

ADENEO WL1271 WINDOWS CE SOURCE DRIVERS SOFTWARE SUB-LICENSE AGREEMENT

This WL1271 Drivers License Agreement ("Agreement") is entered into and made effective as of this ____ day of _____, 20__ by and between **Adeneo Corporation**, having a place of business at 3150 Richards Road, Suite 110, Bellevue, WA 98005, USA ("Adeneo") and, _____, with its primary business address at _____ ("Licensee"). Adeneo and Licensee are sometimes hereinafter referred to jointly as "*the Parties*", or singularly as a "*Party*". WHEREAS, Adeneo has originated or obtained licensing rights to certain computer software products described herein, and WHEREAS, Adeneo and Licensee desire that Licensee obtain certain rights from Adeneo with respect to that computer software, NOW THEREFORE, for and in consideration of the premises and mutual covenants contained herein, the Parties agree as follows:

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- 1.1 "**Intellectual Property Rights**" shall mean all of Adeneo's (or, as appropriate, a third party's) patents, patent rights, copyrights, trade secrets, service marks, maskworks, trade dress, trade names, trademarks, domain names, and all other intellectual property and other proprietary rights, and all goodwill arising with respect thereto, and any applications for any of the foregoing, in all countries in the world.
- 1.2 "**Licensee's Product (s)**" means the equipment manufactured, Sold ("Sold" means directly or indirectly sold, leased, sublicensed, shipped, distributed, transferred, or otherwise disposed of) or purchased by Licensee which incorporates and uses any portion, or all, of the Object Code or derivative of the Source Code.
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- 1.6 "**Source Code**" means the software code for the technologies listed in the Attachments, which is in human readable form and related system level documentation including comments and procedural code, but specifically excluding any Modification. Source Code includes (a) the executables of Adeneo's build environment tools, including, but not limited to, (a) the source code version of Adeneo's products. Source Code is configurable by Licensee.
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Non applicable section

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- 6.3 Indemnity by Licensee.** Licensee will, at its expense, indemnify and hold harmless Adeneo, and at Adeneo's option defend Adeneo, and its officers, directors, employees, agents and attorneys, from any and all actions, claims, costs, liabilities, losses, and expenses, including but not limited to reasonable attorneys' fees and cost of suit, incurred by Adeneo as a result of, directly or indirectly, or arising from Licensee's misuse, modification, alteration of the Object Code or Source Code, or any material breach of this Agreement by Licensee.
- 6.4 Limited Liability.** Except as provided in Section 6.2 above, Adeneo shall not be liable to Licensee for damages for any cause whatsoever, and regardless of the form of action, whether in contract or tort, including negligence, or otherwise, in an amount in excess of the amounts paid under this Agreement. IN NO EVENT SHALL ADENEO BE LIABLE FOR THE LOST PROFITS OR REVENUE, LOST GOODWILL, OR SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES, WHETHER OR NOT LICENSEE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, ARISING IN ANY WAY FROM THIS AGREEMENT.

7. CONFIDENTIAL INFORMATION

- 7.1 Confidentiality.** The Parties agree that any and all Object Code, Source Code, technical data and information supplied by one Party to the other Party hereunder are and will remain the confidential and proprietary information of the Party disclosing the information and/or its third party suppliers. All information disclosed and received hereunder and the terms of this Agreement will be held in strict confidence and in a secure fashion. Said information will be disclosed to and used only by those employees of the receiving Party who (a) have a need to know such information for purposes related to this Agreement and (b) who have signed an agreement with Licensee obligating them to protect confidential information. Licensee acknowledges that the Source Code is a trade secret of Adeneo and qualifies as protected information under such employee agreement. Unless otherwise provided for herein, the information will be safeguarded using at least the same degree of care, and all necessary precautions, to avoid publication, theft and unauthorized use and disclosure the receiving Party uses to protect its own most valuable confidential information, but in no event, less than the reasonable care used by businesses within the computer software industry. The receiving Party will promptly report any unauthorized disclosure or use and take any further actions as are reasonably requested by the disclosing Party to prevent or remedy any such violation. No such obligations of confidentiality extend to information that is (a) available in the public domain (other than as a result of a breach of this Agreement), (b) independently developed without reliance on the confidential information, (c) already rightfully in the receiving Party's possession with no restriction on confidentiality, or (d) rightfully received from a third party with no restriction on confidentiality. The confidentiality provisions regarding disclosure of Source Code shall survive any termination of this Agreement and will continue in effect until such time (if ever) as Adeneo may make the Source Code available to the public without restrictions on disclosure.

During the term of this Agreement and for eighteen (18) months thereafter, Licensee will use “*Clean Room*” procedures to ensure that any product that Licensee develops independently will not incorporate any portion of the Source Code, Object Code or the Intellectual Property Rights therein or the know-how embodied thereby (“*Software Technology*”). The Clean Room procedure as used herein means Licensee will perform independent development (a) without use of the Software Technology; and (b) without use of knowledge gained from anyone accessing the Software Technology. The Clean Room procedure will provide the security necessary to restrict those employees who are performing independent development from accessing the Software Technology

- 7.2 **Disclosure.** Neither Party will disclose the terms of this Agreement other than to business, financial and legal advisors, or as required by law or regulation, or make any reference to the other Party in any press release, brochure or other communication to the public, without the express written consent of the other Party. Notwithstanding the foregoing, Adeneo may publicly indicate that Licensee is a customer of Adeneo.

8. **SPECIFIC PROVISIONS RELATED TO SUBLICENSING DERIVATIVE CODE FROM TEXAS INSTRUMENTS REFERENCE BSP**

Licensee agrees to comply with the terms of the “Texas Instruments Software License Agreement” provided in Appendix A;

In case of conflict between the terms of this current Agreement and the terms described in Appendix A, and this conflict relates to TI code covered by Appendix A agreement, the terms described in Appendix A take precedence.

9. **TERM AND TERMINATION**

- 9.1 **Term.** This Agreement will have an initial term of five (5) years from the date of execution of this Agreement. The Agreement shall automatically renew for additional periods of five (5) years unless terminated by either Party prior to the end of any term by giving the other Party written notice at least ninety (90) days prior to the end of any such term. This Agreement shall continue in full force and effect until terminated in accordance with this Section 8.

- 9.2 **Non-Survival Breach.** A “Non-Survival Breach” on the part of Licensee will include, but not be limited to, the filing of a voluntary or involuntary petition to declare Licensee insolvent or bankrupt which is not dismissed within 30 days; making an assignment or other arrangement for the benefit of creditors; being dissolved or liquidated; or being party to a merger, consolidation, or other corporate reorganization in which Licensee is not the survivor. Upon the occurrence of Non-Survival Breach, Adeneo has the option to terminate this Agreement and/or renegotiate a new AT91SAM9260 BSP Software Licensing Agreement with any Licensee successor.

- 9.3 **Termination for Breach.** If Licensee materially breaches this Agreement for reasons which include, but are not limited to, breach of the Confidentiality requirements, violation of Unauthorized Disclosure, failure to make timely Payment when due, or for reasons other than Non-Survival Breach listed above, and fails to cure that breach within sixty (60) days after receiving written notice of the breach, Adeneo shall have the right to seek a remedy and either terminate, as defined below, this Agreement any time after the end of such sixty (60) day period, subject to the terms of Force Majeure, or continue the Agreement if the remedy is satisfactory to Adeneo.

- 9.3 **Termination.** In the event of termination, including mutually agreed termination, all rights granted by this Agreement shall automatically revert to Adeneo. In addition, Licensee shall immediately pay Adeneo any License Fees that accrued prior to termination.

Upon termination, Licensee shall immediately stop reproducing, selling, distributing or sublicensing the use of copies of the Object Code, and will deliver to Adeneo and/or destroy any and all copies of the Object Code, Source Code, and related materials furnished by Adeneo or duplicated by Licensee (except for those properly distributed by Licensee prior to the date of termination).

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The terms of Sections 1, 4, 5, the last paragraph of Section 6.1, 6.4, 6.5, 7, 8, 9 and 10 shall survive termination.

10. **GENERAL PROVISIONS**

- 10.1 **Entire Agreement.** Licensee and Adeneo agree that this Agreement between the Parties constitute the complete agreement and understanding between the Parties with respect to the subject matter set forth herein. This Agreement supersedes all prior agreements, understandings, and negotiations, whether written or verbal, with

respect to the subject matter set forth herein. No amendment or modification of this Agreement will be effective unless it is set forth in a writing and is executed by authorized representatives of both Parties. Licensee acknowledges and agrees that the terms of this Agreement will take precedence over any contrary or inconsistent term contained in any Licensee purchase order.

- 10.2 Notices.** Notices will be sent by first class mail, postage prepaid with return receipt, by courier or other personal delivery to the Parties at the addresses specified in the first paragraph of this Agreement or to such other address as a Party hereafter designates in writing to the other Party. Notices to Adeneo will be sent to the attention of the Legal Department.
- 10.3 Export Restrictions.** Licensee acknowledges that the Source Code and the Object Code are of United States origin. Licensee agrees to comply with all applicable laws, statutes, regulations and treaties, whether international or national or of any political subdivision, as well as end-user, end-use and destination restrictions issued by the United States and other governments. Licensee also agrees to use commercially reasonable best efforts to cause Licensee's dealers, resellers, distributors, and other customers to comply with all such laws, statutes, regulations or treaties. Licensee will indemnify Adeneo against any loss related to Licensee's failure to comply with all such laws, statutes, regulations or treaties.
- 10.4 Governing Law and Jurisdiction.** This Agreement will be governed by and construed in accordance with the laws of the United States and the State of Washington, without regard to or application of choice of law rules or principles. All disputes that arise in connection with this Agreement will be resolved by the Washington State court, and Licensee hereby submits to the personal jurisdiction of such courts and waives any objection to venue on the grounds of inconvenient forum or otherwise.
- 10.5 Relationship of Parties.** Nothing in this Agreement will be deemed to constitute the Parties to be partners or joint ventures' with, or agents or employees of, each other. The Parties are independent contractors, and neither Party will have any right or power to create any obligation or responsibility on behalf of the other Party.
- 10.6 Unauthorized Disclosure.** Licensee agrees that the unauthorized disclosure of trade secrets and proprietary information of Adeneo in violation of Sections 2.3 and 7 will result in irreparable harm to Adeneo, the damages for which cannot be ascertained or compensated by monetary awards; and that, on this basis, Adeneo will be entitled to seek and obtain whatever injunctive or other equitable relief available. Such relief shall not be deemed an election of remedies, and shall not prevent Adeneo from seeking any other relief, whether at law or in equity.
- 10.7 Assignment.** This Agreement shall not be assignable or transferable by either Party hereto without the prior, written consent of the other Party, except that either Party may assign or transfer this Agreement without prior consent to a subsidiary or a successor in interest in the event of a merger or consolidation, or a transfer or sale of all or substantially all the assets of that Party.
- 10.8 No Waiver.** Waiver by either Party of nonperformance or any breach of any provision of this Agreement will not operate as a waiver of any subsequent nonperformance or other breach of the same or any other provision. The failure by a Party to exercise any of its rights under this Agreement will not be deemed to constitute a waiver of any such rights, or other rights or remedies available to such Party.
- 10.9 Unenforceability.** If for any reason a court of competent jurisdiction finds any provision of this Agreement, or portion thereof, to be unenforceable, such term will be interpreted to give effect to the purpose of such provision to the extent permissible under the law, and the remainder of this Agreement will continue in full force and effect.
- 10.10 Force Majeure.** Nonperformance of either Party will be excused to the extent that performance is rendered impossible or impractical by strike, fire, flood, earthquake, governmental acts or orders or restrictions, failure of suppliers, or any other reason where failure to perform is beyond the control and not caused by the negligence of the non-performing Party.
- 10.11 Attachments.** The Attachments attached hereto form an integral part of this Agreement and are by this reference incorporated herein. The Parties agree that the Attachments may be amended, and new attachments may be added, and such amended or additional attachments will constitute an integral part of this Agreement when signed by authorized representatives of both Parties.

In witness whereof, the Parties hereto have executed this Agreement on the date specified below by an individual empowered with the requisite corporate authority to do so.

Adeneo

Licensee

By: _____

Name: _____

Title: _____

Date: _____

By: _____

Name: _____

Title: _____

Date: _____

Appendix A

Texas Instruments Software License Agreement Pertaining to Licensed Materials Listed in Software Manifest Titled WL1271/3 WinCE 6.0 R3 SDK v6.x-WL6.1.4.1 – Clickwrap Package Manifest

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Addendum 1

WL1271/3 WinCE 6.0 R3 SDK v6.x-WL6.1.4.1 - Clickwrap Package Manifest

Version: May 13, 2010

Package Name	Version	License	Delivered As	Modified (for Open Source)		
MCP WL6 W1.0 for WL127x chipsets, including WLAN driver, Chip Manager, WLAN Firmware, Bluetooth/FM init script, and documentation.	M4	TI 5D991	Source (WLAN FW and BT/FM init scripts in Object code)	-	Location	..\3rdParty\TI_ECS
					Obtained from	TI
Bluetooth Manager for WindowsCE 6.0 R3 (the “Adeneo Software”)	2.11	TI 5D991	Binary evaluation version	-	Location	..\3rdParty\AdeneoEmbedded
					Obtained from	TI (materials licensed from Adeneo Embedded)

Legend/Notes:

Package Name	The name of the application or files
Version	Version of the application or files
License	Name of the license or licenses that apply to the Package. TI TSPA TI EAR99, 3D991, 5D991, ... OS: GPL vX, BSD, Apache...
Location	The directory name and path on the media (or in an archive) where the Package is located. The location is the top-level directory for the package and is relative to the base installation directory
Delivered As	This field will either be “Source”, “Binary”, “Limited Source and Binary” or “Source and Binary” and is the form the content of the Package is delivered in. If the Package is delivered in an archive format, this field applies to the contents of the archive. “Limited Source and Binary” refers to a package that provides source code for only a subset of the binaries included.
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