and deliver this Agreement and each other document, agreement, instrument or certificate contemplated by this Agreement or to be executed by Orckit in connection with the consummation of the transaction contemplated by this Agreement, and to sell and transfer the Purchased Assets to Landmark free and clear from any lien, charge, pledge, security interest, other encumbrances or third party right, other than those created by Landmark and other than the Identified Encumbrances Agreements and Encumbrances set forth on Annex 2.6. Further, to Orckit's knowledge, the Transaction contemplated hereunder will not result in the creation or imposition of any mortgage, lien, charge, pledge, security interest, other encumbrance or third party right upon any of the Purchased Assets. No declaration, filing or registration with or notice to, or authorization, consent or approval of any Governmental Entity (other than the Israeli Court, the OCS and applicable patent offices and security law filings) is necessary for the execution and delivery of this Agreement by Orckit and the Temporary Liquidator or the closing of the transactions contemplated hereby.
- 2.4. **Title and Contest.** To Orckit's best knowledge, Orckit has all title, ownership and rights to the Purchased Assets, provided however that the foregoing shall not be deemed a representation or warranty that the Purchased Assets do not infringe the rights of third parties. To the best knowledge of Orckit, and except for Orckit's Liquidation matters before the Court and Orckit's action against Networks³ Inc, Hudson Bay IP Fund, and Hudson Bay Master Fund in the Court of Chancery of the State of Delaware, captioned *Orckit Communications Ltd. v. Networks³ Inc., et*

al., C.A. No. 9658-VCG (the "Networks³ Litigation"), which is a claim for damages and contract enforcement and which will have no effect or implication on or in connection with the Purchased Assets, there are no actions, suits, investigations, claims or proceedings, pending or in progress before any Court or Tribunal relating in any way to the Purchased Assets, except as set forth in Annex 2.11 and Annex 2.12. To Orckit's best knowledge, the identity of all inventors of the inventions underlying the Patents has been fully disclosed to the U.S. Patent Office, as required by U.S. law.

2.5. **No Joint Development Activity.** To the best knowledge of Orckit, except as set forth on **Annex 2.5**, no Patent (i) is the product or subject of any joint development activity or agreement with any third party; (ii) is the subject of any consortia agreement; or (iii) has been financed in whole or in part by any third party.

2.6. **No Standards Obligations.** To Orckit's knowledge, except as otherwise set forth on **Annex 2.6**, Orckit has not made or offered to make one or more of the Patents subject to the licensing obligations of a standards body, and accordingly, to Orckit's knowledge, the sale and assignment of the Patents are not subject to any pre-existing obligations arising out of any Standards-Related Actions.

"Standards-Related Actions" means to (i) disclose to a standards organization (whether open, proprietary, or otherwise) any patent materials that were not available to the public prior to said disclosure, that may be essential or necessary for implementation of, or otherwise reads on, a standards specification promulgated by the standards organization, (ii) provide an assurance to a standards organization (whether open, proprietary, or otherwise) of a willingness to license or grant a license under reasonable and non-discriminatory terms, royalty-free or royalty-bearing, one or more patents that are essential or necessary for implementation of, or otherwise reads on, a standards specification promulgated by the standards organization, or (iii) submit one or more patents to a patent pool or a patent pool's agent for inclusion in the pool's licensing activities.

2.7. **No Preexisting Licenses.** To the best knowledge of Orckit, except for the Identified Encumbrances, the Encumbrances set forth in Annex 2.6 and as set forth in this Agreement, no exclusive or non-exclusive licenses under the Patents or interest or rights in any of the Purchased Assets have been granted.

2.8. **No Additional Patents.** Orckit hereby represents and warrants to Landmark that Orckit Group owns only the patents, reissues, reexaminations, extensions, continuations, continuations in part, continuing prosecution applications, provisionals and divisions of the Patents, including patents and patent applications that claim priority to any of the foregoing and foreign counterparts of any of the foregoing listed on **Annex A** and no other assets which meet the definition of Purchased Assets under this Agreement are owned by the Orckit Group.

2.9. **Pending United States Applications.** To the best knowledge of Orckit, except as otherwise listed on **Annex A**, there are no pending US patent applications of any kind constituting a Purchased Asset. **Annex A** includes a list of all pending US patent applications and the respective confirmation numbers issued by the USPTO therefor.

2.10. **Enforcement.** To the best knowledge of Orckit, except as set forth on **Annex 2.10**, Orckit has not (i) put a third party on notice of actual or potential

infringement of any of the Patents; (ii) provided any third party with an irrevocable and binding invitation to enter into a license under any of the Patents; or (iii) initiated any enforcement action with respect to any of the Patents.

- 2.11. **Prosecution Obligations; Fees.** Any actions that must be taken by Orckit before any Governmental Entity (including the United States Patent and Trademark Office or equivalent authority anywhere in the world) within ninety (90) days of the Closing Date with respect to any of the Patent Rights in order to avoid prejudice to, impairment or abandonment of such Patent Rights are set forth in **Annex 2.11.** All maintenance fees, annuities, and the like due on the Patents until the Closing Date have been paid.
- 2.12. **Validity and Enforceability.** To Orckit's knowledge, prior to the Effective Date the Patents have never been found invalid or unenforceable for any reason in any administrative, arbitration, judicial or other proceeding, and except as set forth in **Annex 2.12** there are no proceedings or actions before any governmental entity (including the United States Patent and Trademark Office or equivalent authority anywhere in the world) in which claims are or were raised relating to the validity, enforceability, scope, ownership or infringement of any of the Patents. Orckit does not know of and has not received any written notice or information of any kind from any source suggesting that the Patents may be invalid or unenforceable.
- 2.13. **Terminal Disclaimers.** Except as otherwise listed on **Annex 2.13,** Orckit and/or the inventors of the Patents did not sign or file any terminal disclaimers of any kind related to or affecting any of the Purchased Assets ("**Terminal Disclaimers**"). Annex 2.13 includes a list of all Terminal Disclaimers that exist with respect to or that affect the Purchased Assets and provides a description of each such Terminal Disclaimer, including the subject earlier issued patent(s) and the respective expiration dates thereof.
- 2.14. **No Other Representations or Warranties.** Except for the representations and warranties contained in this **Article 2,** neither Orckit nor any other Person makes any express or implied representation or warranty with respect to Orckit, the Purchased Assets, or the transactions contemplated by this Agreement.
- 2.15. Subject to the representations and warranties in Article 2, Landmark specifically acknowledges and agrees that the Purchased Assets are being sold, transferred and assigned in an "AS IS" and "WHERE IS" condition as of the Closing Date and that except as expressly set forth in this Agreement, no representations or warranties have been made or are made and no responsibility has been or is assumed by any of Orckit or any representative acting or purporting to act on behalf of Orckit, including the Temporary Liquidator as to any matters concerning Orckit, and/or the Purchased Assets, or any condition which has or might affect ~~the same or any portion thereof. Notwithstanding anything to the contrary,~~ Orckit disclaims any and all representations and warranties of non-infringement and/or patent validity, whether express or implied and any and all representations and warranties in respect of any patent application abandoned or rejected prior to the Effective Date, and nothing in this Agreement shall be deemed as a representation or warranty that any part of the Purchased Assets does not infringe the rights of third parties and/or that the registration of any of the Patents is valid and/or will not be revoked and that any patent application or proceeding included in the Purchased Assets shall be accepted for registration as a patent or provisional.

Except as explicitly set forth in Article 2 above, Landmark and/or any of its representatives is not relying on any statement or representation by Orckit.

- 2.16. Landmark and all and any of its representatives hereby irrevocably waive any claim, demand or contention against Orckit and/or anyone acting on its behalf in connection with any matter relating to the transaction contemplated under this Agreement, except that such waiver shall not apply to (i) Orckit and the Temporary Liquidator's express obligations, representations and warranties set forth in Section 2 above and covenants set forth in this Agreement, including without limitation, in connection with consummating the Closing, or (ii) any fraud, intentional misrepresentation or willful misconduct. Landmark's sole and exclusive remedy and Orckit's sole and exclusive liability in connection with this Agreement and the subject matter hereof shall be (i) monetary damages up to the aggregate amount of payments actually received by Orckit pursuant to Section 1.2 above before the date when Landmark first became aware of the circumstances that gave rise to such damage; (ii) the withholding right set forth in Section 1.2(f) above; and/or (iii) specific performance or other similar equitable relief.

3. **LANDMARK REPRESENTATIONS AND WARRANTIES.** Landmark represents and warrants to Orckit that:

- 3.1. **Organization.** Landmark is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Texas. Landmark has all necessary power and authority (corporate and other) to execute and deliver this Agreement and, as of the Closing, the Ancillary Agreements and to perform its obligations under this Agreement and the Ancillary Agreements and consummate the Transactions.
- 3.2. **Authorization & Enforceability.** All action on the part of Landmark, its managers and members necessary for the authorization, execution and delivery of this Agreement and the Ancillary Agreements, the performance of its obligations hereunder and thereunder and the consummation of the Transactions has been taken or will be taken by Closing. This Agreement and each of the Ancillary Agreements to which Landmark is a party has been, duly and validly executed and delivered by Landmark and this Agreement and each of the Ancillary Agreements to which Landmark is a party constitutes a valid and legally binding obligation thereof enforceable in accordance with its terms, except as limited by (a) bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting the enforcement of creditors' rights generally and (b) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies.

3.3. **Non Contravention.**

- (a) The execution and delivery of this Agreement and Ancillary Agreements to which Landmark is a party does not, and the performance of Landmark's obligations hereunder and thereunder and the consummation of the Transactions by Landmark hereunder and thereunder will not, conflict with, or result in any violation of, or default under (with or without notice or lapse of time, or both), or require any consent, approval or waiver from any Person under (i) any provision of the organizational documents of Landmark or (ii) any contract, instrument, encumbrance, lien, interest, permit, judgment, order, decree, statute, law, ordinance, rule or regulation applicable to

or that binds Landmark or any of their respective properties or assets, including the Patents.

3.4. Financing. Landmark has funds available and sufficient to effect the transactions contemplated by this Agreement and pay the consideration set forth in Section 1.2 as it comes due. A true and complete copy of the unaudited financial statements of Landmark for 2014 have been provided to Orckit. The unaudited Financial Statements fairly present in all material respects the financial position of such companies as of the dates provided and the results of their operations and cash flows for the periods then ended. There are no outstanding or pending transactions involving the Account, and Landmark is not aware of any circumstances that may lead to returned or charged-back items, reversals or cancellation of payments that may affect the Account.

3.5. Knowledge; Investigation. Without derogating from the representations and warranties of Orckit contained in this Agreement, Landmark (1) has the requisite knowledge and experience in the matters related to the Transactions, and (2) it is capable of evaluating the merits and risks of entering into this Agreement, and (3) has received from Orckit all of the information and documents that it has requested, and (4) has conducted its own independent investigation of the Patents and the Patent Rights, and other than the representations and warranties contained in this Agreement, has not received nor relied on any representation, warranty or other statement by any entity on behalf of Orckit or any member of the Orckit Group regarding the Patents and the Patent Rights in making its determination as to whether to enter into this Agreement.

4. COVENANTS

4.1. Patent License Back to Corrigent.

(a) Subject to the Closing (as defined below), Landmark shall automatically upon the Closing (without the need for any notice or approval) irrevocably grant a license-back to the Patents, pursuant to the terms of the License Agreement, in the form attached hereto as **Annex 4.1** (the "**License Agreement**").

4.2. Exclusivity. In consideration of Landmark's due diligence investigation of the Purchased Assets, Orckit agrees that, subject and to the extent of any applicable law, during the period between the Effective Date and the Closing Date (as defined below), Orckit (or anyone on its behalf) shall not discuss, negotiate or pursue with any third parties any offers or proposals with respect to or otherwise relating to any of the Patents.

4.3. Closing the Transactions.

(a) Subject to applicable law, each of the parties will (and will cause its Subsidiaries and Affiliates to) use commercially reasonable efforts to take, or cause to be taken, all appropriate action and to do, or cause to be done, all things necessary, proper, or advisable to satisfy the conditions in Article 5 and consummate the Transactions as promptly as practicable, including (1) preparing and filing as promptly as practicable all documentation to obtain all necessary permits and other documents and to obtain as promptly as practicable all consents necessary or advisable to be obtained from any third party or Governmental Entity in order to consummate the Transactions,

(2) taking all reasonable steps to obtain such consents and (3) not taking any action which would have the effect of preventing or delaying the consummation of the Transactions.

- (b) To the maximum extent permitted by law, Orckit will promptly take any and all steps necessary to obtain the OCS Approval. Nothing in this Section will require Orckit to (1) take any unreasonable actions or (2) make any financial commitment (other than filing fees and the cost of its advisors and the fee payable to the OCS in connection with obtaining the OCS Approval).

Internal Patent Assignment. To the extent not done prior to the Effective Date, Orckit will (and will cause each other member of the Orckit Group) to assign all of the Patents not currently owned by Orckit to Orckit before the Closing, using forms reasonably acceptable to Landmark. Such assignments will be made for fair value and otherwise per applicable law.

- 4.4. **Patent Filings.** After the Closing, at the sole cost and expense of Landmark; provided that any costs and expenses to be reimbursed by Landmark must be preapproved in writing (including without limitation the time sheets in respect of the hours spent by Orckit's and/or Orckit Group's personnel in connection therewith), Orckit will (or will cause the applicable member of the Orckit Group to): (a) cooperate with Landmark in the filing and prosecution of any and all patent registrations or applications; (b) execute, verify, acknowledge and deliver all such further papers, including applications and instruments of transfer; (c) perform such other acts as Landmark lawfully may reasonably request, to facilitate Landmark's right to obtain, protect, maintain, defend or enforce any of the rights to be assigned hereunder; and (d) assist Landmark in substituting itself for the Orckit Group in all pending proceedings related to the Patents. Landmark will pay any maintenance fees, annuities, and the like due or payable on the Patents for the period commencing from the Closing Date and Orckit shall be pay for any maintenance fees, annuities, and the like due or payable on the Patents for the period prior to the Closing Date. Prior to the Closing Date, at Orckit's expense, Orckit will remove and pay for the cost of removal of any pledges and liens (other than the Identified Encumbrances and Section 4.1) on any Patent that were created prior to the signing. Notwithstanding the foregoing, under no circumstances will Orckit be obligated to incur any expenses or bear any costs absent Landmark's written approval to reimburse Orckit.

- (a) The Orckit Group's obligations under this Section 4.4 include, making best efforts to, prompt production of pertinent facts and documents, giving of testimony, executing of assignments, petitions, oaths, specifications, declarations or other papers, and other assistance and instructions all to the extent agreed by the parties to be reasonable for (all of which shall be at sole cost and expense of Landmark, provided however that any costs and expenses to be reimbursed by Landmark must be preapproved in writing): (1) obtaining, perfecting and maintaining in Landmark or successors the right, title and interest herein conveyed; (2) complying with any duty of disclosure; (3) prosecuting any of said applications; (4) filing and prosecuting substitute, divisional, continuing or additional applications related to said Patents; (5) filing and prosecuting applications for reissue of any of said Patents; (6) interference or other priority proceedings involving said Patents; (7) legal proceedings involving the Patents, any applications therefor and any patents granted thereon, including opposition proceedings, cancellation proceedings, priority contests, public use proceedings, reexamination proceedings, inter partes review proceedings, post grant review proceedings, compulsory licensing proceedings, infringement actions and court actions (Orckit is not required to join an action as a party plaintiff); and (8) obtaining from the Orckit Group's counsel, transfer to Landmark of all relevant documents and materials related to the Patents. Notwithstanding the foregoing, under no circumstances will Orckit be obligated to incur any expenses or bear any costs absent Landmark's written approval to reimburse Orckit.

- (b) Orckit will direct (and will cause its Affiliates to direct) its employees (including all employed inventors for any of the Patents) to provide such cooperation and assistance in connection with licensing of or adversarial proceedings related to the Patents to the extent agreed by the parties to be reasonable and to use commercially reasonable efforts to assist Landmark in obtaining similar cooperation and assistance from any other inventors of any of the Patents (whether employed or not).

4.5. Files and Prosecution Counsel. Without limiting the obligations under Section 4.4, Orckit will (and will cause the other members of the Orckit Group to) : (a) within ninety days following the Closing Date, at Orckit's expense, deliver to Landmark the original Patent Documents in Orckit's Possession for each of the Patents and copies of each of the Identified Encumbrance Agreements; and (b) within fourteen days following the Closing Date, send letters to each outside counsel and foreign associate firm responsible for the preparation and prosecution of any purchased Patent informing such firm that Orckit (has been assigned each other member of the Orckit Group's and) has assigned all of its right, title and interest in and to any files maintained by such firm for the purpose of the preparation and prosecution of the Patents to Landmark and, at Landmark's expense, directing such firm to (1) immediately take direction from Landmark regarding sending all copies of such files to Landmark and (2) invoice Orckit for all costs and expenses incurred due to Orckit's instructions on or before the Closing Date (other than costs specified in this Agreement to be payable by Landmark). Orckit will be responsible for all invoices, expenses, and fees to outside prosecution counsel or agents relating to the Patents that were incurred prior to or on the Closing Date (other than costs specified in this Agreement to be payable by Landmark). If reasonably necessary, Orckit agrees to (and to cause the other members of the Orckit Group to) thereafter assist Landmark, at Landmark's expense, in procuring all such files from all such outside counsel and foreign associate firms that were not otherwise obligated to be transferred prior to Closing pursuant to this Agreement.

4.6. Prosecution, Maintenance, Licensing and Litigation Pending Closing.

- (a) Until the Closing Date, Orckit will (and will cause the other members of the Orckit Group to) continue to prosecute (but not assert) and maintain the Patents at Orckit's sole expense consistent with the Orckit Group's prosecution practice prior to the date hereof; *provided* that no member of the Orckit Group will abandon, or permit abandonment or lapse of, or otherwise fail to maintain or take any other required action with respect to, any of the Patents (including applications included in the Patents). Unless Landmark decides to pay directly, Orckit shall pay (and, subject to Closing, Landmark will reimburse) all maintenance fees, annuities, and the like that become due within thirty days after the Closing Date with respect to the Patents. Subject to Closing, Landmark will reimburse Orckit within thirty days following invoice by Orckit for such payments made by Orckit.
- (b) Subject to applicable law, from the Effective Date and until the Closing Date, Orckit will not (and will cause the other members of the Orckit Group to not): (1) sell, convey, transfer, or assign any right, title, or interest in any Patent to any third party; (2) grant, offer to grant, offer to convey or otherwise convey or create, expand, extend, or renew, any license, covenant, immunity, defense, option, release, waiver, authorization, or other right or restriction relating to any of the Patents, or otherwise create, expand, extend, or renew, or permit the creation, expansion, extension, or renewal of, any other Encumbrance on any Patent; (3) initiate any Litigation under, or otherwise assert, the Patents against any Person; (4) assert the infringement of any Patent; or (5) settle or otherwise compromise any pending Litigation relating to the Patents, other than the Networks³

Litigation. None of the foregoing shall preclude any member of the Orckit Group from conducting any action that would be permitted under the License Agreement, as if the License Agreement was in effect as of the Effective Date.

- 4.7. No Patent Challenge.** From the Closing through the life of the Patents, Orckit will not (and will cause its Affiliates to not) initiate, participate or assist, formally or informally, directly or indirectly, in any challenge, litigation, reissue, review, reexamination, cancellation or other opposition in any country, jurisdiction or supranational body ("**Adverse Proceeding**") to the extent such Adverse Proceeding challenges the scope, enforceability, validity, ownership, or other right pertaining to the Patents. Notwithstanding the foregoing, Orckit shall be obligated to defend (or assist in the defense) of the validity of Patents in any Adverse Proceeding prior to the Closing Date, if requested to do so by Landmark, provided that any and all costs and expenses thereof incurred after Closing shall be borne exclusively by Landmark, if the Closing occurs. Nothing in this Section will prevent Orckit or any of its Affiliates from complying with obligations to the extent compelled by valid legal process. Notwithstanding anything to the contrary herein, Orckit reserves all rights and remedies, including damages and equitable relief (other than for rescission, termination, or reformation of this Agreement to the extent not expressly provided for herein) for breach of this Agreement by Landmark and nothing herein releases Landmark from its obligations under this Agreement or prevents Orckit from enforcing the terms and conditions of this Agreement against Landmark.
- 4.8. Legal Matters.** Except in the case of an action between the parties against one another related to enforcement of this Agreement against one another, Orckit will and will cause each other member of the Orckit Group to irrevocably and unconditionally waive any objection it may have, consents to and covenants to use commercially reasonable efforts to assist in Landmark's retention of the law firms and patent agents retained by the members of the Orckit Group and the inventors of the Patents for the purposes of prosecution and adversarial proceedings. Each party will ensure that any attorney-client or other privilege inuring to the benefit of the other party is maintained to the maximum extent reasonable under the circumstances.
- 4.9. Patent Documentation.** Orckit has provided to Landmark: a schedule of all patent prosecution deadlines due within nine months following the Closing Date (the "Prosecution Schedule"). Landmark upon the Closing Date shall have the opportunity to direct and control any responses to office actions or other prosecution activities with respect to the Patents that occur after the Closing Date. **Annex 4.9** includes a list of the status of (i) the Prosecution Schedule, (ii) all adversarial proceedings and (iii) all administrative actions related to any of the Patents up to the Effective Date. Subject to Orckit's rights to retain one copy (as Landmark Confidential Information to be protected in accordance with Section 4.11 below), on the Closing Date, Landmark shall be authorized to obtain the originals of all patent prosecution files, claim charts and any other related documentation related to or affecting the Patents that is in Orckit's patent attorneys' and patent agents' possession.
- 4.10. Waiver of Corporate Opportunities.** Neither Orckit, Landmark nor their respective Affiliates will have any duty to refrain from (a) engaging in the same or similar activities or lines of business as a member of the Orckit Group or as Landmark, (b) doing business with any potential or actual supplier or customer of

the Orckit Group or Landmark or (c) engaging in, or refraining from, any other activities whatsoever relating to any of the potential or actual suppliers or customers of the Orckit Group or Landmark. Each of Orckit and Landmark is aware that from time to time business opportunities may arise which either of them (or their respective Affiliates) may be financially able to undertake, and which are, from their nature, in the line of more than one or the other of their respective businesses and are of practical advantage to more than one of them (or their respective Affiliates). If either Orckit or Landmark (or their respective Affiliates) acquires knowledge of an opportunity that meets the foregoing standard, none of Landmark, Orckit nor their respective Affiliates will have any duty to communicate or offer such opportunity to any of the others and may pursue or acquire such opportunity for itself, or direct such opportunity to any other Person.

4.11. Confidentiality. Neither party will disclose any Confidential Information of the other party to third parties except as expressly permitted herein.

- (a) The obligations under this Section 4.11 will not apply to any information that: (1) was publicly known prior to the time of disclosure by the disclosing party, (2) becomes publicly known after disclosure by the disclosing party to the receiving party through no act or omission of the receiving party, (3) was already in the possession of the receiving party without confidentiality obligations at the time of disclosure under this Section 4.11 by the disclosing party, (4) is obtained by the receiving party without confidentiality obligations from a third party, (5) is permitted to be disclosed hereunder or (6) is independently developed by the receiving party without use of or reference to the disclosing party's Confidential Information.
- (b) Each party will take reasonable measures to protect the secrecy of and avoid disclosure and unauthorized use of the Confidential Information of the other party. Without limiting the foregoing, each party, as a receiving party, will take at least those measures that it takes to protect its own confidential information of a similar nature and will require that the employees, directors, contractors, legal advisors, accountants and financial advisors of the receiving party (and the receiving party's Affiliates) who have access to confidential information of the other party have been bound to a non-use and non-disclosure obligation at least as protective of the other party's Confidential Information as the provisions of this Section 4.11, before any disclosure of the other party's Confidential Information to such directors, officers, employees, contractors, legal advisors, accountants and financial advisors. The receiving party will be responsible for compliance by such directors, officers, employees, contractors, legal advisors, accountants and financial advisors with this Section 4.11.
- (c) Subject to Section 4.11 (d), each party may disclose Confidential Information of the other party, the terms and conditions of this Agreement and participation payments hereunder (1) as required by discovery requests in pending litigation, (2) to any court or Governmental Entity compelling such disclosure or as may otherwise be required by law, order, rule or regulation or in connection with an investigation by a Governmental Entity, (3) in filings under any antitrust law, applicable securities laws or regulations or per the rules of any securities exchange or similar organization, (4) to their and their Affiliates' respective employees, directors, contractors, legal advisors, accountants, auditors and financial advisors, subject to reasonable non-use and non-disclosure requirements and (5) to potential and actual acquirers, investors, underwriters and lenders, subject to reasonable non-use and non-disclosure requirements.
- (d) If either party is legally compelled or is otherwise required to disclose the terms and conditions of this Agreement as contemplated in clauses (1), (2) or (3) of Section 4.11 but not as contemplated by Section 4.11(e), such party will provide the other party with prompt written notice of such

requirement prior to such disclosure (only to the extent prior notice is allowed under applicable laws, rules or regulations) so that the other party may seek a protective order or other appropriate relief. Subject to the foregoing sentence and the disclosing party's compliance with its obligations thereunder, such party may furnish the portion of the documents and information that it is legally compelled or it is otherwise legally required to disclose in connection therewith.

- (e) Notwithstanding the foregoing, Orckit will be entitled to publicly file this Agreement with the Israel Securities Authority (for review and approval by Orckit's creditors and shareholders), the Securities and Exchange Commission and the District Court of Tel Aviv.

4.12. Indemnification. In the event that following the Closing and sale of the Purchased Assets to Landmark, a defendant in any litigation commenced by Landmark (or any other target of monetization activities of Landmark) makes a claim, or threatens to make a claim, against a member of the Orckit Group in connection with the Purchased Assets then at the request of Orckit, Landmark shall assume the defense of such claim and hold the Orckit Group harmless, shall have sole control thereof, shall provide counsel to Orckit and shall indemnify the Orckit Group for all costs and expenses (that are reasonable), liabilities and direct damages incurred by it in connection therewith, including without limitation reasonable court expenses and attorneys' fees (for such attorney(s) provided by Landmark, provided that Landmark assumed the defense of such claim). The foregoing is Landmark's exclusive indemnification obligation towards Orckit hereunder. Landmark shall not settle any such claim without the prior written consent of Orckit (which consent shall not be unreasonably withheld), unless such settlement (i) includes an unconditional release of each member of the Orckit Group from all liability arising out of such action or claim and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any member of the Orckit Group. The foregoing shall not apply to any third party claim arising from any circumstances, causes of action, breach, violation or default with respect to the Purchased Assets that constitutes a breach of Orckit's representations and warranties set forth in Section 2 above, provided that such third party would have such claim had said representations or warranties not have been breached.

4.13. Additional Patents. Orckit covenants to Landmark that in the event there is discovered, at any time, any patents, reissues, reexaminations, extensions, continuations, continuations in part, continuing prosecution applications, provisionals and/or divisions of the Patents or patents and patent applications that claim priority or otherwise relate to any of the foregoing, or any foreign counterparts thereof that are owned by a member of the Orckit Group (the "**Additional Patents**"), then the Additional Patents shall be sold, including by transferring, assigning and setting over, to Landmark, all ownership and title thereto, for no additional consideration, and the Additional Patents shall be deemed "**Patents**", as applicable, under this Agreement, for all intents and purposes. In such event, the Parties shall sign an amended **Annex A** to add the Additional Patents thereto and in the event that Landmark's notification to Orckit is subsequent to the Closing, then the Parties shall conduct a subsequent closing and the provisions of this Agreement shall apply to the sale, assignment transfer and setting over to Landmark of the Additional Patents, *mutatis mutandis*.

4.14. Monetization Proceeds. In order to guaranty Landmark's payment obligations under Section 1.2 above, at Closing Landmark will (i) enter into that certain Blocked Account Control Agreement in the form attached hereto as **Annex**

5.2(c)(iv) (the "**Blocked Account Control Agreement**"); and (ii) enter into that certain Pledge Agreement, granting Orckit a pledge over the Gross Proceeds from the monetization of the Purchased Assets in the form attached hereto as **Annex C** (the "**Pledge Agreement**"). Landmark shall promptly deposit and maintain all proceeds of any Monetization Event exclusively in the deposit account of Landmark described in Schedule 1 to the Pledge Agreement and/or any other account mutually agreed in writing by the parties (the "**Account**"), except for payments of costs and expenses incurred by or on behalf of Landmark directly in connection with the monetization and/or enforcement of the Purchased Assets, excluding any overhead or other operating expenses of Landmark, until such time as Orckit has been paid the portion of Gross Proceeds due and owing to it with respect to such Monetization Event. Any subsequent account control agreement related to the Account shall be deemed to be included in the definition of "Blocked Account Control Agreement". In the event that the Blocked Account Control Agreement is terminated before payment in full of the Additional Payments, Landmark and Orckit shall as soon as practicable enter into a new Blocked Account Control Agreement with the bank which holds the Account, on substantially the same terms. Landmark undertakes to maintain in force and effect a Blocked Account Control Agreement at all times until payment in full of the Additional Payments.

5. CONDITIONS

5.1. Mutual Conditions. The obligations of each party to effect the Closing are subject to the satisfaction or waiver (subject to applicable law), at or before the Closing Date, of each of the following conditions:

- (a) No statute, rule, regulation, executive order, decree or order of any kind shall have been adopted or promulgated, and no temporary restraining order, preliminary or permanent injunction or other order issued by any Governmental Entity shall be in effect, having the effect of making the consummation of any of the Transactions illegal or otherwise prohibiting consummation thereof.
- (b) All consents of any Governmental Entity to consummate the Transactions shall have been obtained, including the OCS Approval and the approval of the Israeli Court. In the event that the Israeli Court does not approve this Agreement for any reason, Landmark shall not be obligated or liable in any way to Orckit or to any shareholder, director, officer, employee or creditor of Orckit and both parties shall be released from any and all obligations hereunder.
- (c) The Parties shall have executed the Common Interest Agreement attached hereto as **Annex 5.1(c)**.

5.2. Orckit's Conditions. Orckit's obligation to effect the Closing is also subject to the satisfaction or waiver, at or before the Closing Date, of each of the following conditions:

- (a) Landmark's representations and warranties in Section 3 shall be true and correct in all material respects with the same force and effect as though made on and as of the Closing Date.
- (b) Landmark shall have performed or complied in all material respects with all covenants required to be performed by it under this Agreement at or prior to the Closing Date.

- (c) Landmark shall have made the following deliveries:
- (i) The wire transfer pursuant to Section 1.2(a);
 - (ii) A certificate of the manager of Landmark certifying the satisfaction of the conditions in Sections 5.2(a) and 5.2(b); and
 - (iii) The duly executed Pledge Agreement in the form attached hereto as Annex C ("**Pledge Agreement**").
 - (iv) The Blocked Account Control Agreement in the form attached hereto as Annex 5.2(c)(iv).
 - (v) The License Agreement.

5.3. Landmark's Conditions. Landmark's obligation to effect the Closing is also subject to the satisfaction or waiver, at or before the Closing Date, of each of the following conditions:

- (a) Orckit's representations and warranties in Section 2 shall be true and correct in all material respects with the same force and effect as though made on and as of the Closing Date.
- (b) Orckit shall have performed or complied in all material respects with all covenants required to be performed by it under this Agreement at or prior to the Closing Date.
- (c) The OCS Approval shall impose no liabilities upon Landmark.
- (d) Orckit shall have made the following deliveries:
 - (i) Duly executed Patent Assignment in the form attached hereto as **Annex B**; and
 - (ii) A certificate of the Temporary Liquidator of Orckit confirming the receipt of the approval of the Israeli Court and the OCS approval; and
 - (iii) A list of registration, maintenance, renewal and application fees or the filing of any responses to office actions, documents, applications or certificates for the purposes of obtaining, maintaining, perfecting, preserving or renewing any Patent due within ninety days.

6. LIQUIDATED DAMAGES CLAUSE.

6.1. In the event that any of the following occurs:

- (a) Landmark breaches any of its obligations under this Agreement and such breach continues for a period of thirty (30) days following the written notice of such breach from Orckit to Landmark;
- (b) Landmark shall (i) dissolve or terminate its existence, or (ii) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of it or of all or a substantial part of its property, or (iii) commence, or file an answer admitting the material allegations of or consenting to, or default in a petition filed against it in, any case, proceeding or other action under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking to have an order for relief entered

with respect to it under the federal Bankruptcy Code 11 USC § 101 et. seq., or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or similar relief with respect to it or its debt which has not been duly dismissed; or

- (c) A receiver, conservator, liquidator, custodian or trustee of Landmark or any of its property is appointed by the order or decree of any court or agency or supervisory authority having jurisdiction; or Landmark obtains an order for relief under the federal Bankruptcy Code 11 USC § 101 et. seq.; or any of the property of Landmark is sequestered by court order; or a petition is filed or a proceeding is commenced against Landmark under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect which has not been terminated, dismissed or stayed within sixty days thereafter.

(any of the foregoing, a "Landmark Breach"), then as liquidated damages for the Landmark Breach, Orckit shall have the right (but not the obligation), exercisable by it by written notice to Landmark, within thirty (30) days from the end of the applicable cure period to re-acquire all right, title and interest in and to the Patents (the "Reversion Assignment Right"). If Orckit exercises the Reversion Assignment Right within such thirty (30) day period, Landmark and Orckit shall execute a Patent Assignment, substantially in the form of Annex B hereto, in order to transfer the Patents back to Orckit, who shall acquire the Patents, subject to all then-in-effect licenses, encumbrances, covenants not to sue and other restrictions applicable thereto.

- 6.2. Orckit's rights set forth in this Section 6 shall not derogate from any other right or remedy available to Orckit under law or contract and shall not be deemed as an election of remedies. For the avoidance of doubt, except for the obligations expressly set forth in this Agreement or any right or remedy arising by reason of any claim of fraud or willful misconduct, Landmark's liability for any and all claims and assertions in the aggregate in connection with this Agreement and the Ancillary Agreements and its performance hereunder and thereunder, shall not exceed the aggregate amount of payments actually received by Orckit hereunder, provided that the foregoing cap on liability shall not apply to the non-payment of any Additional Payments which are due and owing to Orckit in accordance with this Agreement, for which the liability cap shall be the maximum amount that is due and owing to Orckit in accordance with this Agreement.

7. TERMINATION

7.1. **Termination Rights.** This Agreement may be terminated by written notice to the other signatory to this Agreement and the Transactions may be abandoned, at any time prior to the Closing Date (but such termination right may not be exercised by a party whose failure to perform its obligations under this Agreement is the basis for such termination) only as follows:

- (a) by either party if the Closing shall not have occurred on or before October 15, 2015 (the "**Termination Date**"); or
- (b) by either party, if (A) any Governmental Entity will have issued an Order or taken any other action (which the parties shall have resisted or attempted to lift in accordance with Section 4.3) permanently restraining, enjoining or otherwise prohibiting any of the Transactions, and such order, decree, ruling or other action shall have become final and non-appealable or (B) the Tel Aviv District Court will have denied the request of the Temporary Liquidator to approve this Agreements and / or any of its Ancillary Agreements and the transactions contemplated herein and therein.

7.2. Effect of Termination. If this Agreement is terminated by either Orckit or Landmark as provided in Section 7.1, this Agreement (other than Section 4.11 and Article 8) will become void and none of Orckit or Landmark nor their respective officers or directors will have any liability or obligation under this Agreement.

8. MISCELLANEOUS.

8.1. Transaction Costs.

- (a) All costs and expenses of the parties incurred in connection with, related to or otherwise by virtue of this Agreement or the Transactions will be paid by the party incurring such costs or expenses.
- (b) Other than as expressly set forth herein, all costs and fees for recording of the change of ownership for the Patents in the various offices in which the Patents are filed will be borne by Landmark.
- (c) Orckit will pay all fees and costs for prosecution (but not enforcement), administration and maintenance of the Patents due or incurred on or before the Closing Date. If Orckit has prepaid filing fees due with a due date after the Closing Date, Landmark shall refund such prepaid fees.
- (d)

8.2. Survival. Other than the representations and warranties of Orckit set forth in Sections 2.3, 2.4, 2.5, 2.6 and 2.7 (which shall survive through completion of the payment installments hereunder) all of the representations and warranties in this Agreement will terminate on the 90th day following the Closing. The covenants in this Agreement will survive (with the effect of tolling the applicable statutes of limitations) until their last date for performance.

8.3. Choice of Law. Other than the mandatory application of patent law to assignment and recordation, this Agreement will be interpreted and enforced exclusively under and in accordance with the laws of the State of Israel (that are applicable to contracts made in and performed solely in Israel).

8.4. Enforcement.

- (a) The parties agree that any dispute arising under this agreement will be litigated exclusively in the District Court of Tel Aviv.
- (b) Each of the parties irrevocably (1) consents to submit itself to the personal jurisdiction of the District Court of Tel Aviv in connection with any dispute arising under or relating to this Agreement, ~~(2) agrees that it will not attempt to deny or defeat such personal jurisdiction by motion or other request for relief from such court or from any other court or Governmental Entity, and (3) agrees that it will not bring any action arising under or relating to this Agreement in any court other than the District Court of Tel Aviv.~~
- (c) Process may be served in the same manner specified in Section 8.5, such service will deemed effective on the date of such notice, and each party irrevocably waives any defenses or objections it may have to service in such manner. Landmark hereby irrevocably appoints Lillian Shaked, Adv. ("**Agent**"), of 98 Yigal Alon St., 15th Floor, Tel Aviv, to serve as Landmark's agent for service of process in Israel for all purposes (including in accordance with Section 478 of the Civil Procedure Regulations, 1984 or any legislation that may replace it in the future). Service

of process at the offices of Agent at the foregoing address shall be deemed valid service of process upon Landmark and Landmark waives any claims against the validity of the service, including in the event that Agent fails to forward to Landmark the documents that have been served. In the event that Agent ceases to exist or ceases operations, Landmark shall immediately appoint a new agent for service of process and inform Orckit of the details of the new agent for service of process. Landmark undertakes to notify Orckit of any change of address of Agent within fourteen (14) days of such change of address.

- (d) The parties irrevocably stipulate that irreparable damage would occur if any of the provisions of this Agreement were not performed per their specific terms. Accordingly, each party will be entitled to specific performance of the terms hereof in addition to any other remedy to which it is entitled at law or in equity.
- (e) The court shall award attorneys' fees and expenses and costs to the substantially prevailing party in any action (including appeals) for the enforcement or interpretation of this Agreement. If there are cross claims in such action (including appeals), the court will determine which party is the substantially prevailing party as to the action as a whole and award fees, expenses and costs to such party.

8.5. Notice. All notices and other communications hereunder will be in writing and will be deemed given when delivered personally or by an internationally recognized courier service, such as FedEx or DHL, or by facsimile (upon receipt of confirmation of transmission), to the parties at the following addresses (or at such other address for a party as may be specified by like notice):

(a) if to Orckit, to: Lior Dagan, Adv. (Temporary Liquidator)
1 Azrielli Center (Round Building)
35th Floor
Tel-Aviv 67021, Israel
Fax: +972-3-609-7797

(b) if to Landmark, to: General Counsel
1400 Preston Rd., Suite 475
Plano, TX 75201
USA

with a copy (which shall not constitute notice) to: Lillian Shaked, Adv.
Electra Building
98 Yigal Aion St., 15th Floor
Tel Aviv 6789141, Israel
Fax: + 972-3-372-1115

Each notice under this Agreement will be provided to the other party by electronic mail concurrently with dispatch under the means specified above, but such electronic mail copy shall not constitute notice hereunder.

8.6. Independent Relationship. No party will have any express or implied right or authority to assume or create any obligations on behalf or in the name of another party or to bind the other party to any other contract, agreement or undertaking with any third party. Orckit will have no right or power to influence, direct or control Landmark or Landmark's licensing or litigation activities by virtue of this

Agreement.

- 8.7. No Third Party Beneficiaries.** This Agreement and the Ancillary Agreements are solely for the benefit of the parties and their Subsidiaries. No other Person will be entitled to rely on this Agreement or to anticipate the benefits of this Agreement or otherwise assert or be entitled to any rights or licenses as a third party beneficiary hereof.
- 8.8. Assignment.** After the Closing, Orckit may assign its rights and obligations hereunder in connection with a Change of Control or the Debt Restructuring. Except as provided in the preceding sentence, no party may assign or otherwise transfer this Agreement or its rights hereunder nor delegate any obligations under this Agreement in whole or in part (whether by operation of law or otherwise), without the prior written consent of the other party; provided, however, that upon satisfaction of its payment obligations in full under Section 1.2, Landmark may freely transfer its rights and obligations under this Agreement. Subject to the foregoing, this Agreement will be binding upon, inure to the benefit of and be enforceable by the parties and their respective successors and permitted assigns. Any assignment in violation of this Section will be null and void. Nothing in this Agreement will provide any additional rights to any Person, or reduce any rights of a party, as a result of or in connection with a direct or indirect change of control of the other party. For the avoidance of doubt, (a) the License shall only be transferable in accordance with the terms of the License Agreement and (b) until satisfaction of its payment obligations in full under Section 1.2 above, Landmark may not assign or transfer its ownership of the Purchased Assets and/or encumber all or any of them under any lien, provided that a transfer of any of the Purchased Assets after full satisfaction of Landmark's payment obligations hereunder does not constitute a transfer of this Agreement.
- 8.9. No Waiver.** No failure or delay in the exercise or assertion of any right hereunder will impair such right or be construed to be a waiver of, or acquiescence in, or create an estoppel with respect to any breach of any representation, warranty or covenant herein, nor will any single or partial exercise of any such right preclude other or further exercise thereof or of any other right. All rights and remedies under this Agreement are cumulative to, and not exclusive of, any rights or remedies otherwise available.
- 8.10. Severability.** Any term or provision hereof that is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable in any situation in any jurisdiction will not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the invalid, void or unenforceable term or provision in any other situation or in any other jurisdiction. If the final judgment of a court of competent jurisdiction or other authority declares any term or provision hereof invalid, void or unenforceable, the court or other authority making such determination will have the power to and will, subject to the discretion of such body, reduce the scope, duration, area or applicability of the term or provision, to delete specific words or phrases, or to replace any invalid, void or unenforceable term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision. Moreover, in the event one or more of the provisions contained in this Agreement or any part of any provision contained in this Agreement adversely impacts Landmark's title to the Patents or the Purchased Assets or Landmark's standing or rights to enforce the Patents or the

Purchased Assets in any jurisdiction, then Orckit and Landmark shall meet and discuss in good faith mutually amending this Agreement to the extent necessary to cure any such defect in title or standing.

- 8.11. Amendment.** Each party may (a) extend the time for the performance of obligations or other acts of the other party, (b) waive any inaccuracies in the representations and warranties of the other party, (c) waive compliance by the other party with any of the agreements or conditions herein or (d) amend, modify or supplement this Agreement. Any agreement on the part of a party to any such extension, waiver, amendment, modification or supplement will be valid only if set forth in an instrument in writing signed by an authorized executive officer of such party. Any action contemplated by clause (d) will require a writing signed by both parties.
- 8.12. Entire Agreement.** This Agreement (including the annexes hereto) contains the entire agreement of the parties and supersedes all prior and contemporaneous agreements, negotiations, arrangements, representations and understandings, written, oral or otherwise, between the parties with respect to the subject matter hereof.
- 8.13. Counterparts.** This Agreement may be executed in one or more counterparts (whether delivered by electronic copy or otherwise), each of which will be considered one and the same agreement and will become effective when two or more counterparts have been signed by each of the parties and delivered to the other party. Each party need not sign the same counterpart.
- 8.14. Construction and Interpretation.** When a reference is made in this Agreement to a section or article, such reference will be to a section or article of this Agreement, unless otherwise clearly indicated to the contrary. Whenever the words "include," "includes" or "including" are used in this Agreement they will be deemed to be followed by the words "without limitation". The words "hereof," "herein" and "herewith" and words of similar import will, unless otherwise stated, be construed to refer to this Agreement as a whole and not to any particular provision of this Agreement, and article, section, exhibit and schedule references are references to the articles, sections, exhibits and schedules of this Agreement, unless otherwise specified. The plural of any defined term will have a meaning correlative to such defined term and words denoting any gender will include all genders and the neuter. Where a word or phrase is defined herein, each of its other grammatical forms will have a corresponding meaning. A reference to any legislation or to any provision of any legislation will include any modification, amendment, re-enactment thereof, any legislative provision substituted therefore and all rules, regulations and statutory instruments issued or related to such legislation. A reference to a Person will include a reference to its permitted successors and assigns. If any ambiguity or question of intent or interpretation arises, this Agreement will be construed as if drafted jointly by the parties, and no presumption or burden of proof will arise favoring or disfavoring any party by virtue of the authorship of any provision of this Agreement. ~~No prior draft of this Agreement will be used in the interpretation or construction of this Agreement.~~ Headings are used for convenience only and will not in any way affect the construction or interpretation of this Agreement. This Agreement is in the English language only, which language will be controlling in all respects, and any version hereof in any other language will not be binding on the parties hereto.
- 8.15. Definitions.** For purposes of this Agreement, the following terms have the following definitions:
- "Affiliate" means, with respect to any party specified in this Agreement, any person or entity that directly, or indirectly through one or more intermediaries, Controls or is Controlled by, or is under common

Control with, such party.

"Ancillary Agreements" means the Patent Assignment, the Pledge Agreement, the License Agreement and the Blocked Account Control Agreement.

"Authorize" (including Authorization) means, with respect to any product: granting, making or constituting any license, covenant, immunity, authorization or right, whether by implication, estoppel, acquiescence, reliance or otherwise, with respect to such product or activity.

"Business Day" means any day other than Friday, Saturday, Sunday or other day on which commercial banks in The City of New York or the State of Israel are authorized or required by law to remain closed.

"Cash" shall mean cash and Cash Equivalents.

"Cash Equivalents" shall mean debt and/or equity securities (including, but not limited to stocks, warrants, options or ADRs) and/or any real or personal property that is reducible to cash but only at such time as such debt securities, equity securities, and real/personal property have been converted to cash. For the avoidance of doubt, consideration such as covenants not to sue and releases are not considered Cash Equivalents and are therefore not subject to distribution.

"Change of Control" means the acquisition of Control of Orckit whether by merger, consolidation, acquisition of shares, acquisition of all or substantially all of its assets, insolvency proceeding, contract or otherwise.

"Confidential Information" means (1) any information disclosed by a party (or its Subsidiaries) to the other party (or its Subsidiaries) in connection with this Agreement or any other business opportunity between the parties that is in written, graphic, machine readable or other tangible form and, in each case, is marked "Confidential," "Proprietary" or in some other manner to indicate its confidential nature, (2) any oral information disclosed by one party (or its Subsidiaries) to the other (or its Subsidiaries) in connection with this Agreement or any other business opportunity between the parties that is designated confidential at the time of disclosure and (3) any information disclosed by one party (or its Subsidiaries) to the other (or its Subsidiaries) in connection with this Agreement.

"Control" means (1) ownership of a majority of the outstanding voting securities, (2) the right to elect the majority of the board of directors or similar body, or (3) the ability, by contract or otherwise, to control business affairs.

"Debt Restructuring" means a court-approved debt restructuring of Orckit pursuant to Section 350 of the Israeli Companies Law, 1999-5759.

"Encumbrance" means any liens, licenses, covenants, encumbrances, interests, mortgage, pledge, charge, pledge, security interest, restrictions on transfer and restrictions on licensing.

"Governmental Entity" means any agency or entity exercising executive, legislative, judicial, regulatory or administrative functions of, or pertaining to government.

"Gross Proceeds" means the gross Cash proceeds actually received by or on behalf of Landmark from any Monetization Event, including without limitation, any licensing fee, litigation settlement fee, payment of damages or other remedies, sale or other transaction payment, and any other consideration, assets and proceeds collected by or made available to Landmark in connection with the licensing, monetization, enforcement, litigation, settlement, or sale transaction involving the Purchased Assets, without offset or reduction for any costs or expenses whatsoever.

"Identified Encumbrances" means the licenses and releases expressly granted by a member of the Orckit Group under the Patents prior to the Closing Date under the Identified Encumbrance Agreements, but only as and to the extent such licenses and releases exist as of the date hereof as set forth in the pertinent Identified Encumbrance Agreements (e.g., only for the term and subject to any restrictions, limitations, and other conditions as provided in the pertinent Identified Encumbrance Agreements).

"Identified Encumbrance Agreements" are the documents listed in **Annex D** hereto.

"OCS" means the Office of the Chief Scientist of Israel in the Israel Ministry of the Economy.

"OCS Approval" means approval by the OCS required under the R&D Law to assign applicable Patents to Landmark.

"Orckit Costs" means those costs incurred after the Closing by members of the Orckit Group at the prior written request and approval of Landmark, including per Sections 1(c), 4.4 and 4.5.

"Orckit Group" means Orckit and the following wholly owned Israeli subsidiaries of Orckit: Orckit-Corrigent Ltd. and Orckit (2014) Ltd.

"Monetization Event" means any licensing event, litigation settlement event, event of payment of damages or other remedies, sale or other transaction, or any other licensing, monetization, enforcement, litigation, settlement, or sale transaction of the Purchased Assets. For the avoidance of doubt, "Monetization Event" includes the initial agreement or payment in respect of the foregoing and any subsequent agreement, amendment or payment with respect thereto.

"Patent Assignments" means patent assignments, dated as of the Closing Date, substantially in the form of Annex B.

"Patent Documents" means documents, records and files in the possession or control of the Orckit Group and their counsel or their agents (and including the inventors for the Patents) relating to the Patents, including: (1) the original patent for each of the Patents that has issued; (2) complete prosecution files and docketing reports, including materials filed with the U.S. Patent Office (or the equivalent authority in any other country) with respect to such Patents and any other materials with respect to such Patents held in the files of the attorneys or agents prosecuting such Patents; (3) originals of all assignment agreements in its possession relating expressly to the Patents, including a written assignment to a preceding owner from each inventor for each Patent, and copies of all assignment agreements in its possession that encompass, but do not specifically identify, the Patents (such as, for example, employee and consultant invention assignment agreements for all inventors of the Patents); (4) documents, records and files relating to the conception or reduction to title, validity or enforceability of the Patents; (5) documents, records and files relating to any marking activities or to the assertion, licensing, enforcement or defense of any of the Patents; and (6) any other materials or information in the possession or control of, or known to the Orckit Group, their respective counsel or its respective agents that is reasonably likely to be required to be produced in litigation to enforce such Patents or an Adverse Proceeding in respect of the Patents. **"Patent Documents in Orckit's Possession"** means those Patent Documents that are in the direct possession of the Orckit Group or under its control with its counsel, excluding all other Patent Documents.

"Patent Rights" means all right, title and interest in the Patents including without limitation: (a) all causes of action (whether currently pending, filed, or otherwise) and other enforcement rights under the Patents including, without limitation, all rights to sue, to countersue and to pursue damages, injunctive relief, and any other remedies of any kind for past, current and future infringement of the Patents; and (b)

all rights to recover and collect settlement arrangements, license payments (including lump sum payments), royalties and other payments due now or hereafter due or payable with respect thereto, under or on account of any of the Patents or any of the foregoing; (c) any and all owner privileges, including the benefit of all attorney-client privilege and attorney work product privilege, (d) the right to practice the Patents, including without limitation, the right to make, use and sell products and services under the Patents and (d) the additional rights set forth in Section 1.1(a).

"Patents" means all patents and patent applications owned by any member of the Orckit Group, including, without limitation, the patent applications and patents listed on Annex A together with (a) patents or patent applications for which any of the foregoing forms a basis for priority; (b) reissues, extensions, continuations, continuations in part, continuing prosecution applications, divisions, results of any reexamination or any other post issuance review and registrations of any item in any of the foregoing categories (a) and (b); and (c) counterparts in any jurisdictions of any item in any of the foregoing categories (a) through (b), including, without limitation, certificates of invention, utility models and other similar rights granted via governmental grants or issuances.

"Person" means any corporation, individual, partnership (limited or general), limited liability company, joint stock companies, joint ventures, associations, companies, trust, estate, Governmental Entity or any other business entity.

"R&D Law" means the Law for Encouragement of Industrial Research & Development 5744-1984.

"Reduction to Practice Documents" means the proprietary to Orckit confidential documents, records and files relating to the conception or reduction to practice of the Orckit proprietary products under the claims of the Patents.

"Subsidiary" means, with respect to any Person (the **"Subject Person"**), any entity Controlled by the Subject Person.

The parties have duly executed and delivered this Agreement as of the Effective Date.

ORCKIT COMMUNICATIONS LTD. (Under Creditors' Arrangement)


By: _____
Name: Lior Dagan
Title: Trustee of creditor Arrangement of orckit

LANDMARK NETWORKS, LLC

By: 
Name: David Pridham
Title: CEO

Annex A

Patents

Issued

TITLE	COUNTRY	FILED	SERIALNO	ISSUED	PATENTNO	STATUS
AUTO-CONFIGURATION OF NETWORK INTERFACES IN A BIDIRECTIONAL RING NETWORK						
	UNITED STATES	16-Oct-01	09/978,642	06-Dec-05	6973049	ISSUED
AUTOMATED WEIGHT CALCULATION FOR PACKET NETWORKS						
	UNITED STATES	03-Jun-04	10/861,272	26-Aug-08	7418000	ISSUED
Automatic Implementation of Network Configuration Changes						
	UNITED STATES	11-Aug-00	09/637,300	17-May-05	6894983	ISSUED
AVOIDING OVERLAPPING SEGMENTS IN TRANSPARENT LAN SERVICES ON RING-BASED NETWORKS						
	UNITED STATES	25-Jan-02	10/057,332	24-Oct-06	7127523	ISSUED
	UNITED STATES	25-Jan-02	10/054,845	05-Dec-06	7145878	ISSUED
BANDWIDTH ALLOCATION FOR LINK AGGREGATION						
	UNITED STATES	13-May-03	10/436,516	26-Feb-08	7336605	ISSUED
BANDWIDTH SHARING METHOD						
	UNITED STATES	28-Feb-00	09/514,745	03-Feb-04	6687224	ISSUED
Bi-directional Chaining of Network Access Ports						
	UNITED STATES	27-Dec-99	09/472,683	20-Jan-04	6680904	ISSUED
COMMUNICATION IN A BIDIRECTIONAL RING NETWORK WITH SINGLE-DIRECTION RECEIVING						
	UNITED STATES	07-Jun-01	09/876,414	04-Oct-05	6952397	ISSUED
CONNECTIVITY FAULT MANAGEMENT (CFM) IN NETWORKS WITH LINK AGGREGATION GROUP CONNECTIONS						
	UNITED STATES	11-Jul-06	11/483,650	03-Aug-10	7768928	ISSUED
	JAPAN	11-Jun-07	2009519055	08-Mar-13	5213854	ISSUED
	SOUTH KOREA	11-Jun-07	2009-7001476	28-Jan-14	10-1360120	ISSUED

DIFFERENTIATED SERVICES WITH MULTIPLE TAGGING LEVELS						
	UNITED STATES	24-Apr-02	10/128,454	09-Oct-07	7280560	ISSUED
DYNAMIC PACKET FRAGMENTATION						
	UNITED STATES	08-Jan-01	09/756,554	10-May-05	6891855	ISSUED
EFFICIENT TRANSPORT OF TDM SERVICES OVER PACKET NETWORKS						
	UNITED STATES	24-Mar-03	10/396,008	07-Apr-09	7515605	ISSUED
	UNITED STATES	16-Mar-09	12/404,444	14-Jun-11	7961755	ISSUED
EQUIPMENT PROTECTION USING A PARTIAL STAR ARCHITECTURE						
	UNITED STATES	02-Aug-02	10/211,065	18-Apr-06	7032135	ISSUED
FAST FAILURE PROTECTION USING REDUNDANT NETWORK EDGE PORTS						
	UNITED STATES	07-Jan-02	10/036,518	12-Jul-05	6917986	ISSUED
FAST PROTECTION IN RING TOPOLOGIES						
	UNITED STATES	30-Aug-01	09/941,723	13-Jun-06	7061859	ISSUED
FAULT-TOLERANT MEDIUM ACCESS CONTROL (MAC) ADDRESS ASSIGNMENT IN NETWORK ELEMENTS						
	UNITED STATES	22-Sep-06	11/534,556	09-Feb-10	7660234	ISSUED
	EUROPEAN PATENT CONVENT	18-Sep-07	07805604.1	22-Jan-14	2069934	ISSUED
	UNITED KINGDOM	18-Sep-07	07805604.1	22-Jan-14	2069934	ISSUED
FLOW ALLOCATION IN A RING TOPOLOGY						
	UNITED STATES	09-Jan-01	09/756,946	25-Apr-06	7035279	ISSUED
FORWARDING MULTICAST TRAFFIC OVER LINK AGGREGATION PORTS						
	UNITED STATES	21-Dec-06	11/644,773	13-Apr-10	7697525	ISSUED
FRAME CONCATENATION WITH DROP PRECEDENCE ASSIGNMENT						
	UNITED STATES	08-Feb-07	11/704,615	13-Apr-10	7697532	ISSUED
	EUROPEAN PATENT CONVENT	11-Dec-07	07849561.1	09-Jul-14	2132905	ISSUED
	UNITED STATES	11-Dec-07	07849561.1	09-Jul-14	2132905	ISSUED

	KINGDOM					
	HONG KONG	11-Dec-07	10106007.6	23-Jan-15	HK1139531	ISSUED
GENERIC FRAMEWORK FOR EMBEDDED SOFTWARE DEVELOPMENT						
	UNITED STATES	03-Dec-01	10/005,030	27-Jun-06	7069546	ISSUED
HASH-BASED MULTI-HOMING						
	UNITED STATES	16-Jul-07	11/778,286	01-Dec-09	7626930	ISSUED
HIDDEN FAILURE DETECTION						
	UNITED STATES	30-May-02	10/156,851	18-Oct-05	6957369	ISSUED
HIERARCHICAL VIRTUAL PRIVATE LAN SERVICE PROTECTION SCHEME						
	UNITED STATES	07-Jan-03	10/337,382	16-Oct-07	7283465	ISSUED
HIGH CAPACITY RING COMMUNICATION NETWORK						
	UNITED STATES	02-Mar-06	11/367,231	05-Oct-10	7808931	ISSUED
	UNITED STATES	04-Oct-10	12/897,341	30-Aug-11	8009684	ISSUED
HIGH-SPEED PROCESSING OF MULTICAST CONTENT REQUESTS						
	UNITED STATES	11-Feb-09	12/369,011	06-Sep-11	8014394	ISSUED
INTERCONNECT AND GATEWAY PROTECTION IN BIDIRECTIONAL RING NETWORKS						
	UNITED STATES	24-Jul-01	09/910,790	30-May-06	7054264	ISSUED
INTERFACE BETWEEN A SYNCHRONOUS NETWORK AND HIGH-SPEED ETHERNET						
	ISRAEL	11-Apr-07	194824	01-Jul-14	194824	ISSUED
LATENCY EVALUATION IN A RING NETWORK						
	UNITED STATES	04-Sep-01	09/947,183	26-Sep-06	7113485	ISSUED
LAYER-3 NETWORK ROUTING WITH RPR LAYER-2 VISIBILITY						
	UNITED STATES	29-Mar-04	10/812,321	23-Jun-09	7551599	ISSUED
LINE DRIVER WITH OUTPUT IMPEDANCE SYNTHESIS						
	UNITED STATES	23-Dec-99	09/470,777	17-Apr-01	6218872	ISSUED
MAC ADDRESS LEARNING IN A DISTRIBUTED BRIDGE						

	UNITED STATES	19-May-06	11/419,444	22-Sep-09	7593400	ISSUED
	ISRAEL	17-May-07	195263	29-May-13	195263	ISSUED
	SOUTH KOREA	17-May-07	1020087030 694	08-Oct-14	10-1451174	ISSUED
MAC ADDRESS SCALABILITY IN INTERCONNECTED RINGS						
	UNITED STATES	18-Jun-07	11/764,764	13-Apr-10	7697552	ISSUED
MANAGEMENT INTERFACE FOR A NETWORK ACCESS MULTIPLEXING SYSTEM						
	UNITED STATES	08-Nov-00	09/708,845	23-Nov-04	6822944	ISSUED
Method and Apparatus for Compensating for an Echo Signal Component in Telecommunication Systems						
	UNITED STATES	14-Dec-99	09/460,891	18-Oct-05	6956944	ISSUED
METHOD AND APPARATUS FOR FILTERING ASYMMETRIC DIGITAL SUBSCRIBER LINE (ADSL) SIGNALS						
	UNITED STATES	12-May-99	09/310,518	02-Nov-04	6813343	ISSUED
METHOD FOR SUPPORTING MPLS TRANSPORT PATH RECOVERY WITH MULTIPLE PROTECTION ENTITIES						
	UNITED STATES	05-Dec-11	13/311,128	09-Sep-14	8830821	ISSUED
MULTIPOINT TO MULTIPOINT COMMUNICATION OVER RING TOPOLOGIES						
	UNITED STATES	03-Sep-04	10/933,572	12-Feb-08	7330431	ISSUED
MULTIPROTOCOL MEDIA CONVERSION						
	UNITED STATES	13-Jun-03	10/461,807	10-Jun-08	7386010	ISSUED
NETWORK ACCESS MULTIPLEXER WITH PROTOCOL ADDRESS TRANSLATION						
	UNITED STATES	08-Nov-00	09/708,841	23-Nov-04	6822943	ISSUED
NETWORK INTERFACE AUTO-CONFIGURATION IN AN ACCESS MULTIPLEXING SYSTEM						
	UNITED STATES	01-Aug-00	09/629,664	04-May-04	6731607	ISSUED
PACKET FRAGMENTATION						

WITH NESTED INTERRUPTIONS						
	UNITED STATES	08-Jan-01	09/756,553	05-Apr-05	6876669	ISSUED
PERFORMANCE MONITORING OF HIGH SPEED COMMUNICATIONS NETWORKS						
	UNITED STATES	24-Apr-02	10/128,459	28-Nov-06	7142516	ISSUED
PERFORMANCE MONITORING OF MULTIPLE CHANNELS IN AN AUTOMATIC PROTECTION SWITCHED NETWORK						
	UNITED STATES	25-Feb-02	10/082,771	02-Jan-07	7158721	ISSUED
POINT-TO-MULTIPOINT FUNCTIONALITY IN A BRIDGED NETWORK						
	UNITED STATES	22-Aug-06	11/508,599	09-Feb-10	7660303	ISSUED
	JAPAN	19-Jun-07	2009525169	03-Aug-12	5053376	ISSUED
	SOUTH KOREA	19-Jun-07	1020097005097	23-Jan-14	10-1357457	ISSUED
Prevention Of Frame Duplication In Interconnected Ring Networks						
	UNITED STATES	07-Mar-08	12/044,158	25-Jan-11	7876673	ISSUED
PROTECTING THE FILTERING DATABASE IN VIRTUAL BRIDGES						
	UNITED STATES	01-Feb-02	10/061,721	26-Dec-06	7154899	ISSUED
	UNITED STATES	09-Nov-06	11/595,635	10-Aug-10	7773508	ISSUED
Protection Against Master Unit Failure in Remote Network Access Multiplexing						
	UNITED STATES	11-Aug-00	09/637,757	21-Dec-04	6834038	ISSUED
RATE CONTROL IN TRANSMISSION OF PACKET DATA OVER AN ATM NETWORK						
	UNITED STATES	27-Nov-00	09/723,206	31-Aug-04	6785232	ISSUED
RESOURCE RESERVATION IN A RING NETWORK						
	UNITED STATES	26-Feb-01	09/794,898	08-Nov-05	6963537	ISSUED
RESOURCE SHARING AMONG NETWORK TUNNELS						
	UNITED STATES	15-Dec-05	11/305,486	09-Dec-08	7463580	ISSUED
RING NETWORK AGGREGATE RATES						
	UNITED STATES	05-Jan-09	12/348,361	29-Mar-11	7916636	ISSUED

RING NETWORK WITH VARIABLE RATE						
	UNITED STATES	12-Mar-03	10/387,657	02-Sep-08	7420922	ISSUED
ROUTE SELECTION WITH BANDWIDTH SHARING OPTIMIZATION OVER RINGS						
	UNITED STATES	24-Jan-06	11/339,148	29-Sep-09	7596088	ISSUED
	ISRAEL	03-Oct-06	192993	25-Jun-13	192993	ISSUED
SELECTIVE PROTECTION FOR RING TOPOLOGIES						
	UNITED STATES	03-Oct-01	09/969,839	10-May-05	6892329	ISSUED
	GERMANY	03-Mar-02	602 12 108.6	06-Jul-06	602 12 108.6	ISSUED
	EUROPEAN PATENT CONVENT	03-Mar-02	02701519.7		1378096	ISSUED
	SPAIN	03-Mar-02	02701519.7	07-Jun-06	2 266 445	ISSUED
	FRANCE	03-Mar-02	02701519.7	07-Jun-06	1378096	ISSUED
	UNITED KINGDOM	03-Mar-02	02701519.7	07-Jun-06	1378096	ISSUED
	ISRAËL	03-Mar-02	158008	05-Dec-09	158008	ISSUED
	ITALY	03-Mar-02	02701519.7	07-Jun-06	1378096	ISSUED
	JAPAN	03-Mar-02	2002577349	08-Aug-08	4167072	ISSUED
SIGNALING MPLS OVER RPR RINGS						
	UNITED STATES	20-Feb-03	10/369,953	27-Jan-09	7483399	ISSUED
SONET CIRCUIT EMULATION WITH VT COMPRESSION						
	UNITED STATES	17-Oct-01	09/978,342	07-Nov-06	7133415	ISSUED
Splitterless Ethernet DSL on Subscriber Loops						
	UNITED STATES	01-Jul-99	09/346,416	19-Nov-02	6483903	ISSUED
SYNCHRONIZED RING SOFTWARE DOWNLOAD						
	UNITED STATES	27-Sep-04	10/951,575	13-Jan-09	7478382	ISSUED
TRAFFIC ENGINEERING IN BI-DIRECTIONAL RING NETWORKS						
	UNITED STATES	02-Aug-02	10/211,066	16-Oct-07	7283478	ISSUED
TRANSPARENT TRANSPORT OF FIBRE CHANNEL TRAFFIC OVER PACKET-SWITCHED NETWORKS						
	UNITED STATES	29-Jun-06	11/479,595	07-Apr-09	7515536	ISSUED
Tunnel provisioning with link aggregation						
	UNITED STATES	06-May-05	11/123,801	05-Jul-11	7974202	ISSUED
	UNITED STATES	26-May-11	13/116,696	17-Sep-13	8537682	ISSUED
	UNITED STATES	31-May-11	13/149,196	23-Apr-13	8427953	ISSUED

	STATES					
TWO-WAY LINK AGGREGATION						
	UNITED STATES	07-Apr-06	11/279,045	09-Jun-09	7545740	ISSUED
VIRTUAL PRIVATE LAN SERVICE OVER RING NETWORKS						
	UNITED STATES	19-Nov-04	10/993,882	05-Jul-11	7974223	ISSUED
VIRTUAL PRIVATE LAN SERVICE USING A MULTICAST PROTOCOL						
	UNITED STATES	23-Aug-02	10/226,525	04-Mar-08	7339929	ISSUED
VPLS failure protection in ring networks						
	UNITED STATES	18-Jan-06	11/335,770	19-Jul-11	7983150	ISSUED
	GERMANY	18-Jan-07	0770619.2	24-Jul-13	6.02007E+11	ISSUED
	EUROPEAN PATENT CONVENT	18-Jan-07	07706019.2	24-Jul-13	1974485	ISSUED
	FRANCE	18-Jan-07	07706019.2	24-Jul-13	1974485	ISSUED
	UNITED KINGDOM	18-Jan-07	07706019.2	24-Jul-13	1974485	ISSUED
VPLS REMOTE FAILURE INDICATION						
	GERMANY	07-Nov-06	06809843.3	09-Oct-13	60200603879 6.2	ISSUED
	EUROPEAN PATENT CONVENT	07-Nov-06	06809843.3	09-Oct-13	1958364	ISSUED
	FRANCE	07-Nov-06	06809843.3	09-Oct-13	1958364	ISSUED
	UNITED KINGDOM	07-Nov-06	06809843.3	09-Oct-13	1958364	ISSUED
	ISRAEL	07-Nov-06	191454	01-Feb-14	191454	ISSUED
	UNITED STATES	07-Nov-06	12/093,824	12-Jun-12	8199637	ISSUED

Pending / Published

TITLE	COUNTRY	FILED	SERIALNO	REFERENCE
CONNECTIVITY FAULT MANAGEMENT (CFM) IN NETWORKS WITH LINK AGGREGATION GROUP CONNECTIONS				
	EUROPEAN PATENT CONVENT	11-Jun-07	07736442	40552-8148
	ISRAEL	11-Jun-07	196401	40552-8150
Device, Method and System for Media Packet Distribution				
	INDIA	22-Oct-08	836/MUMNP/201 0	40552-8178

	UNITED STATES	02-Dec-10	12/738,080	40552-6157
Edge optimized transrating system				
	UNITED STATES	02-Dec-09	12/629,310	40552-6164
FORWARDING MULTICAST TRAFFIC OVER LINK AGGREGATION PORTS				
	EUROPEAN PATENT CONVENT	09-Dec-07	07827481.8	40552-8161
HASH-BASED MULTI-HOMING				
	EUROPEAN PATENT CONVENT	12-Nov-07	07827358.8	40552-8168
METHOD FOR SUPPORTING MPLS TRANSPORT ENTITY RECOVERY WITH MULTIPLE PROTECTION ENTITIES				
	UNITED KINGDOM	22-Jun-12	1400156.4	40552-8188
METHOD FOR SUPPORTING SNCP OVER PACKET NETWORK				
	UNITED STATES	15-Apr-11	13/087,438	40552-6167
	EUROPEAN PATENT CONVENT	13-Apr-12	12772045.6	40552-8187
POINT-TO-MULTIPOINT FUNCTIONALITY IN A BRIDGED NETWORK				
	EUROPEAN PATENT CONVENT	19-Jun-07	07736484.2	40552-8155
	HONG KONG	19-Jun-07	09110631.5	40552-8156
RESOURCE SHARING AMONG NETWORK TUNNELS				
	ISRAEL	14-Dec-06	192192	40552-8125
ROUTE SELECTION WITH BANDWIDTH SHARING OPTIMIZATION OVER RINGS				
	EUROPEAN PATENT CONVENT	03-Oct-06	06796145.8	40552-8129
TRANSPARENT TRANSPORT OF FIBRE CHANNEL TRAFFIC OVER PACKET-SWITCHED NETWORKS				
	EUROPEAN PATENT CONVENT	09-Jul-06	06756247	40552-8113
TUNNEL PROVISIONING WITH LINK				

AGGREGATION				
	UNITED STATES	17-Aug-13	13/969,520	40552-6175
TWO-WAY LINK AGGREGATION				
	ISRAEL	27-Mar-07	194652	40552-8116
A METHOD AND SYSTEM FOR DEEP PACKET INSPECTION IN SOFTWARE DEFINED NETWORKS	US	21- April - 15	PCT/US15/26869	

ANNEX B

ASSIGNMENT AGREEMENT

This Assignment Agreement (the "Agreement") is made and entered into this ____ day of ____ 2015 (the "Effective Date"), by Orckit Communications Ltd., an Israeli limited liability company under Creditors' Arrangement ("**Orckit**"), having an address with Lior Dagan, Adv. (Temporary Liquidator), 1 Azrielli Center (Round Building), 35th Floor, Tel-Aviv 67021, Israel ("Assignor") and Landmark Networks, LLC, a Texas limited liability company having an address at 1400 Preston Road, Suite 475, Plano, TX 75201 ("Assignee").

RECITALS

A. Assignor is the owner of (select as appropriate):

- the United States Patents set forth on Appendix A hereto (the "US Patents");
- the non-United States patents set forth on Appendix B hereto (the "Foreign Patents");
- the United States patent applications set forth on Appendix C hereto (the "US Patent Applications");
- the United States provisional patent applications set forth on Appendix D hereto (the "US Provisional Patent Applications"); and/or
- the foreign patent applications set forth on Appendix E hereto (the "Foreign Patent Applications");

which collectively shall be referred to herein as the "Patents".

B. Assignor and Assignee have agreed by way of a purchase agreement (the "Purchase Agreement") dated _____, 2015, by and between Assignor and Assignee, the terms of which are incorporated herein by reference, that Assignor shall sell, transfer, and assign and set over unto Assignee and Assignee shall accept, all rights, title and interest in and to the Patents as specified in this Agreement. In the event of any conflict between the terms of this Patent Assignment Agreement and the referenced Purchase Agreement, the terms of the Purchase Agreement shall prevail.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing premises, and the covenants and agreements in this Assignment, Assignor and Assignee agree as follows:

1. Assignor does hereby sell, transfer, convey, assign and deliver to Assignee all of Assignor's right, privilege, title and interest in, to and under the Patents and in the case of patent applications in and to any patents that may issue therefrom, including, in all instances, any counterparts of any of the foregoing in any jurisdiction throughout the world, and any and all divisions, continuations, reissues or reexaminations of any of the foregoing, and, further, all applications for industrial property protection, including without limitation, all applications for patents, utility models, copyright, and designs which may hereafter be filed for any inventions described in said Patents in any country or countries, together with the right to file such applications and the right to claim for the same the priority rights derived from the inventions and the Patents under the laws of the United States, the International Convention for the Protection of Industrial Property, or any other international agreement or the domestic laws of the country in which any such application is filed, as may be applicable, in each instance the same to be held by Assignee for Assignee's own use and enjoyment, and for the use and enjoyment of Assignee's successors, permitted assigns and other legal representatives, as fully and entirely as

the same would have been held and enjoyed by Assignor if this Assignment and sale had not been made; together with all claims for damages, royalties, income or other remuneration (hereinafter "Damages") by reason of past, present and future infringements of the Patents or other rights being assigned hereunder, along with the right to sue for and collect such Damages for the use and benefit of Assignee and its successors, permitted assigns and other legal representatives.

2. Insofar as this assignment concerns European patents and patent applications, Assignor does hereby declare that it is the owner of said Patents and that Assignor has assigned same, along with all rights and duties appurtenant thereto, to Assignee and agree that the assignment will be recorded in the register with the European Patent Office; and Assignee hereby declares that Assignee has agreed to the assignment of the aforementioned Patents to it and that Assignee will simultaneously apply for recording of the assignment in the register with the European Patent Office.

3. Assignor hereby authorizes and requests the Commissioner for Patents of the United States, and any officer of any country or countries foreign to the United States, whose duty it is to issue patents or other evidence or forms of intellectual property protection or applications as aforesaid, to issue the same to Assignee and its successors, permitted assigns and other legal representatives in accordance with the terms of this instrument.

4. Assignor authorizes and empowers Assignee, its successors, permitted assigns and legal representatives or nominees, to invoke and claim for any application for patent or other form of protection for the inventions, the benefit of the right of priority provided by the International Convention for the Protection of Industrial Property, as amended, or by any convention which may henceforth be substituted for it, or any other international agreement or the domestic laws of the country in which any such application is filed, as may be applicable, and to invoke and claim such right of priority without further written or oral authorization from Assignor.

5. Assignor hereby acknowledges and agrees that all of the rights, title and interest in and to the Patents sold, transferred, assigned and set over to Assignee hereunder include all income, royalties, damages and payments now or hereafter due or payable with respect thereto, and all causes of action (whether in law or equity) and the right to sue, counterclaim, and recover for the past, present and future infringement of the rights assigned or to be assigned hereunder.

6. Assignor hereby consents that a copy of this Agreement shall be deemed a full legal and formal equivalent of any assignment, consent to file or like document that may be required in any country for any purpose and more particularly in proof of the right of Assignee or nominee to claim the aforesaid benefit of the right of priority provided by the International Convention for the Protection of Industrial Property, as amended, or by any convention which may henceforth be substituted for it.

IN WITNESS WHEREOF, the Parties have executed this Assignment on the Effective Date.

Assignor: _____

By: _____

Name: _____

Title: _____

Assignee: _____

By: _____

Name: _____

Title: _____

APPENDIX A

TO ASSIGNMENT AGREEMENT

Title	Patent Number	Issue Date
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APPENDIX B

TO ASSIGNMENT AGREEMENT

Title	Patent Number	Issue Date
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APPENDIX C

TO ASSIGNMENT AGREEMENT

Title	Application Number	Filing Date
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APPENDIX D

TO ASSIGNMENT AGREEMENT

Title	Application Number	Filing Date	Inventor(s)
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APPENDIX E

TO ASSIGNMENT AGREEMENT

Title	Application Number	Filing Date
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Annex C

Pledge Agreement

(attached as separate document)

Annex D

Identified Encumbrance Agreements

1. Manufacturing and Purchase Agreement between Corrigent Inc., and U.S.R. Electronic Systems (1987) Ltd, dated April 17, 2008.
2. Manufacturing and Purchase Agreement between Orckit – Corrigent Ltd. and U.N.I. Sophisticated Electronic Assembling Ltd, *to be sign by the parties in the near future.
3. Settlement Agreement between Orckit Corrigent Ltd. And Nokia Simens Networks Pvt. Ltd, dated April 16, 2015.
4. Memorandum of Understanding (MOU) Concerning Cooperation in the Field of Telecommunication, between Corrigent Systems Ltd. And ITM GmbH, dated July 23, 2008.
5. Term Sheet between Orckit Corrigent Ltd. And Orckit Communications Ltd. And all their respective and affiliates, and by ECI Telecom Ltd., dated August 20, 2013.
6. Services Agreement between Orckit-Corrigent Ltd. And ECI Telecom Ltd.
7. Purchase Order from Marcatel COM S.A de C.V., dated March 3, 2015.
8. Purchase Order from Marcatel COM S.A de C.V., dated February 10, 2015.
9. Purchase Order from Intercable S.A. de C.V., dated March 23, 2011.
10. Purchase Order from Intercable S.A. de C.V., dated January 24, 2014.
11. Purchase Order from Intercable S.A. de C.V., dated June 12, 2012.
12. Purchase Order from Intercable S.A. de C.V., dated April 24, 2012.
13. Purchase Order from Intercable S.A. de C.V., dated October 25, 2011.
14. Purchase Order from Intercable S.A. de C.V., dated December 2, 2013.
15. Purchase Order from Intercable S.A. de C.V., dated January 10, 2013.
16. Purchase Order from Intercable S.A. de C.V., dated October 8, 2013.
17. Purchase Order from Intercable S.A. de C.V., dated December 6, 2012.
18. Purchase Order from Intercable S.A. de C.V., dated March 13, 2012
19. Purchase Order from Intercable S.A. de C.V., dated March 13, 2012.
20. Distribution agreement between Orckit-Corrigent LTD., and 3M Services GMBH, dated July 23, 2012.
21. Exhibits C1, C2, C3, C4, C5, D to the Distribution agreement between Orckit- Corrigent LTD., and 3M Services GMBH
22. Orckit-Corrigent application to OCS for approval of Escrow Frame agreement between Orckit-Corrigent LTD., and Escrow Europe (Israel) LTD.,
23. Escrow agreement approval by OCS, dated June 24, 2012.
24. Supply Agreement between ITI Limited, Alphion Corporation and ORckit-Corrigent, LTD., dated August 16, 2010
25. Undertaking letter to Alphion, dated August 17, 2010
26. Undertaking letter to ITI, dated August 17, 2010
27. Teaming agreement between Alphion Corporation and Corrigent Systems LTD., dated July 6, 2008
28. Teaming agreement between ITI Limited, Alphion Corporation and Corrigent Systems LTD., dated July 6, 2008
29. Performance Guarantee to Alphion Corporation, dated October 28, 2010
30. Purchase Order from Intelligent Communications Technology Co., DLT., dated August 24, 2011

31. Purchase Order from ComClark Networks and Technology Corp., dated June 3, 2011
32. Purchase Order from ComClark Networks and Technology Corp., dated June 6, 2011
33. Purchase Order from ComClark Networks and Technology Corp., dated March 19, 2012
34. Master Agreement between Global Crossing Limited and Corrigent Systems, Inc., dated June 30, 2009.
35. Exhibit B to Master Agreement between Global Crossing Limited and Corrigent Systems, Inc,
36. Purchase Order from Gas Natural Fenosa, dated November 1, 2012
37. Purchase Order from Gas Natural Fenosa, dated November 15, 2012
38. Purchase Order from Gas Natural Fenosa, dated December 10, 2012
39. Contract between Orckit-Corrigent LTD., and Integral, dated October 30, 2012
40. Annex A to the contract between Orckit-Corrigent LTD., and Integral.
41. Purchase order from T.L.S.P Electronic System Trade LTD. and Orckit-Corrigent LTD., dated October 30, 2012
42. Purchase Order 064 from FTD, dated November 25, 2009
43. Purchase Order 065 from FTD, dated November 25, 2009
44. Purchase Order 068 from FTD, dated December 7, 2009
45. Purchase Order 069 from FTD, dated December 9, 2009
46. Distribution agreement between Corrigent Systems LTD. and Net One Systems Co., LTD., dated December 1, 2005.
47. Schedule 1 to the Distribution agreement between Corrigent Systems LTD. and Net One Systems Co., LTD.
48. Amendment No.1 to the letter of agreement between Corrigent Systems LTD. and OKI Electric Industry Co., LTD., dated August 1, 2005
49. Amendment No.2 to the letter of agreement between Corrigent Systems LTD. and OKI Electric Industry Co., LTD., dated October 1, 2005
50. Amendment No.3 to the letter of agreement between Corrigent Systems LTD. and OKI Electric Industry Co., LTD., dated December 1, 2005
51. Amendment No.4 to the letter of agreement between Corrigent Systems LTD. and OKI Electric Industry Co., LTD., dated April 16, 2009
52. Framework Contract IP Backbone between Corrigent Systems, LTD., and T-Systems Media&Broadcast GMBH, dated August 31, 2008
53. Annexes 1-9 to the Framework Contract IP Backbone between Corrigent Systems, LTD., and T-Systems Media&Broadcast GMBH
54. Annex A to Purchase Agreement between Orckit-Corrigent LTD. and Metronet S.A.P.I. de C.V
55. Annex B to Purchase Agreement between Orckit-Corrigent LTD. and Metronet S.A.P.I. de C.V
56. Annex C to Purchase Agreement between Orckit-Corrigent LTD. and Metronet S.A.P.I. de C.V, dated November 20, 2012 Proposal to Metronet, dated November 22, 2011
57. Annex D to Purchase Agreement between Orckit-Corrigent LTD. and redIT (formerly Metronet S.A.P.I. de C.V) subsidiary of KIO Networks S.A. de C.V. *to be sign by the parties in the near future.
58. Purchase Agreement between Nokia Siemens Networks PTV. LTD., and Corrigent Systems LTD., dated August 1, 2009
59. Distribution Agreement between Orckit-Corrigent LTD. and Technoserv AS, dated March 1, 2010
60. Appendix 1 to the Distribution Agreement between Orckit-Corrigent LTD. and Technoserv AS
61. Price list forTele2 Russia, dated October 18, 2010

62. Frame supply agreement between Orckit-Corrigent LTD. and Tefe2 Sverige AB, dated September 29, 2009
63. Support services agreement between Orckit-Corrigent LTD. and Tele2 Sverige AB, dated September 29, 2009
64. Annex A to Frame supply agreement between Orckit-Corrigent LTD. and Tele2 Sverige AB
65. Amendment No. 1 to to Frame supply agreement between Orckit-Corrigent LTD. and Teie2 Sverige AB, dated March 25, 2010
66. Amendment No. 2 to to Frame supply agreement between Orckit-Corrigent LTD. and Tele2 Sverige AB, dated August 29, 2010
67. Amendment No. 3 to to Frame supply agreement between Orckit-Corrigent LTD. and Tele2 Sverige AB, dated December 10, 2010
68. Amendment No. 4 to to Frame supply agreement between Orckit-Corrigent LTD. and Tele2 Sverige AB, dated July 23, 2011
69. Amendment No. 6 to to Frame supply agreement between Orckit-Corrigent LTD. and Tele2 Sverige AB, dated January 1, 2013
70. Strategic Cooperation Agreement between Orckit-Corrigent LTD., and Telrad Networks LTD., dated December 24, 2009.
71. Global Price List for the Products defined in the Strategic Cooperation Agreement between Orckit-Corrigent LTD., and Telrad Networks LTD.
72. 3 party joint development escrow agreement between Orckit-Corrigent LTD., and Telrad Networks LTD., and Escrow Europe (Israel) LTD., dated June 25, 2012.
73. Distribution agreement between Orckit-Corrigent LTD. and Telsol, dated March 1, 2011
74. Service agreement between Orckit-Corrigent LTD. and Telsol, dated September 20, 2011
75. Orckit-Corrigent application to OCS for approval of Escrow Frame agreement between Orckit-Corrigent LTD., and Escrow Europe (Israel) LTD.,
76. Escrow agreement approval by OCS, dated June 24, 2012.
77. Purchase order from OKI Electric Industry Co., LTD., dated December 26, 2011
78. Memorandum of understanding between Orckit-Corrigent LTD., and WooriNet, Inc., dated October 24, 2012.
79. Appendix A to Memorandum of understanding between Orckit-Corrigent LTD., and WooriNet, Inc.
80. Distribution agreement between Orckit-Corrigent LTD. And Yukyung Technologies, dated November 4, 2011.
81. Alcatel has sued Orckit for infringing its patent (United States District Court for the Northern District of California Case No. C 00 1227 JLS and United States District Court for the Northern District of California Case C-00-1936 EDL). The conflict was resolved by a **PATENT CROSS LICENSE AGREEMENT** between Alcatel and Orckit Communications Ltd. And Tioga Technologies Ltd., that according to the Orckit statement in the past expired on July 31, 2005. The agreement had an option for renewal during the year following July 31, 2005; however, neither party asked for such renewal and hence, Orckit stated that in its view this agreement is expired.

Annex 1.2

Beneficiary: ORCKIT COMMUNICATIONS LTD BY ADV LIOR DAGAN

Bank: Hapoalim (12)

Branch: 610

Account: 99665

IBAN: IL86-0126-1000-0000-0099-665

Swift: POALILIT

DOCUMENT REQUEST FORM

Annex 2.2

Re: Documents related to the Patents as Listed on Exhibit A hereto

Dear _____:

In connection with the due diligence review by _____ (“Acquiring Entity”) of the patents and patent applications listed on Annex A hereto (the “Patents”), Acquiring Entity hereby requests the delivery the Documents (as defined below) and/or confirmation to Acquiring Entity that there are no other Documents in the possession of the owner of the Patents (the “Patent Owner”).

“Documents,” for the purposes hereof shall have the meaning ascribed to Patent Documents in Orckit's Possession under the Patent Purchase Agreement between Patent Owner and Acquiring Entity.

ALL DOCUMENTS ARE PROVIDED ON AN "AS-IS" "WHERE-IS" BASIS AND NOTHING HEREIN SHALL BE DEEMED AS A REPRESENTATION OR WARRANTY, INCLUDING WITHOUT LIMITATION AS TO THE EXISTENCE OF ANY DOCUMENT OR CERTIFICATE OR THE SUFFICIENCY OF THE SAME.

1. File histories including

a. Prosecution file history for the Patents, including:

- i. File histories of any Patent including current owner of record, jurisdiction where the application/registration is located; and any application number

[We do not have in our possession copies of the file histories for all expired PCT applications. These can be downloaded from the International Bureau if needed.]

- ii. Communications with, by and to prosecution counsel or agent with respect to the Patents that are in the records of Orckit's US counsel (“US counsel”).- [We have prepared for review the communications with the Patent Owner, foreign counsel and worldwide patent offices that we have in our records.]

- iii. File-stamped copies of the assignment records for Patents that are in the records of the US counsel - [We have prepared copies of all assignment records that we have in our possession.]

b. Communications and the references that are included in the US counsel files, including lists of prior art references.

c. Pre-filing documents such as:

d. Communications and invention disclosures that are in the possession of the US counsel.

- i. Memos, notes, letters, emails etc. requesting that a patent application be prepared that are in the possession of the US counsel.

- ii. Communications discussing the decision of whether to file a patent application that are in the possession of the US counsel.

e. Communications discussing or describing any products that the proposed invention relates that are in the possession of the US counsel.

f. Documents, including without limitation any memos, notes, letters, emails, presentations, etc. related to or arising from any efforts to create products based on the proposed

inventions, relating to the design, development, marketing, sale, offers for sale, public disclosure, or ownership of the products, the proposed inventions and/or patents, including any agreements with third parties (e.g. joint development (or similar) agreements or non-disclosure agreements, that are in the possession of the US counsel.

- g. documents related to the conception, reduction to practice, or development of the invention that are in the possession of the US counsel.
 - h. Post-issuance documents such as:
 - i. Ribbon copies of the Patents that are in the records of the US counsel..
 - i. Memos that are in the possession of the US counsel regarding payment of maintenance fees and/or annuities (including recommendations of whether or not to pay maintenance fees.
2. All the agreements that are specified under Annex E to the Patent Purchase Agreement.
 3.
 - a. Information that relate in any way to an evaluation of the Patents including without limitation documents that relate to strengths, weaknesses etc. of the enforceability and/or validity of the patents, infringement and/or non-infringement of any specific entity or by industries in general and that is in the possession of the US counsel.
 - b. Information that relate to the enforceability of the Patents and that is in the possession of the US counsel.
 - c. Information that relate to the validity of the patents and that is in the possession of the US counsel.
 - d. Information that discuss a damages analysis regarding any of the Patents and that is in the possession of the US counsel.
 4. Information that is in the possession of the US counsel related to marking of patented articles including articles made by Patent Owner that were or should have been marked, and marking requirements (including steps taken to enforce marking requirements) in any agreements identified pursuant to request 2 above.
 5. Assignments of the Patents that are in the possession of the US counsel.
 6. Names of law firms and/or individual lawyers involved in any of the Patents so that the privileged nature of any produced documents can be determined.
 7. Documents related to each named inventor of the Patents and that are in the possession of the US counsel, including:
 - a. Patent Assignments signed by each inventor and that are in the possession of the US counsel.
 - b. Invention Assignments signed by each inventor and that are in the possession of the US counsel.
 8. A list of any actions that must be taken by the Patent Owner within ninety (90) days of the anticipated closing date with respect to the Patents, including the payment of any registration, maintenance or renewal fees or the filing of any documents, applications or certificates.
 9. A list of any proceedings or actions before any governmental entity (including the United States Patent and Trademark Office or equivalent authority anywhere in the world) in which claims are being or were raised relating to the validity, enforceability, scope, ownership or infringement of any of the Patents.

Annex 2.5

Joint Development Activity

Telrad and Woorinet Agreements

- i. Strategic Cooperation Agreement between Orckit-Corrigent LTD., and Telrad Networks LTD., dated December 24, 2009.
- ii. Global Price List for the Products defined in the Strategic Cooperation Agreement between Orckit-Corrigent LTD., and Telrad Networks LTD.
- iii. 3 party joint development escrow agreement between Orckit-Corrigent LTD., and Telrad Networks LTD., and Escrow Europe (Israel) LTD., dated June 25, 2012.
- iv. Memorandum of understanding between Orckit-Corrigent LTD., and WooriNet, Inc., dated October 24, 2012.
- v. Appendix A to Memorandum of understanding between Orckit-Corrigent LTD., and WooriNet, Inc.

OCS Grants and Programs

Orckit has received grants for the following OCS programs:

<u>Program #</u>	<u>File #</u>	<u>Program name</u>	<u>Years</u>
13360	13630	פתי ממיר פרוטוקולים CEPT/04	8/92 - 4/91
	15241	פיתוח ממיר פרוטוקולים ל-T1	11/93 — 7/92
17542	17542	מע' להגדלת נפח התקשורת המועברת על חוטי הטלפון הסטנדרטיים	1/94-11/95
	20076	אור-ויגין	10/95-3/97
	20084	FAST INTERNES SYSTEM	10/95-3/97
	22140	פתי וייצור מערכת גישה מבוססת XDSL לסביבת ATM	1/97-12/97
	23152	ATMP2 BBATM PHASE2	1/98-12/98
18758	18758	מע' להעברת שרותים מתקדמים	1/95-11/96
	21769	פתי מערכת מבוססת LDSL	3/98 - 1/97

19781	19781	HDSL, ADSL, BDSL מהדר	9/96 - 7/95
20092	20092	מערכת לניהול רשת	10/95-5/97
22939	22939	פת' מודמים בטכנ HDSL2	1/98-12/98
	24475	HDSL פת' מערכת	No grant received
	24350	מגני"ט - קונסורציום מולטימדיה	3/00 - 4/97

* Orckit has developed various products under the above programs.

Corrigent has received grants for the following OCS programs:

Program #	File #	Program name	Years
27087	27087	PACKET CARRIER	2001
	28041	PACKET CARRIER	2002
	31841	PACKET CARRIER	2003
	33690	PACKET CARRIER	2004
	35260	PACKET CARRIER	2005
	36844	TNS	2006
	37086	CELTIC-BROADBAND ACCESS	2006
	38253	TMS	2007
	39514	TMS	2008
	40101	Broadband Access Network Integrated Telecommunication System	2008
	40980	TMS	2009
	42994	TMS - CM4800	2010
	44890	CM-4000 Carrier Ethernet Transport Solution	2011
46986	CM4000 PTN Solution	2012	
Net-HD consortium	41681	Net-HD consortium - year 1	2009-2010
	43503	Net-HD consortium - year 2	2010-2011
	45435	Net-HD consortium - year 3	2011-2012
	47603	Net-HD consortium - year 4	2012-2013
	49808	Net-HD consortium - year 5	2013-2014

Tera Santa consortium	44175	Tera Santa consortium - Year 1	2010-2011
	46121	Tera Santa consortium - Year 2	2011-2012
	48349	Tera Santa consortium - Year 3	2012-2013

Corrigent has developed products under the above programs.

As specified by the Company in the past, Orckit has submitted a request to the OCS for examination of the patents. Orckit has presented its opinion with regards to the patents resulting from each program / file in the application to the OCS.

Orckit has submitted the following attached documents to the OCS:

Orckit IP application for OCS, dated October 14, 2012

Clarifications to Orckit IP application for OCS, dated November 4, 2012, and its annexes.

US patent 6,813,343 was filed during the period of Multimedia Consortium (File 24350) and by an inventor for which a Multimedia Consortium grant was received. The technological domain of the patent is ADSL, which was the subject of Program 17542. The relation of this patent to Program 17542 instead of File 24350 is subject to OCS approval.

Documents related to Multimedia consortium

- i. Multimedia consortium founding agreement, dated 1995 Multimedia
- ii. consortium IP undertaking, dated September 5, 1996
- iii. Multimedia consortium regulations
- iv. Multimedia consortium regulations amendment, dated June 3, 1997. Multimedia consortium regulations amendment, dated August 10, 1998.
- v. Multimedia consortium regulations amendment, dated November 8, 1999

Annex 2.6

Corrigent made the following IP disclosure to SSO's:

IETF

2012-04-19	1754	<u>Orckit-Corrigent Ltd's Statement about IPR related to draft-ram-l2vpn-etree-multiple-pw-01</u>
2012-04-19	1755	<u>Orckit-Corrigent Ltd's Statement about IPR related to draft-ram-l2vpn-ldp-vpls-etree-2pw-02</u>
2012-04-19	1756	<u>Orckit-Corrigent Ltd's Statement about IPR related to draft-jiang-l2vpn-vpls-pe-etree-05</u>
2012-04-19	1757	<u>Orckit-Corrigent Ltd's Statement about IPR related to draft-jiang-l2vpn-etree-bgp-00</u>
2012-04-19	1758	<u>Orckit-Corrigent Ltd's Statement about IPR related to draft-chen-l2vpn-vpls-etree-vlan-01</u>
2012-04-19	1759	<u>Orckit-Corrigent Ltd's Statement about IPR related to draft-cao-l2vpn-vpls-etree-02</u>
2012-04-19	1760	<u>Orckit-Corrigent Ltd's Statement about IPR related to draft-delord-pwe3-cw-bit-etree-07</u>
2003-05-08	200	<u>Corrigent System's Statement about IPR claimed in IETF Technology</u>

IEEE

IEEE-SA RECORDS OF IEEE STANDARTS-RELATED PATENT LETTERS OF ASSURANCE FOR IEEE STANDARTS 802.17 – 802.22.1

Std No.	Patent Serial No. (if indicated)	Letter Date	Assurance Received	Date record entered or revised (if known)	
802.17	Not Indicated	July 21,2002	Yes	July 22, 2002	
802.17b	Not Indicated	<u>1 Jul 08</u>	Yes	July 1, 2008	
802.17c	Not Indicated	<u>1 Jul 08</u>	Yes	July 1, 2008	

Annex 2.10

- i. Orckit Communications Ltd. v. Networks³ Inc., et al., C.A. No. 9658-VCG
- ii. Alcatel has sued Orckit for infringing its patent (United States District Court for the Northern District of California Case No. C 00 1227 JLS and United States District Court for the Northern District of California Case C-00-1936 EDL). The conflict was resolved by a **PATENT CROSS LICENSE AGREEMENT** between Alcatel and Orckit Communications Ltd. And Tioga Technologies Ltd., that according to the Orckit statement in the past expired on July 31, 2005. The agreement had an option for renewal during the year following July 31, 2005; however, neither party asked for such renewal and hence, Orckit stated that in its view this agreement is expired.
- iii. List of agreements specified in Annex B "Identified Encumbrance Agreements"
- iv. Strategic Cooperation Agreement between Orckit-Corrigent LTD., and Telrad Networks LTD., dated December 24, 2009.
- v. Global Price List for the Products defined in the Strategic Cooperation Agreement between Orckit-Corrigent LTD., and Telrad Networks LTD.
- vi. 3 party joint development escrow agreement between Orckit-Corrigent LTD., and Telrad Networks LTD., and Escrow Europe (Israel) LTD., dated June 25, 2012.
- vii. Memorandum of understanding between Orckit-Corrigent LTD., and WooriNet, Inc., dated October 24, 2012.
- viii. Appendix A to Memorandum of understanding between Orckit-Corrigent LTD., and WooriNet, Inc.

Annex 2.11

REFERENCE	TITLE	Country	Patent/Application No.	ACTION	CURRENT DUE	FINAL
40552-6157	Device, Method and System for Media Packet Distribution	US	12/738,080	Payment of \$480 for ISSUE fee amount.	30-September-15	30-September-15
40552-6167	METHOD FOR SUPPORTING SNCP OVER PACKET NETWORK	US	13/087,438	Payment of \$480 for the ISSUE fee amount.	3- September-2015.	
40552-8155	POINT-TO-MULTIPOINT FUNCTIONALITY IN A BRIDGED NETWORK	EP	07736484.2	RESPONSE TO OA	21-May-15	21-May-15
40552-8161	FORWARDING MULTICAST TRAFFIC OVER LINK AGGREGATION PORTS	EP	07827481.8	RESPONSE TO OA	21-May-15	21-July-15
40552-8178	Device, Method and System for Media Packet Distribution	IN	836/MUMNP/2010	RESPONSE TO OA	28-Jan-15	28-Jan-16
40552-8168	HASH-BASED MULTI-HOMING	EP	07827358.8	RESPONSE TO OA	19-Jun-15	19-Aug-15
40552-6175	TUNNEL PROVISIONING WITH LINK AGGREGATION	US	13/969,520	Payment of \$480 for the ISSUE fee amount.	17 - July - 2015	

Date	Action	EXT	AVAILABLE	TITLE	COUNTRY ID	CASENO	FEES (Not including legal and other charges)
March 2015							
3/3/15	ANNUITY DUE	0	1 Ext/6 Mnth	SELECTIVE PROTECTION FOR RING TOPOLOGIES	(DE)	602 12 108.6	2090.85
3/3/15	ANNUITY DUE	0	1 Ext/6 Mnth	SELECTIVE PROTECTION FOR RING TOPOLOGIES	(FR)	1378096	1097.89
3/3/15	PAID	0	1 Ext/6 Mnth	SELECTIVE PROTECTION FOR RING TOPOLOGIES	(GB)	1378096	931.13
3/3/15	PAID	0	1 Ext/6 Mnth	SELECTIVE PROTECTION FOR RING TOPOLOGIES	(ES)	2 266 445	1311.59
3/3/15	ANNUITY DUE	0	1 Ext/6 Mnth	SELECTIVE PROTECTION FOR RING TOPOLOGIES	(IT)	1378096	1762
6/3/15	PAID	0	1 Ext/6 Mnth	HIGH-SPEED PROCESSING OF MULTICAST CONTENT REQUESTS	(US)	8,014,394	800
April 2015							
9/4/15	2ND MAINT FEE DUE	0	1 Ext/6 Mnth	DIFFERENTIATED SERVICES WITH MULTIPLE TAGGING LEVELS	(US)	7,280,560	1800
16/4/15	2ND MAINT FEE DUE	0	1 Ext/6 Mnth	TRAFFIC ENGINEERING IN BI-DIRECTIONAL RING NETWORKS	(US)	7,283,478	1800
16/4/15	2ND MAINT FEE DUE	0	1 Ext/6 Mnth	HIERARCHICAL VIRTUAL PRIVATE LAN SERVICE PROTECTION SCHEME	(US)	7,283,465	1800
30/4/15	ANNUITY DUE	0	1 Ext/6 Mnth	METHOD FOR SUPPORTING SNCP OVER PACKET NETWORK	(EP)	12772045.6	728.11
June 2015							
19/6/15	ANNUITY DUE	0	1 Ext/6 Mnth	POINT-TO-MULTIPOINT FUNCTIONALITY IN A BRIDGED NETWORK	(EP)	7736484.2	2552.48
19/6/15	ANNUITY DUE	0	1 Ext/6 Mnth	POINT-TO-MULTIPOINT FUNCTIONALITY IN A BRIDGED NETWORK	(HK)	9110631.5	250
30/6/15	ANNUITY DUE	0	1 Ext/6 Mnth	CONNECTIVITY FAULT MANAGEMENT (CFM) IN NETWORKS WITH LINK AGGREGATION GROUP CONNECTIONS	(EP)	07736442.0	2552.48
July 2015							
20/7/15	3RD MAINT FEE DUE	0	1 Ext/6 Mnth	Bi-directional Chaining of Network Access Ports	(US)	6,680,904	3700

31/7/15	ANNUITY DUE	0	1 Ext/6 Mnth	TRANSPARENT TRANSPORT OF FIBRE CHANNEL TRAFFIC OVER PACKET-SWITCHED NETWORKS	(EP)	06756247.0	2849.08
August 2015							
3/8/15	3RD MAINT FEE DUE	0	1 Ext/6 Mnth	BANDWIDTH SHARING METHOD	(US)	6,687,224	3700
3/8/15	ANNUITY DUE	0	None	POINT-TO-MULTIPOINT FUNCTIONALITY IN A BRIDGED NETWORK	(JP)	5,053,376	179.44
8/8/15	ANNUITY DUE	0	1 Ext/6 Mnth	SELECTIVE PROTECTION FOR RING TOPOLOGIES	(JP)	4,167,072	1368.89
12/8/15	2ND MAINT FEE DUE	0	1 Ext/6 Mnth	MULTIPOINT TO MULTIPOINT COMMUNICATION OVER RING TOPOLOGIES	(US)	7,330,431	1800
26/8/15	2ND MAINT FEE DUE	0	1 Ext/6 Mnth	BANDWIDTH ALLOCATION FOR LINK AGGREGATION	(US)	7,336,605	1800
September 2015							
4/9/15	2ND MAINT FEE DUE	0	1 Ext/6 Mnth	VIRTUAL PRIVATE LAN SERVICE USING A MULTICAST PROTOCOL	(US)	7,339,929	1800
30/9/15	ANNUITY DUE	0	1 Ext/6 Mnth	FAULT-TOLERANT MEDIUM ACCESS CONTROL (MAC) ADDRESS ASSIGNMENT IN NETWORK ELEMENTS	(UK)	2,069,934	627.67
October 2015							
31/10/15	ANNUITY DUE	0	1 Ext/6 Mnth	ROUTE SELECTION WITH BANDWIDTH SHARING OPTIMIZATION OVER RINGS	(EP)	6796145.8	2849.08
November 2015							
4/11/15	3RD MAINT FEE DUE	0	1 Ext/6 Mnth	NETWORK INTERFACE AUTO-CONFIGURATION IN AN ACCESS MULTIPLEXING SYSTEM	(US)	6,731,607	3700
30/11/15	ANNUITY DUE	0	1 Ext/6 Mnth	HASH-BASED MULTI-HOMING	(EP)	07827358.8	2277.32
30/11/15	ANNUITY DUE	0	1 Ext/6 Mnth	VPLS REMOTE FAILURE INDICATION	(GB)	1958364	640.05
30/11/15	ANNUITY DUE	0	1 Ext/6 Mnth	VPLS REMOTE FAILURE INDICATION	(FR)	06809843.3	650.93
30/11/15	ANNUITY DUE	0	1 Ext/6 Mnth	VPLS REMOTE FAILURE INDICATION	(DE)	602006038796.2	929.89
December 2015							

10/12/15	2ND MAINT FEE DUE	0	1 Ext/6 Mnth	MULTIPROTOCOL MEDIA CONVERSION	(US)	7,386,010	1800
11/12/15	ANNUITY DUE	0	NONE	FRAME CONCATENATION WITH DROP PRECEDENCE ASSIGNMENT	(HK)	10106007.6	250
12/12/15	1ST MAINT FEE DUE	0	1 Ext/6 Mnth	VPLS REMOTE FAILURE INDICATION	(US)	8,199,637	800
30/12/15	ANNUITY DUE	0	1Ext/6 Mnth	FORWARDING MULTICAST TRAFFIC OVER LINK AGGREGATION PORTS	(EP)	07827481.8	2277.32
30/12/15	ANNUITY DUE	0	1Ext/6 Mnth	FRAME CONCATENATION WITH DROP PRECEDENCE ASSIGNMENT	(GB)	2132905	600.62

Annex 2.12

REFERENCE	TITLE	Country	Patent/Application No.	ACTION / STATUS
40552-8187	METHOD FOR SUPPORTING SNCP OVER PACKET NETWORK	EP	12772045.6	Response to OA was submitted on April 20, 2015. Waiting for examiner decision.
40552-8125	RESOURCE SHARING AMONG NETWORK TUNNELS	ISRAEL	192192	Response to OA was submitted. Waiting for examiner decision.
40552-8150	CONNECTIVITY FAULT MANAGEMENT (CFM) IN NETWORKS WITH LINK AGGREGATION GROUP CONNECTIONS	ISRAEL	196401	Response to OA was submitted. Waiting for examiner decision.
40552-8116	TWO-WAY LINK AGGREGATION	ISRAEL	194652	Issue Fee Paid. Waiting for Publication of Application prior to issuance.
40552-6167	METHOD FOR SUPPORTING SNCP OVER PACKET NETWORK	US	13/087,438	Response to OA was submitted. Notice of Allowance received. Issue Fee of \$480 must be paid by September 3, 2015.
40552-8155	POINT-TO-MULTIPOINT FUNCTIONALITY IN A BRIDGED NETWORK	EP	07736484.2	Response to OA was submitted. Waiting for examiner decision.
40552-6157	Device, Method and System for Media Packet Distribution	US	12/738,080	Response to OA was submitted. Notice of Allowance received. Issue Fee of \$480 must be paid by September 30, 2015.
40552-6164	Edge optimized transrating system	US	12/629,310	Response to OA was submitted. Waiting for examiner decision.
40552-8161	FORWARDING MULTICAST TRAFFIC OVER LINK	EP	07827481.8	Response to office action is due on May 21, 2015 with extension until July 21, 2015. The response is in progress.

	AGGREGATION PORTS			
40552-8178	Device, Method and System for Media Packet Distribution	IN	836/MUMNP/2010	Response to office action is due on January 28, 2016. Application needs to be in order for acceptance by January 28, 2016. The company received recommendation to submit a response to this office action by July 28, 2015 in anticipation of further rejections.
40552-8168	HASH-BASED MULTI-HOMING	EP	07827358.8	The examiner asks for a revised response to office action until June 19, 2015. Answer postponed to August.
40552-6175	TUNNEL PROVISIONING WITH LINK AGGREGATION	US	13/969,520	Notice of Allowance received. Issue Fee of \$480 must be paid by July 17, 2015.

A claim for prior art was made in an IETF mailing list following Corrigent's submission of IPR Statement. The email correspondence, dated April, 2012, was delivered to Monument.

Annex 2.13

Terminal Disclaimers

Cases in which Terminal Disclaimers were filed:

- 1) US 13/969,520
- 2) US Patent 8,537,682
- 3) US Patent 8,009,684

Annex 4.1

License Agreement (attached as separate document)

Annex 4.9

Patents Annuities list is detailed under Annex 2.11

Adversarial proceedings status are detailed under Annex 2.11 and Annex 2.12

Annex 5.1(c)

Common Interest Agreement (attached as separate document)

Annex 5.2(c)(iv)

Blocked Account Control Agreement (attached as separate document)

PLEDGE AGREEMENT

This **PLEDGE AGREEMENT** (this "Agreement"), dated as of _____, 2015, is made by and among Orckit Communications Ltd., an Israeli company under Creditors' Arrangement ("Orckit"), on the one hand; and (b) Landmark Networks, LLC, a Texas limited liability company ("Grantor"), on the other hand. Orckit and Grantor may hereinafter be referred to collectively as the "Parties" and individually as a "Party".

WHEREAS, pursuant to that certain Patent Purchase Agreement, dated as of _____, 2015 (the "PPA") between the Parties, Grantor undertakes to make payments to Orckit in accordance therewith (the "Payments").

WHEREAS, in order to secure Grantor's obligation to make Payments under the PPA, Grantor has agreed to grant a continuing security interest in and to the Collateral (defined below) in order to secure its payment obligations under the PPA.

NOW, THEREFORE, in consideration of the foregoing premises and in reliance on the representations, warranties, covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties hereto hereby agree as follows:

1. **Defined Terms.** All capitalized terms used herein (including in the preamble and recitals hereof) without definition shall have the meanings ascribed thereto in the PPA. Any terms used in this Agreement that are defined in the Code shall be construed and defined as set forth in the Code unless otherwise defined herein or in the PPA; provided, however, that if the Code is used to define any term used herein and if such term is defined differently in different Articles of the Code, the definition of such term contained in Article 9 of the Code shall govern. In addition to those terms defined elsewhere in this Agreement, as used in this Agreement, the following terms shall have the following meanings:

(a) "Bankruptcy Code" means Title 11 of the United States Code, as in effect from time to time.

(b) "Code" means the Texas Uniform Commercial Code, as in effect from time to time; provided, however, that in the event that, by reason of mandatory provisions of Law, any or all of the attachment, perfection, priority, or remedies with respect to Orckit's Lien on any Collateral is governed by the Uniform Commercial Code as enacted and in effect in a jurisdiction other than the State of Texas, the term "Code" shall mean the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for purposes of the provisions thereof relating to such attachment, perfection, priority, or remedies.

(c) "Cash" shall mean cash and Cash Equivalents.

(d) "Cash Equivalents" shall mean debt and/or equity securities (including, but not limited to stocks, warrants, options or ADRs) and/or any real or personal property that is reducible to cash but only at such time as such debt securities, equity securities, and real/personal

property have been converted to cash. For the avoidance of doubt, consideration such as covenants not to sue and releases are not considered Cash Equivalents and are therefore not subject to distribution.

(e) “Event of Default” means any of the following:

(i) Grantor breaches one or more of its Secured Obligations and such breach continues without cure for a period of thirty (30) days as of the date of the breach; or

(ii) Grantor shall (A) dissolve or terminate its existence, or (B) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of it or of all or a substantial part of its property, or (C) commences a voluntary case of liquidation, or commences a proceeding of voluntary liquidation, or (D) consents to the entry of an order for relief against it in an involuntary case, or consents to the entry of an order for relief against it in an involuntary, or (E) makes a general assignment for the benefit of its creditors, or (F) commence, or file an answer admitting the material allegations of or consenting to, or default in a petition filed against it in, any case, proceeding or other action under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking to have an order for relief entered with respect to it under the federal Bankruptcy Code 11 USC § 101 et. seq., or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or similar relief with respect to it or its debt which has not been duly dismissed; or

(iii) A receiver, conservator, liquidator, custodian or trustee of Grantor or any of its property is appointed by the order or decree of any court or agency or supervisory authority having jurisdiction; or Grantor obtains an order for relief under the federal Bankruptcy Code 11 USC § 101 et. seq.; or any of the property of Grantor is sequestered by court order; or a petition is filed or a proceeding is commenced against Grantor under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect which has not been duly dismissed; or

(iv) Any of the following occurs in respect of Grantor: (A) it is, or is deemed for the purposes of any law to be, unable or admits inability to pay its debts as they fall due; (B) it suspends making payments on any of its debts or announces an intention to do so, other than bona fide disputes with respect to trade payables; (C) by reason of actual or anticipated financial difficulties, it begins negotiations with any creditor for the rescheduling of any of its indebtedness, or (D) a moratorium is declared in respect of any of its indebtedness; or

(v) the Grantor ceases to carry on all or a substantial part of its business as of the date hereof; or

(vi) the Grantor breaches, in any material respect, any payment obligation or covenant of this Agreement and/or the PPA without cure for a period of thirty (30) days as of the date of the breach; or

(vii) any provision of this Agreement shall at any time for any reason (other than pursuant to the express terms thereof) cease to be valid and binding on or enforceable against the parties thereto, or the validity or enforceability thereof shall be contested by any person or party thereto, or a proceeding shall be commenced by a party thereto, by any governmental authority having jurisdiction over any of them or by any other person seeking to establish the invalidity or unenforceability thereof, or, except as otherwise permitted under the PPA or this Agreement, any party thereto shall deny in writing that it has any liability or obligation purported to be created under this Agreement; or

(viii) any damage to, or loss, theft or destruction of Collateral, whether or not insured.

(f) “Governmental Authority” means any domestic or foreign federal, state, local, or other governmental or administrative body, instrumentality, board, department, or agency or any court, tribunal, administrative hearing body, arbitration panel, commission, or other similar dispute-resolving panel or body.

(g) “Gross Proceeds” means the gross Cash proceeds actually received by or on behalf of Grantor from any Monetization Event, including without limitation, any licensing fee, litigation settlement fee, payment of damages or other remedies, sale or other transaction payment, and any other consideration, assets and proceeds collected by or made available to Grantor in connection with the licensing, monetization, enforcement, litigation, settlement, or sale transaction involving the Purchased Assets, without offset or reduction for any costs or expenses whatsoever.

(h) “Insolvency Proceeding” means any proceeding commenced by or against any Person under any provision of the Bankruptcy Code or under any other state or federal bankruptcy or insolvency Law or any equivalent Laws in any other jurisdiction, assignments for the benefit of creditors, formal or informal moratoria, compositions, extensions generally with creditors, or proceedings seeking reorganization, arrangement, or other similar relief.

(i) “Lien” means any security interest, pledge, assignment, lien (statutory or other, and including tax liens), license, encumbrance, adverse claim, reversion, reverter, preference, priority, other security agreement or preferential arrangement of any kind or nature whatsoever, restrictive covenant, condition or restriction of any kind, including any restriction on the use, transfer, receipt of income or other exercise of any attributes of ownership.

(j) “Monetization Event” means any licensing event, litigation settlement event, event of payment of damages or other remedies, sale or other transaction, or any other licensing, monetization, enforcement, litigation, settlement, or sale transaction of the Purchased Assets. For the avoidance of doubt, “Monetization Event” includes the initial agreement or

payment in respect of the foregoing and any subsequent agreement, amendment or payment with respect thereto.

(k) "Monetization Expenses" has the definition set forth in Section 6(a).

(l) "Permitted Liens" means (i) Liens held by Orckit to secure the Secured Obligations, (ii) Liens for unpaid taxes, assessments, or other governmental charges or levies that either (A) are not yet delinquent, or (B) do not have priority over Orckit Liens and the underlying taxes, assessments, or charges or levies are the subject of Permitted Protests, and (iii) Liens arising by operation of law, which are incurred in the ordinary course of business and not in connection with the borrowing of money, and which Liens either (A) are for sums not yet delinquent, or (B) are the subject of Permitted Protests.

(m) "Permitted Protest" means the right of Grantor to protest any Lien (other than any Lien that secures the Secured Obligations), taxes (other than payroll taxes or taxes that are the subject of a United States federal tax lien), or rental payment, provided that (a) a reserve with respect to such obligation is established on Grantor's books and records in such amount as is required under GAAP, (b) any such protest is instituted promptly and prosecuted diligently by Grantor in good faith, and (c) while any such protest is pending, there will be no impairment of the enforceability, validity, or priority of Orckit's Liens.

(n) "Person" means any individual, corporation, partnership, trust, limited liability company, governmental entity, regulatory or self-regulatory authority, association or other entity.

(o) "Purchased Assets" have the meaning assigned thereto in the PPA, including without limitation, the patents and patent applications set forth in Schedule 1 hereto.

(p) "Secured Obligations" mean all of the present and future Payment obligations of Grantor arising under the PPA, as they come due, up to the Consideration Cap (as defined in the PPA).

2. Grant of Security Interest. Grantor hereby unconditionally grants, assigns, and pledges to Orckit a first priority continuing security interest (a "Security Interest") in the following "Collateral": (i) all of Grantor's right, title and interest in and to all Gross Proceeds in connection with any Monetization Event, and (ii) all receivables of Grantor which, if realized or otherwise paid, would constitute Gross Proceeds. Grantor will deposit or cause to be deposited, promptly, and will maintain, the Gross Proceeds of a Monetization Event in full except for the payment of Monetization Expenses, in the deposit account of Grantor described in Schedule 2 hereto at JP Morgan Chase ("Collateral Account" and "Bank" respectively) until such time as Orckit has been paid its portion of Gross Proceeds due and owing with respect to such Monetization Event.

3. Security for Obligations. This Agreement and the Security Interests created hereby secure the payment and performance of the Secured Obligations, whether now existing or arising hereafter. Without limiting the generality of the foregoing, this Agreement secures the payment of all amounts that constitute part of the Secured Obligations and would be owed by Grantor to Orckit despite the existence of an Insolvency Proceeding involving Grantor.

4. Grantor Remains Liable. Anything herein to the contrary notwithstanding, (a) Grantor shall remain liable under the contracts and agreements included in the Collateral, to perform all of the duties and obligations thereunder to the same extent as if this Agreement had not been executed, (b) the exercise by Orckit of any of the rights hereunder shall not release Grantor from any of its duties or obligations under such contracts and agreements included in the Collateral, and (c) Orckit shall not have any obligation or liability under such contracts and agreements included in the Collateral by reason of this Agreement, nor shall Orckit be obligated to perform any of the obligations or duties of Grantor thereunder or to take any action to collect or enforce any claim for payment assigned hereunder. Until an Event of Default shall occur and be continuing, except as otherwise provided in this Agreement or the PPA, Grantor shall have the right to possession and enjoyment of the Collateral for the purpose of conducting the ordinary course of its respective business, subject to and upon the terms hereof.

5. Representations and Warranties. Grantor hereby represents and warrants as follows:

(a) The exact legal name of Grantor is set forth on the signature pages of this Agreement. Grantor is a limited liability company organized under the laws of the State of Texas.

(b) This Agreement constitutes a legal, valid and binding obligation of the Grantor, enforceable against the Grantor in accordance with its terms.

(c) As of the date hereof, Grantor has no interest in, or title to, any deposit accounts except for the Collateral Account as set forth on Schedule 2 attached hereto. No funds other than the Collateral shall be deposited in the Collateral Account.

(d) To Grantor's knowledge, this Agreement creates a valid security interest in the Collateral of Grantor, to the extent a security interest therein can be created under the Code, securing the payment of the Secured Obligations. Promptly following execution of this Agreement, Grantor shall file the Blocked Account Control Agreement with the Bank and Orckit may file the appropriate financing statements listing Grantor, as a debtor, and Orckit, as a secured party, in the jurisdictions listed on Schedule 3 attached hereto. Promptly following the execution of this Agreement, Orckit shall be entitled to take the actions necessary to perfect its security interest in the Collateral of Grantor and Grantor shall reasonably cooperate with such filings.

(e) No consent, approval, authorization, or other order or other action by, and no notice to or filing with, any Governmental Authority or any other Person is required (i) for the grant of a Security Interest by Grantor in and to the Collateral pursuant to this Agreement or for the execution, delivery, or performance of this Agreement by Grantor.

(f) There is no pending or, to the best knowledge of the Grantor, threatened action, suit, proceeding or claim before any court or other governmental authority or any arbitrator, or any order, judgment or award by any court or other governmental authority or any arbitrator, that may adversely affect the grant by the Grantor, or the perfection, of the security

interest purported to be created hereby in the Collateral, or the exercise of any of its rights or remedies hereunder.

(g) The Grantor is and will be at all times the sole and exclusive owner of, or otherwise have and will have adequate rights in, the Collateral free and clear of any Lien other than the Permitted Liens. No effective financing statement or other instrument similar in effect covering all or any part of the Collateral is on file in any recording or filing office.

(h) The exercise by Orckit of any of its rights and remedies hereunder will not contravene any law or any contractual restriction binding on or otherwise affecting the Grantor or any of its properties and will not result in, or require the creation of, any Lien upon or with respect to any of its properties.

(i) To Grantor's knowledge, no authorization or approval or other action by, and no notice to or filing with, any governmental authority or any other person, is required for (i) the due execution, delivery and performance by the Grantor of this Agreement, (ii) the grant by the Grantor of the security interest purported to be created hereby in the Collateral (except as detailed in Section (d) above), or (iii) the validity or enforceability of this Agreement.

6. Covenants. Grantor covenants and agrees with Orckit that from and after the date of this Agreement and until the date of termination of this Agreement:

(a) Transfers and Other Liens. Until such time as Orckit has been paid its portion of Gross Proceeds due and owing with respect to a Monetization Event, Grantor shall not (i) withdraw, invest, sell, assign (by operation of law or otherwise) or otherwise dispose of, or grant any option with respect to, any of the Collateral, except as expressly permitted by this Agreement or the PPA, or (ii) create or permit to exist any Lien upon or with respect to any of the Collateral, except for Permitted Liens and payments of costs and expenses incurred by or on behalf of Grantor directly in connection with the monetization and/or enforcement of the Purchased Assets (as defined in the PPA), including but not limited to (i) any fees and expenses of litigation counsel engaged on a contingency basis; (ii) any fees and expenses of licensing counsel; (iii) any fees and expenses of any re-examination or other counsel; (iv) any fees and expenses of any other advisors or agents; or (v) any other non-affiliated third-party costs, including but not limited to, expert fees, deposition costs and costs incurred in connection with a Monetization Event, but excluding any overhead or other operating expenses of Grantor ("Monetization Expenses").

(b) Other Actions as to Any and All Collateral. Grantor shall promptly (and in any event within two (2) Business Days of acquiring or obtaining any Collateral) notify Orckit in writing upon (i) acquiring or otherwise obtaining such Collateral after the date hereof, (ii) any amount payable under or in connection with any of the Collateral being or becoming evidenced after the date hereof by any documents, promissory notes, or instruments and, in each such case upon the request of Orckit promptly execute such other documents, or if applicable, do such other acts or things deemed necessary or desirable by Orckit to protect Orckit's Security Interests therein.

(c) The Grantor will notify Orckit immediately upon any knowledge of a threatened or actual challenge to the validity or enforceability of any of Orckit's Liens in the Collateral.

(d) The Grantor shall execute, authenticate and deliver any and all assignments, agreements, instruments, documents and papers as Orckit may reasonably request to evidence Orckit's security interest hereunder in the Collateral.

7. Relation to Other Documents. The provisions of this Agreement shall be read and construed in accordance with (i) the PPA, such that in the event of any conflict between any provision in this Agreement and a provision in PPA, such provision of the PPA shall control; and (ii) the Blocked Account Control Agreement, provided that the provisions of the Blocked Account Control Agreement are supplemental to the provisions of this Agreement, and nothing contained in the Blocked Account Control Agreement shall limit any of the rights or remedies of Orckit hereunder.

8. Further Assurances.

(a) Grantor agrees that from time to time, at its own expense, Grantor will promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary or that Orckit may reasonably request, in order to perfect and protect the Security Interests granted or purported to be granted hereby or to enable Orckit to exercise and enforce its rights and remedies hereunder with respect to any of the Collateral.

(b) Grantor authorizes the filing by Orckit of financing or continuation statements, or amendments thereto, and Grantor will execute and deliver to Orckit such other instruments or notices, as may be necessary or as Orckit may reasonably request, in order to perfect and preserve the Security Interests granted or purported to be granted hereby.

(c) Grantor authorizes Orckit at any time and from time to time to file, transmit, or communicate, as applicable, financing statements and amendments (i) describing the Collateral, *inter alia*, as "all deposit accounts of the debtor" or words of similar effect, (ii) describing the Collateral as being of equal or lesser scope or with greater detail, or (iii) that contain any information required by part 5 of Article 9 of the Code for the sufficiency or filing office acceptance. Grantor also hereby ratifies any and all financing statements or amendments previously filed by Orckit in any jurisdiction.

(d) Grantor acknowledges that it is not authorized to file any financing statement or amendment or termination statement with respect to any financing statement filed in connection with this Agreement without the prior written consent of Orckit, subject to Grantor's rights under Section 9-509(d)(2) of the Code.

(e) Grantor shall not take or fail to take any action which would in any manner impair the validity or enforceability of Orckit's Security Interest.

9. Orckit Appointed Attorney-in-Fact. Grantor hereby irrevocably appoints Orckit its attorney-in-fact at the time of the execution of this Agreement, with respect to the Collateral Account, with full authority in the place and stead of Grantor and in the name of Grantor or

otherwise, at such time as an Event of Default has occurred and is continuing, to take any action and to execute any instrument that Orckit may reasonably deem necessary or advisable to accomplish the purposes of this Agreement, including:

(a) to ask, demand, collect, sue for, recover, compromise, receive and give acquittance and receipts for moneys due and to become due under or in connection with any Collateral;

(b) to receive and open all mail addressed to Grantor and to notify postal authorities to change the address for the delivery of mail to Grantor to that of Orckit;

(c) to file any claims or take any action or institute any proceedings which Orckit may deem necessary or desirable for the collection of any of the Collateral of Grantor or otherwise to enforce the rights of Orckit with respect to any of the Collateral; and

(d) to pay or discharge taxes or liens levied or placed upon or threatened against the Collateral, the legality or validity thereof and the amounts necessary to discharge the same to be determined by Orckit, in its sole discretion, and such payments made by Orckit to become obligations of Grantor to Orckit, due and payable immediately without demand.

To the extent permitted by Law, Grantor hereby ratifies all that such attorney-in-fact shall lawfully do or cause to be done by virtue hereof. This power of attorney is coupled with an interest and shall be irrevocable until the date on which (i) all of the Secured Obligations have been indefeasibly paid in full in cash or (ii) this Agreement has been terminated in accordance with its terms.

10. Orckit May Perform. If Grantor fails to perform any agreement contained herein, Orckit may itself perform, or cause performance of, such agreement, and the reasonable expenses of Orckit incurred in connection therewith shall be payable by Grantor and secured by the Collateral.

11. Orckit's Duties: Bailee for Perfection. The powers conferred on Orckit hereunder are solely to protect Orckit interests in the Collateral and shall not impose any duty upon Orckit in favor of Grantor to exercise any such powers. Except for the safe custody of any Collateral in its actual possession and the accounting for moneys actually received by it hereunder, Orckit shall not have any duty to Grantor as to any Collateral or as to the taking of any necessary steps to preserve rights against prior parties or any other rights pertaining to any Collateral. Orckit shall be deemed to have exercised reasonable care in the custody and preservation of any Collateral in actual possession if such Collateral is accorded treatment substantially equal to that which Orckit accords its own property. Grantor hereby agrees that if Orckit is in possession of any Collateral at such time as the Secured Obligations owing to Orckit have been paid in full, Orckit may re-deliver such Collateral to Grantor without recourse to or representation or warranty by Orckit.

12. Event of Default. If Orckit believes that an Event of Default as described in Section 1(e)(i), Section 1(e)(vi) or Section 1(e)(vii) has occurred, Orckit shall deliver a written notice to Grantor and in any event, no less than two (2) business days prior to filing with the

Bank a Shifting Control Notice (as defined in the Blocked Account Control Agreement) with respect to such Event of Default.

13. Remedies. Upon the occurrence and during the continuance of an Event of Default:

(a) Orckit may exercise in respect of the Collateral, in addition to other rights and remedies provided for herein, in the PPA, or otherwise available to it, all the rights and remedies of a secured party under the Code or any other applicable Law. Without limiting the generality of the foregoing, Grantor expressly agrees that, in any such event, Orckit without any demand, advertisement, or notice of any kind (except a notice specified below of time and place of public or private sale) to or upon Grantor or any other Person (all and each of which demands, advertisements and notices are hereby expressly waived to the maximum extent permitted by the Code or by any other applicable Law), may take immediate possession of all or any portion of the Collateral and require Grantor to, and Grantor hereby agrees that it will at its own expense and upon request of Orckit, assemble all or part of the Collateral as directed by Orckit and make it available to Orckit and thereafter receive, for its benefit, all payments made thereon, give all consents, waivers and ratifications in respect thereof and otherwise act with respect thereto as though it were the outright owner thereof.

(b) Grantor hereby acknowledges that the Secured Obligations arose out of a commercial transaction, and agrees that if an Event of Default shall occur and be continuing Orckit shall have the right to an immediate writ of possession without notice of a hearing.

(c) Upon the occurrence of an Event of Default, Grantor irrevocably and unconditionally:

(i) consents to the appointment of pre-judgment and/or post-judgment receiver with all of the same powers that would otherwise be available to Grantor, including, but not limited to the power to (A) hold, manage, control or dispose of the Collateral wherever located and (B) take any action with respect to the Collateral to the maximum extent permitted by law;

(ii) consents that any such receiver can be appointed without a hearing or prior notice to Grantor;

(iii) agrees not to oppose or otherwise interfere (directly or indirectly) with any effort by Orckit to seek the appointment of a receiver to the extent that such appointment is reasonably required; and

(iv) waives any right to appeal the entry of an order authorizing the appointment of a receiver.

14. Application of Proceeds of Collateral. All proceeds of Collateral received by Orckit shall be applied as follows:

(a) first, ratably to pay any expenses due to Orckit (including the reasonable costs and expenses paid or incurred by Orckit to correct any default under or enforce any provision of the PPA and this Agreement, or after the occurrence of any Default or Event of Default in gaining possession of, maintaining, or selling, the Collateral, or any portion thereof, irrespective of whether a sale is consummated) or indemnities then due to Orckit under the PPA and this Agreement, until paid in full;

(b) second, ratably to pay any fees or premiums then due to Orckit under the PPA and this Agreement, until paid in full;

(c) third, ratably to pay interest due in respect of the Secured Obligations then due to Orckit, until paid in full;

(d) fourth, ratably to pay the principal amount of all Secured Obligations then due to Orckit, until paid in full;

(e) fifth, ratably to pay any other Secured Obligations then due to Orckit; and

(f) sixth, to Grantor or such other Person entitled thereto under applicable Law.

15. Marshaling. Orckit shall not be required to marshal any present or future collateral security (including but not limited to the Collateral) for, or other assurances of payment of, the Secured Obligations or any of them or to resort to such collateral security or other assurances of payment in any particular order, and all of its rights and remedies hereunder and in respect of such collateral security and other assurances of payment shall be cumulative and in addition to all other rights and remedies, however existing or arising. To the extent that it lawfully may, Grantor hereby agrees that it will not invoke any Law relating to the marshaling of collateral which might cause delay in or impede the enforcement of Orckit's rights and remedies under this Agreement or under any other instrument creating or evidencing any of the Secured Obligations or under which any of the Secured Obligations is outstanding or by which any of the Secured Obligations is secured or payment thereof is otherwise assured, and, to the extent that it lawfully may, Grantor hereby irrevocably waives the benefits of all such Laws.

16. Indemnity and Expenses.

(a) Grantor agrees to indemnify Orckit from and against all claims, lawsuits and liabilities (including reasonable attorneys fees, costs and expenses) growing out of or resulting from this Agreement (including enforcement of this Agreement), except claims, losses or liabilities to the extent resulting from the gross negligence or willful misconduct of the party seeking indemnification as determined by a final non-appealable order of a court of competent jurisdiction. This provision shall survive until the earlier of (i) the payment of all the Secured Obligations or (ii) release of all the Secured Obligations pursuant to Section 1.2 of the PPA.

(b) Grantor, shall, upon demand, pay to Orckit all of the costs and expenses that Orckit may incur in connection with (i) the administration of this Agreement, (ii) the custody, preservation, use or operation of, or upon an Event of Default the sale of, collection from, or other realization upon, any of the Collateral in accordance with this Agreement and the

PPA, (iii) the exercise or enforcement of any of the rights of Orckit hereunder or (iv) the failure by Grantor to perform or observe any of the provisions hereof.

17. Addresses for Notices. All notices and other communications provided for hereunder (a) shall be given in the form and manner set forth in the PPA and (b) shall be delivered, (i) in the case of notice to Grantor, by delivery of such notice to Grantor at Grantor's address specified in the PPA, or at such other address as shall be designated by Grantor in a written notice to Orckit, and (ii) in the case of notice to Orckit, by delivery of such notice to Orckit at its address specified in the PPA or at such other address as shall be designated by Orckit in a written notice to Grantor.

18. Continuing Security Interests: Assignments under PPA. This Agreement shall create a continuing security interest in the Collateral in favor of Orckit and shall (a) remain in full force and effect until the Secured Obligations have been paid in full in cash in accordance with the provisions of the PPA, (b) be binding upon Grantor, and their respective successors and assigns, and (c) inure to the benefit of, and be enforceable by, Orckit and its successors, transferees and assigns. Upon (i) payment in full in cash of the outstanding Secured Obligations for the payment of money in accordance with the provisions of the PPA or (ii) in the event of a breach by Orckit as set forth in Section 1.2(f) of the PPA resulting in the release of Grantor from its Payment obligations pursuant to a mutual written agreement between Orckit and Grantor or a final arbitration award, the Security Interests granted hereby shall terminate and all rights to the Collateral shall revert to Grantor or any other Person entitled thereto. At such time, Orckit will jointly authorize the filing of appropriate termination statements to terminate such Security Interests. No transfer or renewal, extension, assignment, or termination of this Agreement or of the PPA, or any other instrument or document executed and delivered by Grantor to Orckit nor any additional loans made by Orckit to Grantor, nor the taking of further security, nor the retaking or re-delivery of the Collateral to Grantor, by Orckit, nor any other act of Orckit shall release Grantor from any obligation, except a release or discharge executed in writing by Orckit.

19. Security Interest Absolute.

(a) All rights of Orckit and all obligations of Grantor shall be absolute and unconditional irrespective of (i) any change in the time, manner or place of payment of, or in any other term in respect of, all or any of the Secured Obligations, (ii) any exchange or release of, or non-perfection of any lien on any Collateral, or (iii) any other circumstance that might otherwise constitute a defense available to, or a discharge of, Grantor in respect of the Secured Obligations, other than a release of any Secured Obligations pursuant to Section 1.2 of the PPA.

(b) Grantor hereby waives (i) promptness and diligence, (ii) notice of acceptance and notice of the incurrence of any Obligation by Grantor, (iii) advance notice of any actions taken by Orckit or any other person under any agreement, document or instrument relating to this Agreement and the PPA (except as otherwise provided therein), (iv) all other advance notices, demands and protests (except as otherwise provided herein), and all other formalities of every kind in connection with the enforcement of the Secured Obligations, the omission of or delay in which, but for the provisions of this subsection (b), might constitute grounds for relieving Grantor of any such Grantor's obligations hereunder and (v) any

requirement that Orckit protect, secure, perfect or insure any security interest or other lien on any property subject thereto or exhaust any right or take any action against Grantor or any other person or any collateral. Notwithstanding the aforesaid, Grantor shall be entitled to receive notice in the event that Orckit or any person on its behalf shall exercise or enforce its rights hereunder.

20. Orckit may assign or otherwise transfer its rights and obligations under this Agreement at any time whatsoever to any Affiliate or to a third party entity acquiring all or substantially all of Orckit's equity or business assets or to Lior Dagan, Adv. in his capacity as an officer of the court in connection with the liquidation of Orckit, file no. 37456-06-14, or any successor appointed by the District Court of Tel Aviv, or any entity controlled by such officer of the court or successor. Grantor shall not assign any of its rights or delegate its obligations hereunder, either in whole or in part, nor permit the same to be assigned by operation of law, except with Orckit's prior written consent, and any such assignment or transfer without such consent, shall be null and void.

21. This Agreement shall remain in full force and effect and continue to be effective should any petition be filed by or against Grantor for liquidation or reorganization, should the Grantor become insolvent or make an assignment for the benefit of any creditor or creditors or should a receiver or trustee be appointed for all or any significant part of the Grantor's assets, and shall continue to be effective or be reinstated, as the case may be, if at any time payment or performance of the Secured Obligations, or any part thereof, is, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee of the Secured Obligations, whether as a "voidable preference," "fraudulent conveyance," or otherwise, all as though such payment or performance had not been made. In the event that any payment, or any part thereof, is rescinded, reduced, restored or returned, the Secured Obligations shall be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

22. Governing Law; Jurisdiction; Jury Trial. This Agreement and any controversy arising out of or relating to this Agreement shall be governed by and construed in accordance with the internal Laws of the State of Texas, without regard to conflict of law principles that would result in the application of any Law other than the Laws of the State of Texas. Each party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in the State of Texas, for the adjudication of any dispute hereunder or in connection herewith, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by Law. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY. For the avoidance of doubt, nothing herein shall alter the governing law and jurisdiction with respect to disputes arising out of the PPA, which shall be governed exclusively by the provisions of the PPA.

23. Counterparts; Facsimile. This Agreement may be executed and delivered by facsimile signature or by an e-mail that contains a portable document format (.pdf) file of an executed signature page in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

24. Headings. The section headings used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

25. Amendments and Waivers. Except as expressly provided herein, neither this Agreement nor any term hereof may be amended, waived, discharged or terminated other than by a written instrument referencing this Agreement and signed by both parties hereto, provided that either party may give a waiver in writing as to itself.

26. Severability. If any provision of this Agreement shall be invalid or unenforceable in any jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remainder of this Agreement in that jurisdiction or the validity or enforceability of any provision of this Agreement in any other jurisdiction.

27. Delays or Omissions. No delay or omission to exercise any right, power or remedy accruing to Orckit under this Agreement upon any breach or default of Grantor shall impair any such right, power or remedy of Orckit nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of or in any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring.

28. Remedies. Orckit shall have all rights and remedies set forth in this Agreement and the PPA and all rights and remedies that Orckit has been granted at any time under any other agreement or contract and all of the rights that Orckit has under applicable Law. All remedies shall be cumulative and not alternative. Grantor acknowledges that in the event that it fails to perform, observe or discharge any or all of its obligations under this Agreement, any remedy at law may prove to be inadequate relief to Orckit. Grantor therefore agrees that Orckit shall be entitled to seek specific performance and/or temporary, preliminary and permanent injunctive or other equitable relief from any court of competent jurisdiction in any such case without the necessity of proving actual damages and without posting a bond or other security.

29. Entire Agreement. This Agreement, including the exhibits attached hereto and thereto, do and will constitute the full and entire understanding and agreement between the parties hereto with respect to the subject matter hereof and thereof.

30. Construction. The terms "including," "includes," "include" and words of like import shall be construed broadly as if followed by the words "without limitation." The terms "herein," "hereunder," "hereof" and words of like import refer to this entire Agreement instead of just the provision in which they are found. The language used in this Agreement will be deemed to be the language chosen by the parties to express their mutual intent, and no rules of strict construction will be applied against any party.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed and delivered as of the date first written above.

Landmark Networks, LLC

By: _____

Name:

Title:

Orckit Communications Ltd. (under Creditors' Arrangement)

By: _____

Printed Name: _____

Title: _____

Date: _____

SCHEDULE 1

PATENTS AND PATENT APPLICATIONS

SCHEDULE 2

COLLATERAL ACCOUNT

SCHEDULE 3

LIST OF UNIFORM COMMERCIAL CODE FILING JURISDICTIONS

Texas

LICENSE AGREEMENT

This LICENSE AGREEMENT (the "*Agreement*") is entered into on _____, 2015 (the "*Effective Date*") by and between LANDMARK NETWORKS, LLC, a Texas limited liability company of 1400 Preston Road, Suite 475, Plano, TX 75201 ("*Licensor*") and ORCKIT COMMUNICATIONS LTD., an Israeli company under Creditors' Arrangement of 126 Yigal Allon Street, Tel Aviv, Israel, and ORCKIT CORRIGENT LTD. of 126 Yigal Allon Street, Tel Aviv, Israel (severally and jointly, "*Licensee*") (each a "Party" and collectively the "Parties").

The Parties hereby agree as follows:

1. BACKGROUND

- 1.1 Pursuant to that certain Patent Purchase Agreement dated _____, 2015, by and between Licensor and Licensee (the "*PPA*"), Licensor purchased from Licensee, *inter alia*, the Licensed Patents (as defined below) and the associated rights related thereto.
- 1.2 As part of the terms of the Licensed Patents' acquisition transaction, and as additional valuable consideration thereunder, Licensee has asked to receive the licenses under the Licensed Patents, as set forth in this License Agreement, and Licensor has agreed to irrevocably grant to Licensee the licenses under the Licensed Patents in accordance with the terms and conditions set forth herein.

2. DEFINITIONS

- 2.1 "*Affiliate*" means, with respect to any Person, any Entity in any country that controls, is controlled by or is under common control with such Person. The term "control" means ownership, directly or indirectly, of fifty percent (50%) or more of the voting equity of such entity or, in the case of a non-corporate entity, equivalent interests. Notwithstanding the foregoing, with respect to Licensee, the term "Affiliates" excludes any Person that is a party to a pending patent infringement claim or lawsuit filed with respect to the Patents at such time, following the Effective Date, as the Person falls within the definition of Affiliate.
- 2.2 "*Entity*" means any corporation, partnership, limited liability company, association, joint stock company, trust, joint venture, unincorporated organization, governmental entity (or any department, agency, or political subdivision thereof) or any other legal entity.
- 2.3 "*Licensed Combo Product*" means a third party product (i) incorporated into or (ii) combined with a Licensed Product, but with respect to (ii) only if and to the extent that the Licensed Product included in the combination is the part of the combination that satisfies, in whole or in part, an element or a step of a claim in any Licensed Patent. For the avoidance of doubt, the third party product is not included in the definition of Licensed Combo Product as a stand-alone product not used in combination with the Licensed Product.
- 2.4 "*Licensed Patents*" means the patents and patent applications listed on Exhibit A hereto, together with (a) patents or patent applications (current or future) for which any of the foregoing forms a basis for priority; (b) reissues, extensions, continuations, continuations

in part, continuing prosecution applications, divisions, results of any reexamination, any future reissues and reexaminations, future claims resulting from any post grant proceedings and other post issuance review and registrations of any item in any of the foregoing categories (a) and (b); and (c) counterparts in any jurisdictions of any item in any of the foregoing categories (a) through (b), including, without limitation, certificates of invention, utility models and other similar rights granted via governmental grants or issuances. Licensed Patents does not include: (a) any patents owned or controlled by Licensor that are not expressly set forth in this definition; and (b) any patents owned or controlled by any Licensor Affiliate.

- 2.5 “*Licensed Products*” means any products or services designed, made, and sold by or on behalf of Licensee and Licensee’s Affiliates which incorporate subject matter claimed or protected by the Licensed Patents.
- 2.6 “*Licensed Third Party*” means the vendors, suppliers, manufacturers, developers, distributors, contractors, partners, hosts, customers and end-users of a Licensed Product and/or a Licensed Combo Product (but only in their capacity as such), whether current or nominated in the future by Licensee.
- 2.7 “*Person*” means any individual or Entity.
- 2.8 “*Third Party*” means any Person other than a Party to this Agreement or its Affiliates.

3. GRANT OF LICENSES

- 3.1 License to Licensee and Affiliates. Licensor hereby grants to Licensee and Licensee’s Affiliates a royalty-free, paid-up, irrevocable, perpetual, non-exclusive, non-divisible, non-transferable (except as otherwise provided in this Agreement), without the right to sublicense, worldwide right and license under the Licensed Patents to make, have made, use, have used, further research and develop, sell, have sold, offer for sale, import, export and otherwise distribute, or have distributed Licensed Products and Licensed Combo Products.
- 3.2 License to Licensee Third Parties. In addition, Licensor hereby grants (i) to past, present and future Licensed Third Parties, subject to any restrictions and/or conditions imposed on such Licensed Third Parties by Licensee, a royalty-free, paid-up, irrevocable, perpetual, non-exclusive, non-divisible, non-transferable (except as otherwise provided in this Agreement), without the right to sublicense, worldwide right and license under the Licensed Patents to make, have made, use, have used, modify, enhance, further research and develop, sell, have sold, offer for sale, import, export and otherwise distribute, or have distributed Licensed Products and Licensed Combo Products; and (ii) to the parties to the licenses and releases under the Identified Encumbrance Agreements (as defined in the PPA), but only as and to the extent such licenses and releases exist as of the date hereof and only for the term and subject to any restrictions, limitations, and other conditions as provided in the pertinent Identified Encumbrance Agreements), a royalty-free, paid-up, irrevocable, perpetual, non-exclusive, non-divisible, non-transferable (except as otherwise provided in this Agreement), without the right to sublicense, worldwide right and license under the Licensed Patents to make, have made, use, have used, modify, enhance, further research and develop, sell, have sold, offer for sale, import, export and otherwise distribute, or have distributed Licensed Products and Licensed Combo Products.

- 3.3 Licenses to Licensee Technology. For the avoidance of doubt and without derogating from the licenses granted under Sections 3.1 and 3.2, Licensee shall be entitled, at its sole discretion, to grant licenses and sublicenses to its technology and know-how, including without limitation, as follows ("**Technology License**"): (i) as may be required under an Identified Encumbrance Agreement and in renewals or replacements thereof; (ii) to its and/or its vendors, suppliers, manufacturers, developers and distributors (including without limitation VARs and OEMs), to all or part of the following rights: make, have made, use, have used, modify, enhance, further research and develop, sell, have sold, offer for sale, import, export and otherwise distribute, or have distributed Licensed Products and Licensed Combo Products. For the avoidance of doubt, the licenses granted in Section 3.1 and Section 3.2 shall not extend to any product or service of any Third Party other than Licensed Combo Products. Monument and/or any entity acting on its behalf shall not assert a claim of infringement of any of the Purchased Assets against any licensees and/or sublicensees operating within the scope of a Technology License and Monument hereby waives any and all claims, rights or charges it may have in the future in respect of Licensed Products and Licensed Combo Products. The foregoing waiver shall not apply in respect of actions that are outside the scope of the Technology License.
- 3.4 No Third Party Rights. Neither Licensee nor any of Licensee's Affiliates will act with the intent to provide any Third Party the benefit of the rights under the license granted hereunder, other than as permitted pursuant to Section 3.2 above. The license granted by Licensor to any Affiliate of Licensee under Section 3.1 above, will terminate as to such Affiliate if and when such Affiliate ceases to meet the requirements of being an Affiliate of Licensee.
- 3.5 Registration. Where permitted by applicable law, the license set forth in this Section 3 shall be registered by Licensor with the applicable government filing office.

4. **TERM OF AGREEMENT**

- 4.1 This Agreement shall be in force from the Effective Date and shall remain in effect until the expiration of the last-to-expire of the Licensed Patents. This Agreement may not be terminated by either party. In the event that despite the foregoing this Agreement and/or the licenses hereunder will be deemed terminated by a competent authority, Sections 3.1, 3.2, 3.3, 3.4 5.1 and 6 shall survive termination and shall remain in effect until the expiration of the last-to-expire of the Licensed Patents.

5. **ABANDONMENT OF A LICENSED PATENT**

- 5.1 In the event that Licensor intends to abandon a Licensed Patent or allow any Licensed Patent to lapse, Licensor will give Licensee thirty (30) days advance written notice of such intent ("Abandon Notice"). Licensee shall then have ten (10) days to notify Licensor in writing (the "Licensee Notice") of its intent to assume sole responsibility to continue the maintenance of such Licensed Patents which were the subject of the Abandon Notice. Notwithstanding the foregoing, in the event one or more of the Licensed Patents is involved in any ex parte reexamination, inter partes review (IPR), post grant review (PGR), or covered business method (CBM) review, Licensor may, in its sole discretion, abandon such affected Patent(s) and Licensee shall not have any rights with respect to such affected Patent(s) under this Section 5.1.
- 5.2 Upon the receipt of the Licensee Notice, Licensor shall not take or fail to take any action

that would cause the abandonment or lapse of the relevant Licensed Patents provided that Licensee assumes all responsibility for and remains current with all obligations to pay the costs reasonably required to maintain the relevant Licensed Patents. For the avoidance of doubt, Licensee may, at its sole discretion, elect to abandon such Licensed Patents without any liability or responsibility, and if Licensee fails to make timely payments necessary to maintain such Licensed Patents, Licensor shall be entitled to promptly abandon or allow the relevant Licensed Patent(s) to lapse in its sole discretion.

6. ASSIGNMENT

6.1 Licensee shall not assign nor transfer this Agreement or any right, benefit or obligation hereunder, without the prior written consent of Licensor, except as permitted pursuant to Section 6.2 below.

6.2 Notwithstanding the foregoing, in the event a Licensee or one of its Affiliates sells, merges, conveys or otherwise transfers all or substantially all of its equity or assets or all or substantially all of Licensee's business assets related to the Licensed Patents to a Third Party acquirer (the "*Acquirer*" and a "*Sale Transaction*," respectively), Licensee shall be entitled to assign its rights hereunder to such Acquirer; provided (i) the Acquirer is not a party to a patent assertion claim or infringement action or suit involving one or more of the Licensed Patents prior to the Sale Transaction; (ii) the use by the Acquirer of the License will be limited to the respective terms thereof, shall apply strictly to Licensed Products in existence on the date of the Sale Transaction (and updates and upgrades thereto and natural evolutions thereof) and in no event will extend to any other products, processes or services of the Acquirer or its Affiliates; and (iii) within thirty (30) days after the transaction with the Acquirer, Licensee provides Licensor with written notice of the transaction, which notice will contain: (x) the effective date of the transaction, and (y) a description of the transaction. Without derogating from the foregoing, a Licensee and its Affiliates of the Effective Date may assign its rights hereunder to an Affiliate in the context of a court-approved arrangement.

6.3 For the avoidance of doubt, Licensor is permitted to sell, assign, or otherwise transfer any of the Licensed Patents ("*Transferred Patents*") without Licensee's consent to any Third Party; provided that the License and covenants of Licensor contained herein shall run with the rights being sold, assigned, or transferred and the Transferred Patents and shall be binding on any successors-in-interest, transferees, or assigns thereof.

7. MISCELLANEOUS

7.1 Confidentiality of Terms. Licensee shall keep the terms and existence of this Agreement confidential and will not now or hereafter divulge any of this information to any Third Party except: (a) with the prior written consent of Licensor; (b) to the extent necessary in order to perfect its rights hereunder; (c) to its accountants, legal counsel, tax advisors and sublicensees subject to obligations of confidentiality at least as stringent as those contained herein; (d) to a counterparty in connection with a proposed merger, acquisition, sale, financing or similar transaction, subject to obligations of confidentiality at least as stringent as those contained herein; (e) for the purposes of disclosure in connection with the Securities and Exchange Act of 1934, as amended, the Securities Act of 1933, as amended, and any other reports filed with the Securities and Exchange Commission, or any other filings, reports or disclosures that may be required under applicable laws or regulations; (f) as may be compelled by law or legal process or as required during the

course of litigation; provided, however, that in the event of potential disclosure under subsection (f), Licensee will (i) use all legitimate and legal means available to minimize the disclosure to Third Parties, including, without limitation, seeking a protective order whenever appropriate or available. The obligations of Licensee under this Section 6.1 shall remain in effect during the term of this Agreement and for three (3) years from the date of termination or expiration of this Agreement.

- 7.2 No Third Party Rights. Nothing in this Agreement is intended to confer upon any Person, other than the Parties, their respective Affiliates, their respective successors and assigns and the Licensed Third Parties any rights, remedies, obligations or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement. The Licensed Third Parties shall be deemed as third party beneficiaries under this Agreement and enjoy the rights and license conferred upon them in Section 3.2 above; provided however that any such Licensed Third Party may only initiate claims against Licensor in connection with a defense of a claim of infringement initiated against it.
- 7.3 Governing Law; Forum. This Agreement, its performance and interpretation shall be governed by the substantive law of the State of Israel, exclusive of its choice of law rules. The competent courts located in Tel Aviv-Jaffa, Israel shall have sole and exclusive jurisdiction in any dispute or controversy arising out of or relating to this Agreement.
- 7.4 Notices. All notices given hereunder will be given in writing, will refer to this Agreement and will be: (i) personally delivered, (ii) delivered prepaid by an internationally recognized express courier service, or (iii) sent postage prepaid registered or certified U.S. mail (return receipt requested) to the address set forth below:

<u>If to Licensee</u>	<u>If to Licensor</u>
Lior Dagan, Adv. (Temporary	Landmark Networks, LLC
Liquidator)	1400 Preston Rd., Suite 475
1 Azrielli Center (Round Building)	Plano, TX 75201
35th Floor	Attn: General Counsel
Tel-Aviv 67021, Israel	
Fax: +972-3-609-7797	

Notices are deemed received on (a) the date of receipt if delivered personally or by express courier (or if delivery refused, the date of refusal), or (b) the fifth (5th) calendar day after the date of posting if sent by US mail. Notice given in any other manner will be deemed to have been received only if and when received at the address of the Person to be notified. Either Party may from time to time change its address for notices under this Agreement by giving the other Party written notice of such change in accordance with this Section.

- 7.5 Relationship of Parties. The Parties are independent contractors and not partners, joint venturers, or agents of the other. Neither Party assumes any liability of or has any authority to bind, or control the activities of, the other.
- 7.6 Severability. If any provision of this Agreement is found to be invalid or unenforceable, then the remainder of this Agreement will have full force and effect, and the invalid provision will be modified, or partially enforced, to the maximum extent permitted to effectuate its original objective.

- 7.7 Waiver. Failure by either Party to enforce any term of this Agreement will not be deemed a waiver of future enforcement of that or any other term in this Agreement or any other agreement that may be in place between the Parties.
- 7.8 Entire Agreement. This Agreement, including its exhibits, constitutes the entire agreement between the Parties with respect to the subject matter hereof, and merges and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions. Licensee hereby acknowledges, confirms and agrees that this Agreement sets forth the sole rights to the Patents held by Licensee (and/or any member of the Orckit Group) as of the Effective Date. The section headings contained in this Agreement are for reference purposes only and will not affect in any way the meaning or interpretation of this Agreement. No oral explanation or oral information by either Party hereto will alter the meaning or interpretation of this Agreement. No amendments or modifications will be effective unless in writing and signed by authorized representatives of both Parties. The Exhibits referenced herein and attached hereto are incorporated into this Agreement as though fully set forth herein.
- 7.9 Counterparts: Electronic Signature. This Agreement may be executed in counterparts, each of which will be deemed an original, and all of which together constitute one and the same instrument. Each Party will execute and deliver to the other Party a copy of this Agreement bearing its original signature. Prior to such execution and delivery, in order to expedite the process of entering into this Agreement, the Parties acknowledge that Transmitted Copies of this Agreement will be deemed original documents. ***“Transmitted Copies”*** means copies that are reproduced or transmitted via email of a .pdf file, photocopy, facsimile or other process of complete and accurate reproduction and transmission.

In witness whereof, the Parties have caused this Agreement to be executed as of the Effective Date by their respective duly authorized representatives.

[Signatures on next page]

LANDMARK NETWORKS, LLC

Title:

ORCKIT COMMUNICATIONS LTD.
Under Creditors' Arrangement

Title:

ORCKIT CORRIGENT LTD.

Title:

Exhibit A

THE LICENSED PATENTS

COMMON INTEREST AGREEMENT

THIS COMMON INTEREST AGREEMENT ("**Agreement**") is entered into between Orckit Communications Ltd., an Israeli limited liability under Creditors' Arrangement ("**Seller**") and Landmark Networks, LLC, a Texas limited liability company ("**Purchaser**") as of _____, 2015.

1. **BACKGROUND.**

SELLER and PURCHASER are sometimes referred to herein as a "party" or the "parties" and are presently negotiating the closing of an agreement under which Purchaser will purchase from Seller the Assigned Patent Rights (as defined in the Patent Purchase Agreement, between Seller, Parent and Purchaser of even date herewith) ("**Patent Matters**").

The parties have a common legal interest in upholding the validity and enforceability of the Assigned Patent Rights, for purposes of enforcement. The parties anticipate they will enforce inherent rights of the Assigned Patent Rights against third parties through litigation. The parties have agreed to treat their communications and those of their counsel relating to the Patent Matters as protected by the common interest doctrine. Furtherance of the Patent Matters requires the exchange of proprietary documents and information, the joint development of legal strategies and the exchange of privileged information and attorney work product developed by the parties and their respective counsel.

COMMON INTEREST.

The parties have a common, joint and mutual legal interest in the monetization of valid and enforceable patents. In furtherance of that common interest, the parties will cooperate with each other, to the extent permitted by law, to share information protected by the attorney-client privilege, the work product doctrine, or other applicable privilege or immunity with respect to the Patent Matters. Any counsel or consultant retained by a party or their counsel to

assist in the Patent Matters shall be bound by, and entitled to the benefits of this Agreement.

In order to further their common interest, the parties and their counsel may exchange privileged and work product information, orally and in writing, including, without limitation, factual analyses, mental impressions, legal memoranda, source materials, draft legal documents, evidence of use materials, claims charts, prosecution history files and other information (hereinafter "**Common Interest Materials**"). The sole purpose of the exchange of the Common Interest Materials is to support the parties' common interest with respect to the enforcement for the Patent Matters. Any Common Interest Materials exchanged shall continue to be protected under all applicable privileges and no such exchange shall constitute a waiver of any applicable privilege or protection. Nothing in this Agreement requires a party to share information with the other party.

NONDISCLOSURE.

The parties and their counsel shall use the Common Interest Materials solely in connection with the Patent Matters and shall take appropriate steps to protect the privileged and confidential nature of the Common Interest Material. No party or their respective counsel shall produce privileged documents or information unless or until directed to do so by a final order of a court of competent jurisdiction, or upon the prior written consent of the other party. No privilege or objection shall be waived by a party hereunder without the prior written consent of the other party.

Except as herein provided, in the event that either party or its counsel is requested or required in the context of a litigation, governmental, judicial or regulatory investigation or other similar proceedings (by oral questions, interrogatories, requests for information or documents, subpoenas, civil investigative demands or similar process) to disclose any Common Interest Materials, such party or its counsel shall assert all applicable privileges, including, without limitation, the common interest doctrine, and shall immediately inform the other party and the other party's counsel of the request or requirement to disclose.

RELATIONSHIP; ADDITIONS; TERMINATION.

This Agreement does not create any agency or similar relationship among the parties. Through the term of the agreement between the parties, or any other agreement requiring confidentiality, (whichever term is longer), no party or their respective counsel has the authority to waive any applicable privilege or doctrine on behalf of any other party.

Nothing in this Agreement affects the separate and independent representation of each party by its respective counsel or creates an attorney-client relationship between the counsel for a party and the other party to this Agreement.

This Agreement shall continue until terminated upon the written request of either party. Upon termination, each party and its respective counsel shall return any Common Interest Material furnished by the other party. Notwithstanding termination, this Agreement shall continue to protect all Common Interest Materials disclosed prior to termination. Sections 3 and 5 shall survive termination of this Agreement.

GENERAL TERMS.

This Agreement is governed by the laws of the State of Delaware, without regard to its choice of law principles to the contrary. In the event any provision of the Agreement is held by any court of competent jurisdiction to be illegal, void or unenforceable, the remaining terms shall remain in effect. Failure of a party to enforce any provision of this Agreement shall not be deemed a waiver of future enforcement of that or any other provision.

The parties agree that a breach of this Agreement would result in irreparable injury, that money damages would not be a sufficient remedy and that the disclosing party shall be entitled to equitable relief, including injunctive relief, as a non-exclusive remedy for any such breach.

This Agreement is effective and binding upon each party as of the date it is signed by or on behalf of a party and may be amended only by a writing signed by or on behalf of each party. This Agreement may be executed in counterparts. Any signature reproduced or transmitted via email of a .pdf file, photocopy, facsimile or other process of complete and accurate reproduction and transmission shall be considered an original for purposes of this Agreement.

Notices given under this Agreement shall be given in writing and delivered by messenger or overnight delivery service as set forth below, and shall be deemed to have been given on the day received:

In the case of Seller:
Orckit Communications Ltd.
1 Azrieli Center (Round Building), 35th Floor
Tel Aviv, Israel
Attn: Lior Dagan, Adv. (Temporary Liquidator)
Email:

In the case of Purchaser:
Landmark Networks
1400 Preston Rd., Suite 475
Plano, TX 75201
Attn: David Pridham
Email: dp@dominionharbor.com

Copy to:
Shaked & Co. Law Offices
98 Yigal Alon St., 15th Floor
Tel Aviv, Israel 6789141
Attn: Lillian Shaked
Email: lillian@shaked-law.com

IN WITNESS WHEREOF, Seller and Purchaser have executed this Agreement by their duly authorized representatives.

ORCKIT COMMUNICATIONS LTD.
Under Creditors' Arrangement

LANDMARK NETWORKS, LLC

By: _____ By: _____

Name: _____ Name: _____

Title: _____ Title: _____

Date: _____ Date: _____

Blocked Account Control Agreement

("Lockbox and Lockbox Account – Shifting Control") | JPMORGAN CHASE BANK, N.A.

V2.1_0315

AGREEMENT dated as of _____, 2015, by and among Landmark Networks, LLC, a Texas limited liability company ("Company"), Orckit Communications Ltd. (under Creditors' Arrangement), an Israeli company, and/or Adv. Lior Dagan in his capacity as an officer of the court in connection with the liquidation thereof (file no. 37456-06-14) or any successor appointed by the District Court of Tel Aviv ("Lender"), and JPMorgan Chase Bank, N.A. ("Depositary").

The parties hereto refer to Post Office Box No. _____ (the "Lockbox") and account no. _____ in the name of Company maintained at Depositary (the "Account") and hereby agree as follows:

1. Company and Lender notify Depositary that by separate agreement Company has granted Lender a security interest in the Lockbox and all checks or other items deposited from time to time therein and in the Account and all funds on deposit from time to time therein. Depositary acknowledges being so notified.

2. (a) The Company shall have no right to issue withdrawal, delivery or other instructions which it otherwise would be entitled to give under the Applicable Documentation (as hereinafter defined) with respect to the Lockbox (collectively, "lockbox instructions"), other than with respect to routine administrative matters, or any other right or ability to control, access, pick up, withdraw or transfer items from the Lockbox without Lender's express written consent with respect thereto. On each business day (and without Company's consent), Depositary shall open the mail delivered to the Lockbox and deposit the checks and other items contained therein into the Account.

(b) Prior to the Effective Time (as defined below) Depositary shall honor all withdrawal, payment, transfer or other fund disposition or other instructions which the Company is entitled to give under the Applicable Documentation (as hereinafter defined) ("account instructions" and collectively, account instructions and lockbox instructions, "instructions") received from the Company (but not those from Lender) concerning the Account. On and after the Effective Time (and without Company's consent), Depositary shall honor all instructions received from Lender (but not those from Company) concerning the Account and Company shall have no right or ability to access or withdraw or transfer funds from the Account.

For the purposes hereof, the "Effective Time" shall be the opening of business on the second business day next succeeding the business day on which a notice purporting to be signed by Lender in substantially the same form as Exhibit A, attached hereto, with a copy of this Agreement attached thereto (a "Shifting Control Notice"), is actually received by the unit of Depositary to whom the notice is required to be addressed; provided, however, that if any such notice is so received after 12:00 noon, Eastern time, on any business day, the Effective Time shall be the opening of business on the third business day next succeeding the business day on which such receipt occurs; and, provided further, that a "business day" is any day other than a Saturday, Sunday or other day on which Depositary is or is authorized or required by law to be closed.

Notwithstanding the foregoing: (i) all transactions involving or resulting in a transaction involving the Account duly commenced by Depositary or any affiliate prior to the Effective Time and so consummated or processed thereafter shall be deemed not to constitute a violation of this Agreement; and (ii) Depositary and/or any affiliate may (at its discretion and without any obligation to do so) (x) cease honoring Company's instructions and/or commence honoring solely Lender's instructions concerning the Account at any time or from time to time after it becomes aware that Lender has sent to it a Shifting Control Notice but prior to the Effective Time therefor (including without limitation halting, reversing or redirecting any transaction referred to in clause (i) above), or (y) deem a Shifting Control Notice to be received by it for purposes of the foregoing paragraph prior to the specified unit's actual receipt if otherwise actually received by Depositary (or if such Shifting Control Notice does not comply with the form attached hereto as Exhibit A or does not attach an appropriate copy of this Agreement), with no liability whatsoever to Company or any other party for doing so.

3. This Agreement supplements, rather than replaces, Depositary's deposit account agreement, terms and conditions, lockbox agreement and other standard documentation in effect from time to time with respect to the Lockbox, the Account or the services provided in connection therewith (the "Applicable Documentation"), which Applicable Documentation will continue to apply to the Lockbox, the Account and such services, and the respective rights, powers, duties, obligations, liabilities and responsibilities of the parties thereto and hereto, to the extent not expressly conflicting with the provisions of this Agreement (however, in the event of any such conflict, the provisions of this Agreement shall control). Prior to issuing any instructions on or after the Effective Time, Lender shall provide Depositary with such documentation as Depositary may reasonably request to establish the identity and authority of the individuals issuing instructions on behalf of Lender. Lender may request the Depositary to provide other services with respect to the Lockbox or the Account on or after the Effective Time; however, if such services are not authorized or otherwise covered under the Applicable Documentation, Depositary's decision to provide any such services shall be made in its sole discretion (including without limitation being subject to Company and/or Lender executing such Applicable Documentation or other documentation as Depositary may require in connection therewith).

4. Depositary agrees not to exercise or claim any right of offset, banker's lien or other like right against the Account for so long as this Agreement is in effect except with respect to (i) returned or charged-back items, reversals or cancellations of payment orders and other electronic fund transfers or other corrections or adjustments to the Account or transactions therein, (ii) overdrafts in the Account or (iii) Depositary's charges, fees and expenses with respect to the Account or the services provided hereunder.

5. Notwithstanding anything to the contrary in this Agreement: (i) Depositary shall have only the duties and responsibilities with respect to the matters set forth herein as is expressly set forth in writing herein and shall not be deemed to be an agent, bailee or fiduciary for any party hereto; (ii) Depositary shall be fully protected in acting or refraining from acting in good faith without investigation on any notice (including without limitation a Shifting Control Notice), instruction or request purportedly furnished to it by Company or Lender in

accordance with the terms hereof, in which case the parties hereto agree that Depository has no duty to make any further inquiry whatsoever; (iii) it is hereby acknowledged and agreed that Depository has no knowledge of (and is not required to know) the terms and provisions of the separate agreement referred to in paragraph 1 above or any other related documentation or whether any actions by Lender (including without limitation the sending of a Shifting Control Notice), Company or any other person or entity are permitted or a breach thereunder or consistent or inconsistent therewith, (iv) Depository shall not be liable to any party hereto or any other person for any action or failure to act under or in connection with this Agreement except to the extent such conduct constitutes its own willful misconduct or gross negligence (and to the maximum extent permitted by law, shall under no circumstances be liable for any incidental, indirect, special, consequential or punitive damages); and (v) Depository shall not be liable for losses or delays caused by force majeure, interruption or malfunction of computer, transmission or communications facilities, labor difficulties, court order or decree, the commencement of bankruptcy or other similar proceedings or other matters beyond Depository's reasonable control.

6. Company hereby agrees to indemnify, defend and save harmless Depository against any loss, liability or expense (including reasonable fees and disbursements of counsel who may be an employee of Depository) (collectively, "Covered Items") incurred in connection with this Agreement, the Lockbox or the Account (except to the extent due to Depository's willful misconduct or gross negligence) or any interpleader proceeding relating thereto or incurred as a result of following Company's direction or instruction. Lender hereby agrees to indemnify, defend and save harmless Depository against any Covered Items incurred (i) in connection with this Agreement, the Lockbox or (on or after the Effective Time) the Account (except to the extent due to Depository's willful misconduct or gross negligence) or any interpleader proceeding related thereto, (ii) as a result of following Lender's direction or instruction (including without limitation Depository's honoring of a Shifting Control Notice) or (iii) due to any claim by Lender of an interest in the Lockbox or the items therein or in the Account or the funds on deposit therein.
7. Depository may terminate this Agreement (i) in its discretion upon the sending of at least thirty (30) days' advance written notice to the other parties hereto or (ii) because of a material breach by Company or Lender of any of the terms of this Agreement or the Account Documentation, upon the sending of at least five (5) days advance written notice to the other parties hereto. Lender may terminate this Agreement in its discretion upon the sending of at least three (3) days advance written notice in substantially the same form as Exhibit B attached hereto, with a copy of the Agreement attached thereto (a "Lender Termination Notice") to the other parties hereto, provided that Depository may shorten or waive the requirement that notice be in advance and any such shortening or waiver shall be binding on all parties. Any other termination, any amendment or waiver of this Agreement shall be effected solely by an instrument in writing executed by all the parties hereto. The provisions of sections 5 and 6 above shall survive any such termination.
8. Company shall compensate Depository for the opening and administration of the Lockbox and the Account and services provided hereunder in accordance with Depository's fee schedules from time to time in effect. Payment will be effected by a direct debit to the Account.
9. No party may assign or transfer its rights or obligations under this Agreement to any person or entity without the prior written consent of the other parties; provided, however, that no consent will be required if the assignment or transfer takes place as part of a merger, acquisition or corporate reorganization affecting Depository.
10. This Agreement: (i) may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument; (ii) shall become effective when counterparts hereof have been signed and delivered by the parties hereto; and (iii) shall be governed by and construed in accordance with the laws of the State of New York. All parties hereby waive all rights to a trial by jury in any action or proceeding relating to the Lockbox, the Account or this Agreement. All notices under this Agreement shall be in writing and sent (including via emailed pdf or similar file or facsimile transmission) to the parties hereto at their respective addresses, email address or fax numbers set forth below (or to such other address, email address or fax number as any such party shall designate in writing to the other parties from time to time).

[Signatures on following page]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date first above written.

[COMPANY]		[LENDER]	
By:		Date:	
Name:		Name:	
Title:		Title:	
Address for Notices:		Address for Notices:	
Fax No.:		Fax No.:	
Email Address:		Email Address:	
JPMORGAN CHASE BANK, N.A.			
By:		Date:	
Name:			
Title:			
<p>Address for Instructions and other Notices: JPMorgan Chase Bank, N.A. Attn:</p> <p>Email: Fax No.:</p> <p>Address For Assignment, Shifting Control and Termination Notices: JPMorgan Chase Bank, N.A. Attn: Blocked Account Legal Team 10 South Dearborn, 6th Floor, Suite IL1-0096 Chicago, IL 60603-2300 Email: blocked.account.contracts@jpmchase.com</p>			

Exhibit A | SHIFTING CONTROL NOTICE

Date: _____

JPMorgan Chase Bank, N.A.

Address: 10 South Dearborn, 6th Floor, Suite IL1-0096
Chicago, IL 60603-2300

Attention: Blocked Account Legal Team

Re: Blocked Account Control Agreement dated as of _____, 20____, by and among _____, _____ and JPMorgan Chase Bank, N.A. relating to account no. _____ (the "Agreement").

Ladies and Gentlemen:

This constitutes a Shifting Control Notice as referred to in section 2 of the Agreement, a copy of which is attached hereto.

[LENDER]

By: _____ Date: _____

Name:

Title:

ATTACHMENT: Blocked Account Control Agreement (BACA)

Exhibit B | LENDER TERMINATION NOTICE

Date: _____

JPMorgan Chase Bank, N.A.

Address: 10 South Dearborn, 6th Floor, Suite IL1-0096
Chicago, IL 60603-2300

Attention: Blocked Account Legal Team

[COMPANY]

Address: _____

Attention: _____

Re: Blocked Account Control Agreement dated as of _____, 20____, by and among _____, _____ and JPMorgan Chase Bank, N.A. relating to account no. _____ (the "Agreement").

Ladies and Gentlemen:

This constitutes a Lender Termination Notice as referred to in section 7 of the Agreement, a copy of which is attached hereto.

[LENDER]

By: _____ Date: _____

Name:

Title:

ATTACHMENT: Blocked Account Control Agreement (BACA)