

## **AGREEMENT**

**WHEREAS**, Novisign is the developer and owner of all rights to a digital signage software system (the “**Product**”). The "Product" will also include upgrades, modifications, and new sub-versions and full versions versions of the Product; and

**WHEREAS**, Reseller is an experienced value added Reseller and has the ability to sell, market, and distribute the Product;

**WHEREAS**, Novisign desires to appoint Reseller as its non-exclusive value added Reseller to sell, market, distribute and service the Product, and Reseller desires to accept such appointment; and

**WHEREAS**, both Novisign and Reseller have agreed to the terms and conditions under which Reseller shall provide such services.

**NOW, THEREFORE**, in consideration of their mutual promises and obligations the parties hereto have agreed as follows:

### **1. Appointment & License**

1.1. Appointment: Novisign hereby appoints Reseller, for the Term of this Agreement, as a non-exclusive value-added Reseller of the Products, to End-users (as hereinafter defined) pursuant to this Agreement. Reseller accepts such appointment. This Agreement is not exclusive to Reseller and Novisign reserves the unrestricted right to sell, license, market and distribute or to grant to others the right to sell, license, market and distribute the Product and value added versions thereof.

In this Agreement the term “**End-users**” shall mean an entity that obtained a license for the Product for its own use and not for further distribution.

1.2. License: Novisign hereby grants and Reseller hereby accepts the right and license to display and demonstrate the operation of the Product to potential End-users in connection with the efforts of Reseller to promote the sale of the Products under the terms of this Agreement.

### **2. Reseller Obligations**

2.1. Promotional efforts: Reseller shall use its best efforts to actively and vigorously develop, promote and facilitate the sale of the Product. In all advertising and promotion of the Product, Reseller shall comply with Novisign's policies as specified from time to time by Novisign.

2.2. Packaging; Notices: Reseller shall distribute the Product to End-users in packaging as provided by Novisign. Reseller shall not modify, alter, remove or destroy any proprietary legends, including copyright notices appearing on or embedded in the Product.

2.3. Expenses: Reseller will bear all costs and expenses incurred by it with respect to the performance of its obligations under this Agreement.

### **3. Sales**

3.1. End-User License Provisions: Reseller shall include in each End-user license agreement pursuant to which Reseller sells the Product to End-users, the provisions of **Exhibit 1**,

attached hereto, as it may be modified by Novisign from time to time (the “**End-user License Provisions**”).

#### 4. **Support & Maintenance**

4.1. **Support and Maintenance to End-Users**: Reseller shall provide End-Users with all first and second level support and maintenance required to ensure full functionality of the Product (“**Support Services**”).

4.2. **Sales Support**: Novisign shall, at its sole discretion, provide Reseller with sales and product support on as-needed basis.

4.3. **Technical Problems**: Reseller shall notify Novisign promptly of any Product defects or other unresolved operational and/or technical problems concerning the installation, use, or performance of the Product.

4.4. **Third Level Support**: Novisign shall provide to Reseller third level support at Novisign’s prevailing rates.

4.5. **Training by Novisign**: Novisign shall provide Reseller’s personnel with technical training pursuant to its training program and at its prevailing rates.

#### 5. **Prices & Terms Of Payment**

5.1. **Price**: Novisign agrees to supply the Product to Reseller at the reseller price, which may be modified by Novisign from time to time.

5.2. **Payment Terms**: Payment terms are in advance using Novisign’s online payment mechanisms, such as PayPal and credit card.

5.3. **Taxes; Charges**: Prices according to section 5.1 above, and all payments by Reseller hereunder are exclusive of any sale, use, property, license, value-added, withholding, excise or similar tax which may be imposed with respect to the Product, its delivery, sale or use, and Reseller shall be solely responsible for all such payments other than taxes based upon Novisign’s net income.

#### 6. **Representations & Warranties**

6.1. Each party represents and warrants that it has the right and power to enter into this Agreement and that there are no contractual, legal, governmental or other restrictions which might conflict with this Agreement or limit such party’s capacity to be bound by this Agreement.

6.2. Novisign further represents and warrants that it has no actual knowledge that the Product infringes any Intellectual Property Rights (as defined in section 8.1) of any third party.

#### 7. **Product Warranty; Liability**

7.1. **Warranty**: Novisign warrants the Product for the period and under the terms set forth in the End-User License Provisions.. If the Product fails during the warranty period to conform to the specifications, Reseller shall promptly notify Novisign, and Novisign shall repair or replace the Product.

7.2. **Disclaimer of Warranty**: The warranty under this Section 7, is Novisign’s sole and exclusive liability pertaining to the Product. Novisign hereby disclaims any other warranty, express or implied, including without limitation, any warranty of merchantability or fitness of the Product for a particular purpose, and Reseller waives any and all claims to damages.

7.3. Novisign's Limited Liability: In no event shall Novisign be liable for damages, including any lost profits, or other incidental or consequential damages, suffered by Reseller, End-users or other third parties, including bodily injury, damage to real or personal property and/or damages or losses which may arise out of Reseller's activities in the performance of this Agreement. In no event shall Novisign's liability under this Agreement, exceed in the aggregate the payments actually paid by Reseller for the past 6 months pursuant to this Agreement.

7.4. Misrepresentations by Reseller: Reseller shall be liable for any representations or warranties made by it or its personnel, without the prior approval of Novisign including without limitation, in its advertising, brochures, manuals, End-User's Agreement, whether in writing or orally with respect to the Product.

## 8. Proprietary Rights

8.1. Title; Ownership: Reseller hereby represents that it has no right and/or claim to the Intellectual Property Rights in and to the Product, including any updates, enhancements, modifications or improvements made thereto, and the Confidential Information as defined in Section 10 below. The parties agree to execute any documents reasonably requested by the other party to effect any of the foregoing.

For the Purposes of this Agreement, "**Intellectual Property Rights**" shall include, without limitation, copyrights, trade-secrets, trademarks, trade-names, patents, know-how, and other proprietary rights whether or not registered.

8.2. Without limiting the provisions of section 8.1 above, Reseller shall not have any right to duplicate, translate, decompile, reverse engineer, or adapt the Product without Novisign's prior written consent, nor shall Reseller attempt to develop any products derivative of the Product or products that contain the "look and feel" of the Product.

8.3. Protection of Rights: Reseller shall cooperate fully with Novisign in protecting Novisign's rights in the Product and Confidential Information. Without limiting the foregoing, Reseller agrees to notify Novisign promptly in the event Reseller become aware of any infringement of such rights. Novisign shall have the right, in its sole discretion, to sue third parties for infringement of Novisign's rights in the Product. Reseller agrees to fully cooperate with Novisign, at Novisign expense, in the prosecution of any such suit.

## 9. Indemnity

9.1. Indemnification by Reseller: Reseller shall defend, indemnify, and hold Novisign, and its officers, directors, agents, and employees, harmless against all damages, costs, expenses, and losses incurred through and/or arising out of claims of third parties based on or related to (a) Reseller's breach of any representations or warranties contained herein; and/or (b) any of Reseller's actions or omissions with respect to the performance of this Agreement; and/or (c) Reseller's representations and warranties towards third parties.

9.2. Indemnification by Novisign: Novisign shall defend, indemnify, and hold Reseller, and its officers, directors, agents, and employees, harmless against all costs, expenses, and losses incurred through claims of third parties against Reseller based on Novisign's breach of any representations or warranties contained herein or as a result of any of Novisign's actions or omissions with respect to this Agreement.

## 10. Confidentiality

10.1. During the course of executing this Reseller Agreement, Novisign may disclose to the Reseller certain specifications, designs, plans, drawings, software, data, prototypes, know-how, inventions, processes, formulas, or other business and/or technical information related to wireless technologies, products, infrastructure, services, marketing distribution and sales methods and systems, and/or applications for the delivery of digital signage solutions ("Information"), which Information is proprietary to the Novisign and marked "Confidential".

10.2. The receiving party, for a period of three (3) years after the date of disclosure under this Agreement: (a) shall hold such Information in confidence; (b) shall use such Information only for the purposes defined under this agreement; (c) shall reproduce such Information only to the extent necessary for such Purpose; (d) shall restrict disclosure of such Information to its employees (and employees of its Affiliated Companies) with a need to know (and advise such employees of the obligations assumed herein), and (e) shall not disclose such Information to any third party without prior written approval of the other party. Neither party shall be liable for the inadvertent or accidental disclosure of Information, if such disclosure occurs despite the exercise of a reasonable degree of care which is at least as great as the care such party normally takes to preserve its own proprietary information of a similar nature which shall not be less than a reasonable standard of care.

## 11. **Term; Termination**

11.1. **Term**: This Agreement shall become effective on the Effective Date and shall remain in force for a period of 12 months thereafter (the "**Initial Period**"), unless terminated earlier in accordance with the provisions of Section 11.2 below. Thereafter this Agreement shall automatically renew for additional periods of 12 months, unless terminated earlier in accordance with the provisions of Section 11.2 below.

11.2. **Termination**: The following termination rights are in addition to the termination rights or remedies that may be provided elsewhere in the Agreement, or according to law:

(a) **Immediate Right of Termination**. Novisign may immediately terminate this Agreement by giving written notice 30 days in advance to Reseller in the event that Reseller:

(i) Makes any change in the current management of Reseller, which in the opinion of Novisign substantially impairs Novisign 's rights under this Agreement, or has or threatens to damage the reputation of Novisign, or the Product;

(ii) Engages in any illegal, unfair, or deceptive business practices or unethical conduct whatsoever, whether or not related to the Product;

(iii) challenges, contests or disputes, directly or indirectly Novisign's exclusive Intellectual Property Rights in the Product or the validity thereof.

(iv) Misrepresents information about the Reseller in the web application to become a Reseller Partner.

(b) This Agreement shall be automatically terminated in the event that Reseller files a petition in bankruptcy or is adjudicated bankrupt or insolvent, or makes an assignment for the benefit of creditors, or an arrangement pursuant to any bankruptcy law, or if Reseller discontinues or dissolves its business, or if a receiver is appointed for Reseller or for Reseller's business and such receiver is not discharged within 30 days.

(c) **Termination for Cause**: Either party may terminate this Agreement on 14

day written notice to the other party in the event of a material breach of any provision of this Agreement by the other party, provided that, during the 14-day period, the breaching party fails to cure such breach.

(d) **Termination for convenience:** Without derogating from the provisions of Sections 11.2(a) through (c) above, following the Initial Period, either party shall have the right to terminate this Agreement at any time and for any reason on 30 day written notice to the other party, such termination to become effective at the conclusion of such 30-day period.

## 12. **Post Termination Rights**

12.1. **Expiration of Rights:** Upon expiration or termination of this Agreement, all rights granted to Reseller under this Agreement shall forthwith terminate, expire and immediately revert to Novisign. Reseller shall immediately cease the sale or distribution of the Product, and/or any other use of any kind thereof.

12.2. **End-User Support:** Reseller shall be obligated, unless Novisign has otherwise expressly instructed, to continue and render, at Reseller's sole expense, the Support Services following termination of this Agreement.

12.3. **Survival:** It is understood and agreed that termination or expiration of this Agreement shall not extinguish any of Reseller's obligations under this Agreement which by their terms continue after the date of termination or expiration.

## 13. **Miscellaneous**

13.1. **Jurisdiction & Disputes:** This Agreement shall be governed and construed in accordance with the laws of the State of Israel. The parties hereto hereby irrevocable submit to the jurisdiction of the courts in Tel Aviv, Israel.

13.2. **Waiver:** No waiver by either party of any default shall be deemed a waiver of any prior or subsequent default of the same or other provisions of this Agreement.

13.3. **Severability:** If any provision hereof is held invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or operation of any other provision and such invalid provision shall be deemed to be severed from the Agreement.

13.4. **Assignability:** The license granted hereunder is personal to Reseller and may not be assigned by any act of Reseller or by operation of law except with the written consent of Novisign.

13.5. **Entire Agreement:** This Agreement constitutes the entire understanding of the parties, and revokes and supersedes all prior agreements between the parties and is intended as a final expression of their Agreement. It shall not be modified or amended except in writing signed by the parties hereto and specifically referring to this Agreement. This Agreement shall take precedence over any other documents that may be in conflict therewith.

13.6. **Independent Contractor:** Reseller's performance of its duties and obligations under this Agreement and the performance of its personnel are as an independent contractor. Accordingly, nothing contained in this Agreement shall be construed as establishing an employer/employee, a partnership, agency, brokerage, or a joint venture relationship between Reseller or its personnel and Novisign.

13.7. **Force Majeure.** Neither party shall be liable for delays or failure to meet its

obligations (other than payment obligations) pursuant to this Agreement due to causes beyond the party's reasonable control, provided the non-performing party promptly notifies the other party of the nonperformance and takes all reasonable steps to recommence performance promptly.

**This agreement is deemed executed by both parties whereupon the Reseller selects the agreement checkbox on the Novisign website and clicks submit. Novisign has the right to unilaterally terminate the agreement with no recourse if it finds that the information submitted to Novisign on the web application is misrepresented.**

### **Exhibit 3.1 – End-user License Provisions**

1. **License Grant.** The Licensee is granted a nontransferable, nonexclusive sublicense for the term of the Reseller agreement to use a single copy of the Product for Licensee's internal business purposes only.
2. **Title & Ownership.** Title to and ownership of, all rights (including without limitation, those involving trade secrets, patents and copyrights), associated with the Product and all copies thereof shall remain vested in Novisign, Inc. ("**Novisign**"). No transfer of such right is made to End-user.
3. **Copies.** End-user will not make or have made, or permit to be made, any copies of the Product, except as necessary for its use of the software. End-user agrees to reproduce all trade secret, copyright or other notices of proprietary rights appearing on the Product.
4. **Reverse Engineer.** End-user agrees that it or any person acting on its behalf, will not attempt to alter, disassemble, decrypt or reverse engineer the Product.