

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM 10-Q

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended June 30, 2014

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from \_\_\_\_\_ to \_\_\_\_\_.

Commission file number: 000-31659

**NOVATEL WIRELESS, INC.**

(Exact Name of Registrant as Specified in Its Charter)

**Delaware**  
(State or Other Jurisdiction of  
Incorporation or Organization)

**86-0824673**  
(I.R.S. Employer  
Identification No.)

**9645 Scranton Road, San Diego, CA**  
(Address of Principal Executive Offices)

**92121**  
(Zip Code)

**Registrant's Telephone Number, Including Area Code: (858) 812-3400**

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).  Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer", "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer  (Do not check if a smaller reporting company)

Smaller reporting company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes  No

The number of shares of the registrant's common stock outstanding as of August 5, 2014 was 36,841,770.

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As used in this report on Form 10-Q, unless the context otherwise requires, the terms “we,” “us,” “our,” the “Company” and “Novatel Wireless” refer to Novatel Wireless, Inc., a Delaware corporation, and its wholly owned subsidiaries.

### **Forward-Looking Statements**

This report contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. You should not place undue reliance on these statements. These forward-looking statements include statements that reflect the views of our senior management with respect to our current expectations, assumptions, estimates and projections about Novatel Wireless and our industry. These forward-looking statements speak only as of the date of this report. We disclaim any undertaking to publicly update or revise any forward-looking statements contained herein to reflect any change in our expectations with regard thereto or any change in events, conditions or circumstances on which any such statement is based. Statements that include the words “may,” “could,” “should,” “would,” “estimate,” “anticipate,” “believe,” “expect,” “preliminary,” “intend,” “plan,” “project,” “outlook,” “will” and similar words and phrases identify forward-looking statements. Forward-looking statements address matters that involve risks and uncertainties that could cause actual results to differ materially from those anticipated in these forward-looking statements as of the date of this report. We believe that these factors include those related to:

- our ability to compete in the market for wireless broadband data access products and machine-to-machine (“M2M”) products;
- our ability to develop and timely introduce new products successfully;
- our ability to integrate the operations of any business, products, technologies or personnel that we may acquire in the future;
- the continuing impact of uncertain global economic conditions on the demand for our products;
- our ability to introduce and sell new products that comply with current and evolving industry standards, including 3G and 4G standards, and government regulations;
- our ability to develop and maintain strategic relationships to expand into new markets;
- our ability to execute our cost containment initiatives and operating strategies;
- our dependence on a small number of customers for a substantial portion of our revenues;
- demand for broadband wireless access to enterprise networks and the Internet;
- our dependence on wireless telecommunication operators delivering acceptable wireless services;
- our ability to properly manage the growth of our business to avoid significant strains on our management and operations and disruptions to our business;
- our reliance on third parties to procure components and manufacture our products;
- our ability to accurately forecast customer demand and order the manufacture and timely delivery of sufficient product quantities;
- our reliance on sole source suppliers for some components used in our products;
- our ability to be cost competitive while meeting time-to-market requirements for our customers;
- our ability to meet the product performance needs of our customers in both mobile broadband and M2M markets;
- the outcome of pending or future litigation, including intellectual property litigation;
- infringement claims with respect to intellectual property contained in our products;
- our continued ability to license necessary third-party technology for the development and sale of our products;
- doing business abroad, including foreign currency risks;
- the introduction of new products that could contain errors or defects;
- our ability to make focused investments in research and development; and
- our ability to hire, retain and manage additional qualified personnel to maintain and expand our business.

The foregoing factors should not be construed as exhaustive and should be read together with the other cautionary statements included in this and other reports we file with or furnish to the Securities and Exchange Commission (“SEC”), including the information in “Item 1A. Risk Factors” in Part I of our Annual Report on Form 10-K for the year ended December 31, 2013. If one or more events related to these or other risks or uncertainties materialize, or if our underlying assumptions prove to be incorrect, actual results may differ materially from what we anticipate.

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**Trademarks**

“Novatel Wireless”, the Novatel Wireless logo, “MiFi”, “MiFi Intelligent Mobile Hotspot”, “MiFi OS”, “MiFi Powered”, “MiFi Home”, “MobiLink”, “Ovation,” “Expedite” and “MiFi.Freedom. My Way” are trademarks of Novatel Wireless, Inc. “Enfora”, the Enfora logo, “Spider”, “Enabling Information Anywhere”, “Enabler” and “N4A” are trademarks of Enfora, Inc. (“Enfora”). Other trademarks, trade names or service marks used in this report are the property of their respective owners.

PART I—FINANCIAL INFORMATION

Item 1. Financial Statements.

NOVATEL WIRELESS, INC.  
CONDENSED CONSOLIDATED BALANCE SHEETS  
(in thousands, except per share data)

	June 30, 2014 Unaudited	December 31, 2013
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents	\$ 8,925	\$ 2,911
Marketable securities	13,503	16,612
Restricted marketable securities	0	2,566
Accounts receivable, net of allowance for doubtful accounts of \$2,566 at June 30, 2014 and \$2,449 at December 31, 2013	25,636	39,985
Inventories, net of reserves	26,022	27,793
Deferred tax assets, net	100	100
Prepaid expenses and other	3,094	5,662
Total current assets	77,280	95,629
Property and equipment, net of accumulated depreciation of \$65,873 at June 30, 2014 and \$62,334 at December 31, 2013	7,199	9,901
Marketable securities	0	3,443
Intangible assets, net of accumulated amortization of \$13,487 at June 30, 2014 and \$12,983 at December 31, 2013	1,626	2,131
Deferred tax assets, net	81	81
Other assets	677	280
Total assets	<u>\$ 86,863</u>	<u>\$ 111,465</u>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
Current liabilities:		
Accounts payable	\$ 26,893	\$ 24,538
Accrued expenses	23,086	23,271
Current portion of litigation settlement	4,326	4,326
Short-term margin loan facility	0	2,566
Total current liabilities	54,305	54,701
Other long-term liabilities	1,784	1,848
Non-current portion of litigation settlement	10,000	10,000
Total liabilities	<u>66,089</u>	<u>66,549</u>
Stockholders' equity:		
Preferred stock, par value \$0.001; 2,000 shares authorized and none outstanding	0	0
Common stock, par value \$0.001; 50,000 shares authorized, 34,329 and 34,097 shares issued and outstanding at June 30, 2014 and December 31, 2013, respectively	34	34
Additional paid-in capital	443,621	441,368
Accumulated other comprehensive income	6	5
Accumulated deficit	(397,887)	(371,491)
Treasury stock at cost; 2,436 common shares at June 30, 2014 and December 31, 2013, respectively	45,774	69,916
	(25,000)	(25,000)
Total stockholders' equity	<u>20,774</u>	<u>44,916</u>
Total liabilities and stockholders' equity	<u>\$ 86,863</u>	<u>\$ 111,465</u>

See accompanying notes to unaudited consolidated financial statements.

**NOVATEL WIRELESS, INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS**  
(in thousands, except per share data)  
(Unaudited)

	Three Months Ended		Six Months Ended	
	June 30,		June 30,	
	2014	2013	2014	2013
Net revenues	\$ 37,270	\$91,124	\$ 85,554	\$177,045
Cost of net revenues	33,283	72,100	71,499	141,173
Gross profit	<u>3,987</u>	<u>19,024</u>	<u>14,055</u>	<u>35,872</u>
Operating costs and expenses:				
Research and development	8,540	13,018	17,158	26,829
Sales and marketing	3,031	5,854	7,026	11,610
General and administrative	4,423	7,755	9,499	14,081
Amortization of purchased intangible assets	141	141	281	281
Restructuring charges	<u>5,250</u>	<u>0</u>	<u>6,416</u>	<u>0</u>
Total operating costs and expenses	<u>21,385</u>	<u>26,768</u>	<u>40,380</u>	<u>52,801</u>
Operating loss	(17,398)	(7,744)	(26,325)	(16,929)
Other income (expense):				
Interest income, net	20	21	35	78
Other expense, net	<u>(13)</u>	<u>(65)</u>	<u>(57)</u>	<u>(142)</u>
Loss before income taxes	(17,391)	(7,788)	(26,347)	(16,993)
Income tax provision	24	104	49	21
Net loss	<u><u>\$(17,415)</u></u>	<u><u>\$ (7,892)</u></u>	<u><u>\$(26,396)</u></u>	<u><u>\$ (17,014)</u></u>
Per share data:				
Net loss per share:				
Basic and diluted	<u><u>\$ (0.51)</u></u>	<u><u>\$ (0.23)</u></u>	<u><u>\$ (0.77)</u></u>	<u><u>\$ (0.50)</u></u>
Weighted average shares used in computation of basic and diluted net loss per share:				
Basic and diluted	<u><u>34,320</u></u>	<u><u>33,915</u></u>	<u><u>34,246</u></u>	<u><u>33,817</u></u>

See accompanying notes to unaudited consolidated financial statements.

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**NOVATEL WIRELESS, INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE LOSS**  
**(in thousands)**  
**(Unaudited)**

	<b>Three Months Ended</b>		<b>Six Months Ended</b>	
	<b>June 30,</b>		<b>June 30,</b>	
	<b>2014</b>	<b>2013</b>	<b>2014</b>	<b>2013</b>
Net loss	<u>\$ (17,415)</u>	<u>\$ (7,892)</u>	<u>\$ (26,396)</u>	<u>\$ (17,014)</u>
Unrealized gain (loss) on cash equivalents and marketable securities, net of tax	<u>0</u>	<u>(35)</u>	<u>1</u>	<u>(38)</u>
Total comprehensive loss	<u>\$ (17,415)</u>	<u>\$ (7,927)</u>	<u>\$ (26,395)</u>	<u>\$ (17,052)</u>

See accompanying notes to unaudited consolidated financial statements.

**NOVATEL WIRELESS, INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**  
(in thousands)  
(Unaudited)

	Six Months Ended	
	June 30,	
	2014	2013
<b>Cash flows from operating activities:</b>		
Net loss	\$(26,396)	\$(17,014)
Adjustments to reconcile net loss to net cash provided by operating activities:		
Depreciation and amortization	4,041	4,544
Provision for bad debts, net of recoveries	109	382
Provision for excess and obsolete inventory	3,033	1,823
Share-based compensation expense	1,239	1,889
Non-cash income tax benefit	0	(48)
Changes in assets and liabilities:		
Accounts receivable	14,241	2,689
Inventories	(1,262)	8,296
Prepaid expenses and other assets	2,170	(608)
Accounts payable	2,487	4,322
Accrued expenses, income taxes, and other	1,375	226
Net cash provided by operating activities	<u>1,037</u>	<u>6,501</u>
<b>Cash flows from investing activities:</b>		
Purchases of property and equipment	(1,241)	(3,725)
Purchases of marketable securities	(826)	(9,661)
Marketable securities maturities / sales	9,945	14,516
Net cash provided by investing activities	<u>7,878</u>	<u>1,130</u>
<b>Cash flows from financing activities:</b>		
Proceeds from the issuance of short-term debt, net of issuance costs	0	10,000
Principal repayments of short-term debt	(2,566)	(8,444)
Taxes paid on vested restricted stock units, net of proceeds from stock option exercises	(284)	(261)
Net cash provided by (used in) financing activities	<u>(2,850)</u>	<u>1,295</u>
Effect of exchange rates on cash and cash equivalents	(51)	(107)
Net increase in cash and cash equivalents	6,014	8,819
Cash and cash equivalents, beginning of period	2,911	16,044
Cash and cash equivalents, end of period	<u>\$ 8,925</u>	<u>\$ 24,863</u>
<b>Supplemental disclosures of cash flow information:</b>		
Cash paid during the year for:		
Interest	\$ 6	\$ 4
Income taxes	\$ 67	\$ 60

See accompanying notes to unaudited consolidated financial statements.

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NOVATEL WIRELESS, INC.  
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS  
(Unaudited)

**1. Basis of Presentation**

The information contained herein has been prepared by Novatel Wireless, Inc. (the “Company”) in accordance with the rules of the Securities and Exchange Commission. The information as of June 30, 2014 and the results of the Company’s operations for the three and six months ended June 30, 2014 and 2013 are unaudited. The condensed consolidated financial statements reflect all adjustments, consisting of only normal recurring accruals, which are, in the opinion of management, necessary for a fair statement of the results of the interim periods presented. These condensed consolidated financial statements and notes hereto should be read in conjunction with the audited financial statements from which they were derived and notes thereto included in the Company’s Annual Report on Form 10-K for the year ended December 31, 2013. The accounting policies used in preparing these condensed consolidated financial statements are the same as those described in the Company’s Form 10-K. The results of operations for the interim periods presented are not necessarily indicative of results to be expected for any other interim period or for the year as a whole.

*Principles of Consolidation*

The condensed consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries. All intercompany transactions and balances have been eliminated in consolidation.

*Use of Estimates*

The preparation of financial statements in conformity with accounting principles generally accepted in the U.S. requires management to make estimates and assumptions. These estimates and assumptions affect the reported amounts of assets, liabilities, revenues and expenses, and disclosure of contingent liabilities. Actual results could differ materially from these estimates. Significant estimates include allowance for doubtful accounts receivable, provision for excess and obsolete inventory, valuation of intangible and long-lived assets, litigation, provision for warranty costs, income taxes, share-based compensation expense and best estimate of selling price in a multiple element arrangement.

*New Accounting Pronouncements*

In May 2014, the Financial Accounting Standards Board (“FASB”) issued Accounting Standard Update (“ASU”) No. 2014-09, *Revenue from Contracts with Customers*, which requires a reporting entity to recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. The guidance in this ASU affects any entity that either enters into contracts with customers to transfer goods or services or enters into contracts for the transfer of nonfinancial assets unless those contracts are within the scope of other standards. This standard will be effective for annual reporting periods beginning after December 15, 2016. The Company is currently assessing the impact of this new guidance.



## 2. Balance Sheet Details

### Marketable Securities

The Company's portfolio of available-for-sale securities by contractual maturity consists of the following (in thousands):

	Maturity in Years	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Estimated Fair Value
<b>June 30, 2014</b>					
Available-for-sale:					
Government agency securities	1 or less	\$ 1,150	\$ 0	\$ 0	\$ 1,150
Municipal bonds	1 or less	975	1	0	976
Certificates of deposit	1 or less	3,220	0	0	3,220
Corporate debentures / bonds	1 or less	8,152	5	0	8,157
Total short-term marketable securities		13,497	6	0	13,503
		<u>\$13,497</u>	<u>\$ 6</u>	<u>\$ 0</u>	<u>\$13,503</u>
<b>December 31, 2013</b>					
Available-for-sale:					
Government agency securities	1 or less	\$ 2,350	\$ 1	\$ 0	\$ 2,351
Municipal bonds	1 or less	2,828	1	0	2,829
Certificates of deposit	1 or less	3,360	0	0	3,360
Corporate debentures / bonds	1 or less	10,635	3	0	10,638
Total short-term marketable securities		19,173	5	0	19,178
Available-for-sale:					
Certificates of deposit	1 to 2	1,300	0	0	1,300
Corporate debentures / bonds	1 to 2	2,143	0	0	2,143
Total long-term marketable securities		3,443	0	0	3,443
		<u>\$22,616</u>	<u>\$ 5</u>	<u>\$ 0</u>	<u>\$22,621</u>

The Company's available-for-sale securities are carried on the condensed consolidated balance sheet at fair market value with the related unrealized gains and losses included in accumulated other comprehensive income (loss) on the condensed consolidated balance sheet, which is a separate component of stockholders' equity. Realized gains and losses on the sale of available-for-sale marketable securities are determined using the specific-identification method.

The Company has a credit facility with one of its banks to allow margin borrowings based on and collateralized by the Company's investments in cash equivalents and marketable securities held by that bank. Borrowings under the facility incur an interest rate at the bank's base rate plus 1%. At June 30, 2014, the Company had approximately \$2.6 million in cash equivalents and marketable securities held at this bank, and the Company's unused borrowing capacity at June 30, 2014 under the credit facility was \$1.9 million. Any monies borrowed and interest incurred are payable on demand, and there is no express expiration date to the credit facility. During the three and six months ended June 30, 2014, the Company did not borrow against the facility, and had no outstanding borrowings under this facility at June 30, 2014. Under the terms of the credit facility, the bank may liquidate any of the Company's cash equivalents or marketable securities held at any time in order to recoup the outstanding balance of the facility.

As of June 30, 2014, the Company recorded a net unrealized gain of \$6,000. The Company's net unrealized gain is the result of market conditions affecting its fixed-income, debt and equity securities, which are included in accumulated other comprehensive income (loss) in the condensed consolidated balance sheet for the period then ended.

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### *Inventories*

Inventories consist of the following (in thousands):

	June 30, 2014	December 31, 2013
Finished goods	\$21,261	\$ 20,870
Raw materials and components	4,761	6,923
	<u>\$26,022</u>	<u>\$ 27,793</u>

During the six months ended June 30, 2014, the Company recorded inventory write-downs of \$3.0 million related to excess and obsolete inventory and reductions to the carrying value of inventories as a result of lower of cost or market valuations.

### *Accrued Expenses*

Accrued expenses consist of the following (in thousands):

	June 30, 2014	December 31, 2013
Royalties	\$ 2,655	\$ 4,243
Payroll and related expenses	3,437	4,828
Product warranty	1,580	2,244
Market development funds and price protection	2,258	3,059
Professional fees	1,656	1,040
Deferred revenue	2,411	2,999
Restructuring	3,855	610
Other	5,234	4,248
	<u>\$23,086</u>	<u>\$ 23,271</u>

### *Accrued Warranty Obligations*

Accrued warranty obligations consist of the following (in thousands):

	Three Months Ended June 30, 2014	Three Months Ended June 30, 2013	Six Months Ended June 30, 2014	Six Months Ended June 30, 2013
Warranty liability at beginning of period	\$ 1,367	\$ 2,664	\$ 2,244	\$ 2,329
Additions charged to operations	794	1,708	1,199	3,363
Deductions from/use of liability	(581)	(1,921)	(1,863)	(3,241)
Warranty liability at end of period	<u>\$ 1,580</u>	<u>\$ 2,451</u>	<u>\$ 1,580</u>	<u>\$ 2,451</u>

The Company generally provides one to three years of warranty coverage for products following the date of purchase and the Company accrues the estimated cost of warranty coverage as a component of cost of net revenues in the condensed consolidated statements of operations at the time revenue is recognized. The Company accrues warranty costs based on estimates of future warranty-related replacement, repairs or rework of products. In estimating its future warranty obligations, the Company considers various relevant factors, including the historical frequency and volume of claims, and the cost to replace or repair products under warranty.

### 3. Intangible Assets

The Company's amortizable purchased intangible assets resulting from its 2010 acquisition of Enfora, Inc. ("Enfora") are composed of (in thousands):

	June 30, 2014				December 31, 2013			
	Gross	Accumulated Amortization	Accumulated Impairment	Net	Gross	Accumulated Amortization	Accumulated Impairment	Net
Developed technologies	\$26,000	\$ (6,287)	\$ (19,547)	\$ 166	\$26,000	\$ (6,120)	\$ (19,547)	\$ 333
Trade name	12,800	(2,924)	(8,582)	1,294	12,800	(2,665)	(8,582)	1,553
Other	3,720	(1,989)	(1,620)	111	3,720	(1,967)	(1,620)	133
Total amortizable purchased intangible assets	<u>\$42,520</u>	<u>\$ (11,200)</u>	<u>\$ (29,749)</u>	<u>\$1,571</u>	<u>\$42,520</u>	<u>\$ (10,752)</u>	<u>\$ (29,749)</u>	<u>\$2,019</u>

The following table presents details of the amortization of purchased intangible assets included in the cost of net revenues and general and administrative expense categories (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2014	2013	2014	2013
Cost of net revenues	\$ 83	\$ 83	\$ 167	\$ 167
General and administrative expenses	141	141	281	281
Total amortization expense	<u>\$ 224</u>	<u>\$ 224</u>	<u>\$ 448</u>	<u>\$ 448</u>

The following table represents details of the amortization of existing purchased intangible assets that is currently estimated to be expensed in the remainder of 2014 and thereafter (in thousands):

Fiscal year:	Amount
2014 (remaining 6 months)	\$ 448
2015	562
2016	561
Total	<u>\$1,571</u>

Additionally, at June 30, 2014 and December 31, 2013, the Company had \$55,000 and \$112,000, respectively, of acquired software licenses, net of accumulated amortization of \$2.3 million and \$2.2 million, respectively. The acquired software licenses represent rights to use certain software necessary for commercial sale of the Company's products.

### 4. Fair Value Measurement of Assets and Liabilities

The Company's fair value measurements relate to its cash equivalents, marketable debt securities, and marketable equity securities, which are classified pursuant to authoritative guidance for fair value measurements. The Company places its cash equivalents and marketable debt securities in instruments that meet credit quality standards, as specified in its investment policy guidelines. These guidelines also limit the amount of credit exposure to any one issue, issuer or type of instrument.

The Company's financial instruments consist principally of cash and cash equivalents, and short-term and long-term marketable debt securities. The Company's cash and cash equivalents consist of its investments in money market securities and treasury bills. The Company's marketable debt securities consist primarily of government agency securities, municipal bonds, time deposits and investment-grade corporate bonds.

Assets and liabilities measured at fair value are categorized based on whether or not the inputs are observable in the market and the degree to which the inputs are observable. The categorization of financial instruments within the valuation hierarchy is based upon the lowest level of input that is significant to the fair value measurement. The hierarchy is prioritized into three levels (with Level 3 being the lowest) defined as follows:

*Level 1:* Pricing inputs are based on quoted market prices for identical assets or liabilities in active markets (e.g., NYSE). Active markets are those in which transactions for the asset or liability occur in sufficient frequency and volume to provide pricing information on an ongoing basis.

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*Level 2:* Pricing inputs include benchmark yields, trade data, reported trades and broker dealer quotes, two-sided markets and industry & economic events, yield to maturity, Municipal Securities Rule Making Board reported trades and vendor trading platform data. Level 2 includes those financial instruments that are valued using various pricing services and broker pricing information including Electronic Communication Networks and broker feeds.

*Level 3:* Pricing inputs include significant inputs that are generally less observable from objective sources, including the Company's own assumptions.

At June 30, 2014, the Company did not have any securities in the Level 3 category. The Company reviews the fair value hierarchy classification on a quarterly basis. Changes in the observability of valuation inputs may result in a reclassification of levels for certain securities within the fair value hierarchy.

The following table summarizes the Company's financial instruments measured at fair value on a recurring basis in accordance with the authoritative guidance for fair value measurements as of June 30, 2014 (in thousands):

<u>Description</u>	<u>June 30, 2014</u>	<u>Level 1</u>	<u>Level 2</u>
<b>Assets:</b>			
Cash equivalents			
US Treasury securities	\$ 742	\$ 0	\$ 742
Total cash equivalents	<u>742</u>	<u>0</u>	<u>742</u>
Short-term marketable securities:			
Available-for-sale:			
Government agency securities	1,150	0	1,150
Municipal bonds	976	0	976
Certificates of deposit	3,220	0	3,220
Corporate debentures / bonds	<u>8,157</u>	<u>0</u>	<u>8,157</u>
Total short-term marketable securities	<u>13,503</u>	<u>0</u>	<u>13,503</u>
Total financial assets	<u>\$ 14,245</u>	<u>\$ 0</u>	<u>\$14,245</u>

The following table summarizes the Company's financial instruments measured at fair value on a recurring basis in accordance with the authoritative guidance for fair value measurements as of December 31, 2013 (in thousands):

<u>Description</u>	<u>December 31, 2013</u>	<u>Level 1</u>	<u>Level 2</u>
<b>Assets:</b>			
Cash equivalents			
US Treasury securities	\$ 487	\$ 0	\$ 487
Total cash equivalents	<u>487</u>	<u>0</u>	<u>487</u>
Short-term marketable securities:			
Available-for-sale:			
Government agency securities	2,351	0	2,351
Municipal bonds	2,829	0	2,829
Certificates of deposit	3,360	0	3,360
Corporate debentures / bonds	<u>10,638</u>	<u>0</u>	<u>10,638</u>
Total short-term marketable securities	<u>19,178</u>	<u>0</u>	<u>19,178</u>
Long-term marketable securities:			
Available-for-sale:			
Certificates of deposit	1,300	0	1,300
Corporate debentures / bonds	<u>2,143</u>	<u>0</u>	<u>2,143</u>
Total long-term marketable securities	<u>3,443</u>	<u>0</u>	<u>3,443</u>
Total financial assets	<u>\$ 23,108</u>	<u>\$ 0</u>	<u>\$23,108</u>

See Note 2 for discussion of restricted cash and restricted marketable securities related to the Company's credit facility.

## 5. Share-Based Compensation

The Company included the following amounts for share-based compensation expense in the accompanying unaudited condensed consolidated statements of operations for the three and six months ended June 30, 2014 and 2013 (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2014	2013	2014	2013
Cost of net revenues (1)	\$ 11	\$ 80	\$ (19)	\$ 56
Research and development	210	288	257	579
Sales and marketing	143	199	222	403
General and administrative	398	373	779	851
Totals	<u>\$ 762</u>	<u>\$ 940</u>	<u>\$1,239</u>	<u>\$1,889</u>

(1) Negative expense resulted from a change in the estimated forfeiture rate during the first quarter of 2014.

See Note 10 for a discussion of \$1.3 million of share-based compensation expense not included in the expense for the three and six months ended June 30, 2014. This amount was recognized in restructuring charges related to the termination of former Chief Executive Officer Peter Leparulo due to the accelerated vesting of all of his restricted stock units and options pursuant to his employment agreement, which vested immediately upon his termination.

## 6. Segment Information and Concentrations of Risk

### *Segment Information*

The Company reports segment information based on the “management” approach. The management approach designates the internal reporting used by senior management for making decisions and assessing performance as the source of the Company’s reportable segments.

The Company operates in the wireless broadband technology industry and senior management makes decisions about allocating resources based on the following reportable segments:

- The Mobile Computing Products segment includes the Company’s MiFi products, USB and PC-card modems and embedded modules that enable data transmission and services via cellular wireless networks.
- The Machine-to-Machine (“M2M”) Products and Solutions segment was established as a result of the Company’s acquisition of Enfora in 2010. It includes the Company’s intelligent asset-management solutions utilizing cellular wireless technology, and M2M communication devices, and embedded modules that enable M2M data transmission and services via cellular wireless networks.

Segment revenues and segment operating loss represent the primary financial measures used by senior management to assess performance and include the net revenues, cost of net revenues, sales and other operating expenses for which management is held accountable. Segment expenses include sales and marketing, research and development, administration, and amortization expenses that are directly related to individual segments. Segment loss also includes acquisition-related costs, purchase price amortization, restructuring, impairment and integration costs. The table below presents net revenues from external customers, operating loss and identifiable assets for the Company's reportable segments (in thousands):

	<u>Three Months Ended June 30,</u>		<u>Six Months Ended June 30,</u>	
	<u>2014</u>	<u>2013</u>	<u>2014</u>	<u>2013</u>
<b><u>Net revenues by reportable segment:</u></b>				
Mobile Computing Products	\$ 27,497	\$ 80,823	\$ 63,695	\$ 156,443
M2M Products and Solutions	9,773	10,301	21,859	20,602
Total	<u>\$ 37,270</u>	<u>\$ 91,124</u>	<u>\$ 85,554</u>	<u>\$ 177,045</u>
<b><u>Operating loss by reportable segment:</u></b>				
Mobile Computing Products	\$ (12,246)	\$ (3,348)	\$ (18,372)	\$ (8,848)
M2M Products and Solutions	(5,152)	(4,396)	(7,953)	(8,081)
Total	<u>\$ (17,398)</u>	<u>\$ (7,744)</u>	<u>\$ (26,325)</u>	<u>\$ (16,929)</u>
<b><u>Identifiable assets by reportable segment:</u></b>				
Mobile Computing Products			\$ 73,853	\$ 96,516
M2M Products and Solutions			13,010	14,949
Total			<u>\$ 86,863</u>	<u>\$ 111,465</u>

The Company has operations in the United States, Canada, Europe, Latin America and Asia. The following table details the geographic concentration of the Company's assets in the United States, Canada, Europe, Latin America and Asia (in thousands):

	<u>June 30,</u>	<u>December 31,</u>
	<u>2014</u>	<u>2013</u>
United States	\$85,407	\$ 108,932
Canada	707	808
Europe, Latin America and Asia	749	1,725
	<u>\$86,863</u>	<u>\$ 111,465</u>

The following table details the concentration of the Company's net revenues by geographic region:

	Three months ended June 30,		Six months ended June 30,	
	2014	2013	2014	2013
United States and Canada	88%	96%	90%	95%
Latin America	1	1	1	1
Europe, Middle East and Africa	10	3	8	4
Asia and Australia	1	0	1	0
	<u>100%</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>

During the third quarter of 2013, the Company began implementing restructuring initiatives designed to refine its business operations, reduce expenses to better correspond to its decreased revenue and capitalize on synergies in its target markets with the goal of driving long-term profitability.

In connection with the restructuring plan, the Company made organizational changes across some of its Mobile Computing and M2M business operations to consolidate its research and development resources and consolidate global manufacturing activities. The Company also closed development sites to drive efficiencies, enhance margins and improve capital efficiency.

Historically, the Company's business units have their own management teams and offer different products and services. The business units have been aggregated into two reportable business segments based upon the nature of the products or services produced, the type of customer for the products, the similarity of economic characteristics and the manner in which management reviews results, among other considerations. Due to the ongoing restructuring activities discussed in Note 10, recent changes in executive management and assigned responsibilities, product transfers between some of the Company's subsidiaries and increasing synergies between its existing segments, the Company is currently reevaluating its reportable segments composition.

#### *Concentrations of Risk*

Substantially all of the Company's net revenues are derived from sales of wireless access products. Any significant decline in market acceptance of the Company's or its customers' products or in the financial condition of the Company's customers would have an adverse effect on the Company's results of operations and financial condition.

A significant portion of the Company's net revenues are derived from a small number of customers. For the three months ended June 30, 2014, sales to the Company's two largest customers accounted for 37% and 12% of net revenues, respectively. In the same period in 2013, sales to its largest customer accounted for 65% of net revenues. For the six months ended June 30, 2014, sales to the Company's largest customer accounted for 38% of net revenues. In the same period in 2013, sales to its largest customer accounted for 63% of net revenues. The Company outsources its manufacturing to several third-party contract manufacturers. If one or more of these manufacturers were to experience delays, including delays caused by component shortages, disruptions, capacity constraints or quality control problems in manufacturing operations, product shipments to the Company's customers could be delayed or its customers could consequently elect to cancel their underlying product purchase orders, which would negatively impact the Company's revenues and results of operations.

#### **7. Earnings Per Share**

Basic earnings per share ("EPS") excludes dilution and is computed by dividing net income (loss) attributable to common stockholders by the weighted-average number of common shares outstanding for the period. Diluted EPS reflects the potential dilution that could occur if securities or other contracts to issue common stock were exercised or converted into common stock using the treasury stock method. Potentially dilutive securities (consisting of options and restricted stock units ("RSUs") and employee stock purchase plan withholdings using the treasury stock method) are excluded from the diluted EPS computation in loss periods and when the applicable exercise price is greater than the market price on the period end date as their effect would be anti-dilutive.

For the three and six months ended June 30, 2014, basic and diluted weighted-average common shares outstanding were 34,320,109 and 34,246,424, respectively. During these same periods, weighted-average options and RSUs to acquire a total of 6,061,542 and 5,593,465 shares of common stock, respectively, were outstanding but not included in the computation of diluted EPS as their effect was anti-dilutive.

For the three and six months ended June 30, 2013, basic and diluted weighted-average common shares outstanding were 33,915,424 and 33,816,558, respectively. During these same periods, weighted-average options and RSUs to acquire a total of 5,962,759 and 5,995,066 shares of common stock, respectively, were outstanding but not included in the computation of diluted EPS as their effect was anti-dilutive.



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## 8. Commitments and Contingencies

### *Legal Matters*

The Company is, from time to time, party to various legal proceedings arising in the ordinary course of business. For example, the Company is currently named as a defendant or co-defendant in some patent infringement lawsuits in the U.S. and is indirectly participating in other U.S. patent infringement actions pursuant to its contractual indemnification obligations to certain customers. Based on an evaluation of these matters and discussions with the Company's intellectual property litigation counsel, the Company believes that liabilities arising from or sums paid in settlement of these existing matters would not have a material adverse effect on its consolidated results of operations or financial condition.

On September 15, 2008 and September 18, 2008, two putative securities class action lawsuits were filed in the U.S. District Court for the Southern District of California (the "Court") on behalf of alleged stockholders of the Company. On December 11, 2008, these lawsuits were consolidated into a single action and in May 2010, the consolidated lawsuits were captioned the case *In re Novatel Wireless Securities Litigation* (the "Litigation"). The Litigation was filed on behalf of persons who purchased the Company's common stock between February 27, 2007 and September 15, 2008. As previously disclosed, on December 6, 2013, to avoid the costs, disruption and distraction of further litigation, legal counsel for the defendants entered into a binding Memorandum of Understanding.

On June 23, 2014, the Court entered its judgment approving a final settlement agreement with respect to the Litigation. The settlement agreement does not admit any liability and the Company and the individual defendants continue to deny any and all liability. Under the terms of the settlement agreement, the plaintiff class has agreed to settle all claims asserted in the Litigation and grant the defendants and released parties a full and complete release in exchange for (1) a cash payment of \$6.0 million to the plaintiff's class, approximately \$1.7 million of which is to be funded by the Company's insurers, (2) the issuance of unrestricted and freely tradable shares of the Company's stock with an aggregate value of \$5.0 million and (3) the issuance of a \$5.0 million secured promissory note, which such note shall have a 30-month maturity, carry interest at 5% per annum, payable quarterly, and be secured by the accounts receivable of the Company.

On July 1, 2014, the Company and the individual defendants filed a motion to amend the judgment entered on June 23, 2014, specifically requesting the Court to amend the effective date of such judgment to June 20, 2014 – the date the court held the final approval hearing. The Court granted this motion on July 8, 2014, and the judgment date was deemed entered on June 20, 2014. Based on a judgment date of June 20, 2014, the Company believes that it will be relieved from an additional cash payment of approximately \$725,000, which would have been triggered, pursuant to the terms of the Stipulation of Settlement, if the date of the Court's entry of judgment had remained June 23, 2014 (based on the then-current trading price of the Company's common stock, which was below a certain threshold price established by the Stipulation of Settlement). On August 1, 2014, the Plaintiffs filed a motion to the court claiming that since the Company's stock price traded intraday below the aforementioned threshold price, that the \$725,000 was still due and payable. The Company expects to contest the plaintiffs' motion and has not accrued the \$725,000 asserted claim in the accompanying consolidated financial statements.

On July 8, 2014, the Company funded the cash portion of the settlement with \$4.3 million of Company cash and \$1.7 million previously funded into escrow by the Company's insurers. The \$4.3 million payment was accrued at December 31, 2013, and is accrued as of June 30, 2014 in current liabilities. On July 17, 2014, the Company issued 2,407,318 unrestricted shares of the Company's common stock to the class members in satisfaction of the \$5.0 million stock payment. The estimated share value of \$5.0 million was accrued at December 31, 2013, and is accrued as of June 30, 2014 in non-current liabilities. The Company issued a \$5.0 million secured promissory note on July 8, 2014. Such note was accrued at December 31, 2013, and is accrued as of June 30, 2014 in non-current liabilities.

### *Indemnification*

In the normal course of business, the Company periodically enters into agreements that require the Company to indemnify and defend its customers for, among other things, claims alleging that the Company's products infringe third-party patents or other intellectual property rights. The Company's maximum exposure under these indemnification provisions cannot be estimated but the Company does not believe that there are any matters individually or collectively that would have a material adverse effect on its financial condition, results of operation or cash flows.

## 9. Income Taxes

The Company recognizes federal, state and foreign current tax liabilities or assets based on its estimate of taxes payable to or refundable by tax authorities in the current fiscal year. The Company also recognizes federal, state and foreign deferred tax liabilities or assets based on the Company's estimate of future tax effects attributable to temporary differences and carryforwards. The Company records a valuation allowance to reduce any deferred tax assets by the amount of any tax benefits that, based on available evidence and judgment, are not expected to be realized.

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The Company assesses whether a valuation allowance should be recorded against its deferred tax assets based on the consideration of all available evidence, using a “more-likely-than-not” realization standard. The four sources of taxable income that must be considered in determining whether deferred tax assets will be realized are: (1) future reversals of existing taxable temporary differences (i.e., the offset of gross deferred tax assets against gross deferred tax liabilities); (2) taxable income in prior carryback years, if carryback is permitted under the applicable tax law; (3) tax planning strategies; and (4) future taxable income exclusive of reversing temporary differences and carryforwards.

In assessing whether a valuation allowance is required, significant weight is to be given to evidence that can be objectively verified. A significant factor in the Company’s assessment is that the Company is in a three-year historical cumulative loss position. This fact, combined with uncertain near-term market and economic conditions, reduced the Company’s ability to rely on projections of future taxable income in assessing the realizability of its deferred tax assets.

After a review of the four sources of taxable income as of June 30, 2014 (as described above), the Company recognized increases in the valuation allowance primarily related to its U.S.-based deferred tax amounts, resulting from carryforward net operating losses generated during the three and six months ended June 30, 2014. These deferred tax benefits, offset by a corresponding charge to income tax expense related to an increase in the valuation allowance of \$5.5 million and \$9.1 million for the three and six months ended June 30, 2014, respectively, resulted in an insignificant effective income tax rate. The Company’s valuation allowance was \$88.5 million on net deferred tax assets of \$88.6 million at June 30, 2014. The net unreserved portion of the Company’s remaining deferred tax assets at June 30, 2014 primarily related to research and development tax credits associated with the Company’s Canadian subsidiary.

For the three and six months ended June 30, 2014, the Company recorded an income tax expense, including discrete items, of \$24,000 and \$49,000, respectively. This amount varies from the income tax expense that would be computed at the U.S. statutory rate resulting from its operating loss during the period primarily due to the aforementioned offsetting increase in the Company's deferred tax assets valuation allowance.

Pursuant to Internal Revenue Code (IRC) Sections 382 and 383, annual use of the Company's net operating loss and research and development credit carryforwards may be limited in the event a cumulative change in ownership of more than 50% occurs within a three-year period. The Company completed an IRC Section 382 analysis during the period ended June 30, 2014 to assess the risk that the Company experienced an ownership change. Based on this analysis, the Company does not believe it experienced an ownership change during 2013.

The Company follows the accounting guidance related to financial statement recognition, measurement and disclosure of uncertain tax positions. The Company recognizes the impact of an uncertain income tax position on an income tax return at the largest amount that is "more-likely-than-not" to be sustained upon audit by the relevant taxing authority. An uncertain income tax position will not be recognized if it has less than a 50% likelihood of being sustained. As of June 30, 2014 and December 31, 2013, the total liability for unrecognized tax benefits was \$62,000 and \$62,000, respectively, and is included in other long-term liabilities. For the three and six months ended June 30, 2014, the Company included \$0 of interest benefit related to uncertain tax positions in its condensed consolidated statements of operations.

In the fourth quarter of 2014, the Company expects to release \$62,000 of its liability for unrecognized tax benefits due to the expiration of the statute of limitations applicable to the 2009 taxable year.

The Company and its subsidiaries file U.S., state, and foreign income tax returns in jurisdictions with various statutes of limitations. The Company is also subject to various Federal income tax examinations for the 2003 through 2013 calendar years due to the availability of net operating loss carryforwards. The Company believes appropriate provisions for all outstanding issues have been made for all jurisdictions and all open years. However, because audit outcomes and the timing of audit settlements are subject to significant uncertainty, the Company's current estimate of the total amounts of unrecognized tax benefits could increase or decrease for all open years.

## **10. Restructuring**

In September 2013, the Company commenced certain restructuring initiatives including the closure of the Company's development site in Calgary, Canada, and the consolidation of certain supply chain management activities. During February and March 2014, the Company commenced additional reduction in force initiatives resulting in headcount reductions of 41 employees and 21 employees, respectively, and during June 2014 a further headcount reduction of 5 employees at its Calgary, Canada site.

During the three months ended June 30, 2014, the Company recorded restructuring charges related to these restructuring initiatives of \$1.6 million, which consisted of \$620,000 in employee severance costs and \$932,000 in facility exit related costs resulting from a reevaluation of its expected sublet dates and rates as further described below.

During the six months ended June 30, 2014, the Company recorded restructuring charges related to these restructuring initiatives of \$2.7 million, which consisted of \$1.7 million in employee severance costs and \$1.0 million in facility exit related costs related to ongoing assessment of estimates of the timing and amounts of sublease income.

All of the \$1.6 million of restructuring charges for the three months ended June 30, 2014 related to the Mobile Computing Products segment. Of the \$2.7 million of restructuring charges for the six months ended June 30, 2014, \$2.7 million related to the Mobile Computing Products segment, and \$42,000 related to the M2M Products and Solutions segment.

Total restructuring charges incurred to date related to the September 2013 restructuring initiatives discussed above, are approximately \$6.0 million, including restructuring charges recorded during the year ended December 31, 2013 of \$3.3 million. Of the \$6.0 million of restructuring charges, \$5.8 million related to the Mobile Computing Products segment, and \$248,000 related to the M2M Products and Solutions segment.

The Company accounts for facility exit costs in accordance with FASB Accounting Standards Codification 420 "Exit or Disposal Cost Obligations," which requires that a liability for such costs be recognized and measured initially at fair value on the cease-use date based on remaining lease rentals, adjusted for the effects of any prepaid or deferred items recognized, reduced by the estimated sublease rentals that could be reasonably obtained even if it is not the intent to sublease.

The Company is required to estimate future sublease income and future net operating expenses of the facilities, among other expenses. The most significant of these estimates relate to the timing and extent of future sublease income which reduce lease obligations, and the probability that such sublease income will be realized. The Company based estimates of sublease income, in part, on information from third party real estate experts, current market conditions and rental rates, an assessment of the time period over which reasonable estimates could be made, and the location of the respective facility, among other factors. Further adjustments to the facility exit liability accrual will be required in future periods if actual exit costs or sublease income differ from amounts currently expected. Exit costs the Company records under these provisions are neither associated with, nor do they benefit, continuing activities.

In June 2014, the Company commenced certain restructuring initiatives relating to the reorganization of executive level management, which included the termination and replacement of then Chief Executive Officer, Peter Leparulo, with current Interim Chief Executive Officer, Alex Mashinsky. In connection with the termination of the Company's former Chief Executive Officer, the Company recorded estimated charges of \$3.7 million based on the contractual requirements of Mr. Leparulo's employment agreement. The provisions of his agreement included of \$2.4 million in cash payments and approximately \$1.3 million related to the accelerated vesting of all restricted stock units and options which vested immediately upon his termination. Of the \$3.7 million of restructuring charges for the termination of Mr. Leparulo, \$2.2 million related to the Mobile Computing Products segment, and \$1.5 million related to the M2M Products and Solutions segment.

The following table sets forth activity in the restructuring liability for the six months ended June 30, 2014, which is primarily comprised of employee severance costs (in thousands):

	Employee Severance Costs	Facility Exit Related Costs	CEO Termination Employment Contract Costs	CEO Termination Share-based Compensation Costs	Total
Balance at December 31, 2013	\$ 0	\$ 881	\$ 0	\$ 0	\$ 881
Accruals	1,714	1,004	2,400	1,298	6,416
Payments	(1,146)	(494)	(22)	0	(1,662)
Stock-based compensation	0	0	0	(1,298)	(1,298)
Balance at June 30, 2014	\$ 568	\$ 1,391	\$ 2,378	\$ 0	\$ 4,337

The balance of the restructuring liability at June 30, 2014 consists of \$3.9 million in current liabilities and \$482,000 in non-current liabilities. The balance of the restructuring liability at June 30, 2014 is anticipated to be fully distributed by the end of the third quarter of 2017, at the expiration of the Company's facility lease in Canada.

#### 11. Subsequent Events

Effective July 15, 2014, the Company vacated, and met the cease use criteria under ASC 420, a portion of its San Diego office facility. Accordingly, during the third quarter of 2014, the Company expects to record approximately \$0.8 million of additional restructuring charges resulting from the event.

#### Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

The following information should be read in conjunction with the condensed consolidated financial statements and the accompanying notes included in Item 1 of this report, as well as the audited consolidated financial statements and accompanying notes and Management's Discussion and Analysis of Financial Condition and Results of Operations for the year ended December 31, 2013 contained in our Annual Report on Form 10-K for the year ended December 31, 2013.

#### Business Overview and Background

We are a provider of intelligent wireless solutions for the worldwide mobile communications market. Our broad range of products principally includes intelligent mobile hotspots, USB modems, embedded modules for M2M and mobile computing OEMs (as defined below), integrated asset-management M2M devices, and communications and applications software.

Our products currently operate on every major cellular wireless technology platform. Our mobile hotspots, embedded modules, and modems provide subscribers with secure and convenient high-speed access to corporate, public and personal information through the Internet and enterprise networks. Our M2M products enable devices to communicate with each other and with server or cloud-based application infrastructure. Our M2M products and solutions include our M2M embedded modules, integrated M2M communications devices and our service delivery platform, the N4A™ Device Manager ("DM") and N4A™ Communication and Management Software ("CMS"), that provides easy device management and service enablement.

Our mobile-hotspot and modem customer base is comprised of wireless operators, including AT&T, Sprint, and Verizon Wireless; laptop PC and other original equipment manufacturers ("OEMs"), including Dell and Hewlett-Packard; as well as distributors and various companies in other vertical markets. Our M2M customer base is comprised of transportation companies, industrial companies, manufacturers, application service providers and distributors. Our solutions address multiple vertical markets for our customers including commercial telematics, after market telematics, remote monitoring and control, security and connected home. We have strategic relationships with several of these customers that provide input and validation of our product requirements across the various vertical markets.

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We sell our wireless broadband solutions primarily to wireless operators either directly or through strategic relationships, as well as to OEM partners and distributors located worldwide. Most of our mobile-computing product sales to wireless operators and OEM partners are sold directly by our sales force, or to a lesser degree, through distributors. We sell our M2M solutions primarily to enterprises in the following industries: transportation; energy and industrial automation; security and safety; and medical monitoring. We sell our M2M solutions through our direct sales force and through distributors.

We intend to continue to identify and respond to our customers' needs by introducing new product designs with an emphasis on supporting cutting edge wide area network technology, ease-of-use, performance, size, weight, cost and power consumption. We manage our products through a structured life cycle process, from identifying initial customer requirements through development and commercial introduction to eventual phase-out. During product development, emphasis is placed on innovation, time-to-market, performance, meeting industry standards and customer product specifications, ease of integration, cost reduction, manufacturability, quality and reliability.

The hardware used in our solutions is produced by contract manufacturers. Their services include component procurement, assembly, testing, quality control, and fulfillment. We have agreements with Inventec Appliances Corporation; Hon Hai Precision Industry Co., Ltd; and Benchmark Electronics for the outsourced manufacturing of our products. Under our manufacturing agreements, contract manufacturers provide us with services including component procurement, product manufacturing, final assembly, testing, quality control, and fulfillment. In addition, we have an agreement with Mobiltron for certain distribution, fulfillment and repair services related to our business in Europe, the Middle East and Africa.

## **Strategic and Operations Overview**

Since the third quarter of 2013, we have been restructuring our operations in an effort to increase future revenue levels and gross margins, lower our operating costs and achieve profitability. In the mobile computing business, we are now focusing our development efforts only on those products that we believe have the greatest potential sales volume and will generate the highest gross profits and return on development investment. These products are targeted at the tier one telecom operators in North America. We expect this strategy to reduce the number of products developed for sale in the mobile computing segment and result in an improved return on investment from development costs expended.

As a result of this change in strategic direction, we intend to exit the mobile computing laptop business during the second half of 2014 as our current products reach end of life. The mobile computing laptop business represented approximately 5% of our net revenue during the first half of 2014. We will monitor this product category for favorable changes in market conditions that may indicate a point of re-entry for new opportunities.

Additionally, we have invested significant capital in our M2M product and services portfolio. This investment has allowed us to engage with new development partner customers in targeted verticals, including commercial and aftermarket telematics, remote monitoring, control and security, which we believe will experience high growth rates in the near future. These efforts have resulted in design wins with several significant M2M customers, with whom we are now integrating our products and services into their business processes. Upon the completion of these integration efforts, we believe we will begin product shipments that will contribute to future revenue growth.

Net revenues in our M2M Products and Solutions segment grew 6% in the first half of 2014, compared to the same period in the prior year. We expect our revenues to grow and increase in this segment during the second half of 2014 over the second half of 2013 based primarily upon the increased adoption of our new products.

Net revenues from our Mobile Computing Products segment decreased 59% in the first half of 2014, compared to the same period in the prior year, as our older products continue to approach the end of their life cycle. Additionally, our revenues have been negatively impacted by competitive pricing pressures at our largest customer and our gross margins have been adversely impacted by lower average sales prices in the second quarter of 2014, especially impacted by our provision for inventory reserves. Given the current market conditions we are retrenching the size of our product portfolio to only those products which we believe have a very high probability of providing satisfactory returns. We expect our second half of 2014 mobile computing revenues will be lower than the second half of 2013, as many of our legacy mobile computing products are near end of life. However, we expect to launch a new MiFi product during the second half of 2014 that we anticipate will increase our mobile computing revenues from current first half of 2014 levels.

We have restructured our research and development process by reducing the size of our in-house engineering staff. This change replaced some of our fixed research and development costs (due primarily to a decrease in our employee headcount and related compensation expenses) with variable costs and is expected to result in a lower overall cost of research and development and a more variable cost structure. We expect to continue to make focused investments in research and development.

We have also been focused on completing the integration of our mobile computing business with our M2M business to increase operational efficiencies and reduce our operating expenses. The total operating expenses incurred for the three months ended June 30, 2014 were \$21.4 million compared to \$26.8 million for the same period in 2013, a 20% year over year reduction. This reduction is

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primarily due to a reduction of employee headcount and related compensation expenses net of restructuring charges. Our current employee headcount at June 30, 2014 was 235 as compared to 403 for the same date last year. The annualized run rate of our total operating expenses, as reflected by the end of the second quarter of 2014, is approximately \$20.5 million lower than the run rate at the end of the second quarter of 2013.

#### **Factors Which May Influence Future Results of Operations**

*Net Revenues.* We believe that our future net revenues will be influenced largely by the speed and breadth of the demand for wireless access to data through the use of next generation networks including demand for 3G and 4G products and 3G and 4G data access services, particularly in North America, Europe and Asia; customer acceptance for our new products that address these markets, including our MiFi line of Intelligent Mobile Hotspots; and our ability to meet customer demand. Factors that could potentially affect customer demand for our products include the following:

- economic environment and related market conditions;
- increased competition from other wireless data device suppliers as well as suppliers of emerging devices that contain a wireless data access feature;
- demand for broadband access services and networks;
- rate of change to new products;
- timing of deployment of 4G networks by wireless operators;
- decreased demand for 3G and 4G products;
- product pricing; and
- changes in technologies.

Our revenues are also significantly dependent upon the availability of materials and components used in our products.

We anticipate introducing additional products during the next twelve months, including 4G broadband-access products, M2M solutions and software applications and platforms. We continue to develop and maintain strategic relationships with wireless and computing industry leaders like QUALCOMM, Sprint, Verizon Wireless, AT&T, and major software vendors. Through strategic relationships, we have been able to maintain market penetration by leveraging the resources of our channel partners, including their access to distribution resources, increased sales opportunities and market opportunities.

As a result of the extremely competitive market for wireless devices, we have experienced significant downward pressure on the average selling prices of our products. This competitive pricing pressure has the potential to materially adversely affect our results of operations and financial condition in future periods and we cannot predict the magnitude or timing of future reductions in the average selling prices of our products.

*Cost of Net Revenues.* All costs associated with our contract manufacturers, as well as distribution, fulfillment and repair services are included in our cost of net revenues. Cost of net revenues also includes warranty costs, amortization of intangible assets, royalties, operations overhead, costs associated with the Company's cancellation of purchase orders, costs related to outside services and costs related to inventory adjustments, including write downs for excess and obsolete inventory. Inventory adjustments are impacted primarily by demand for our products, which is influenced by the factors discussed above.

*Operating Costs and Expenses.* Many of our products target wireless operators and other customers in North America, Europe, and Asia. We will likely develop new products to serve these markets, which will require that we incur research and development expenses. We have incurred these expenses in the past and expect to continue to incur these expenses in future periods prior to recognizing net revenues from sales of these products.

Our operating costs consist of four primary categories: research and development costs; sales and marketing; general and administrative costs; and amortization of purchased intangibles.

Research and development are at the core of our ability to produce innovative, leading-edge products. This category consists primarily of engineers, technicians and outside engineering resources who design and test our highly complex products and the acquisition of testing and certification services.

Sales and marketing expense consists primarily of our sales force and product-marketing professionals. In order to maintain strong sales relationships, we provide co-marketing, trade show support and demo units for merchandising. We are also engaged in a wide variety of activities, such as awareness and lead generation programs as well as product marketing. Other marketing initiatives include public relations, seminars and co-branding with partners.

General and administrative expenses include primarily corporate functions such as accounting, human resources, legal fees, administrative support, and professional fees. This category also includes the expenses needed to operate as a publicly-traded

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company, including Sarbanes-Oxley compliance, SEC filings, stock-exchange fees, and investor-relations expense. Although general and administrative expenses are not directly related to revenue levels, certain expenses such as litigation settlements, legal expenses, and provisions for bad debts may cause significant volatility in future general and administrative expenses.

Amortization of purchased intangibles includes the amortization of customer relationships, covenant-not-to-compete agreements and trade name intangible assets purchased through the acquisition of Enfora.

We also subject our intangible assets and goodwill to impairment assessments when required, which can result in charges when impairment occurs.

We have undertaken certain restructuring activities and cost reduction initiatives in an effort to better align our organizational structure and costs with our strategy. Restructuring activities consist primarily of severance costs incurred in connection with the reduction of our workforce and facility exit related costs.

As part of our business strategy, we review, and intend to continue to review, acquisition opportunities that we believe would be advantageous or complementary to the development of our business. Given our current cash position and recent losses, any acquisitions we make would likely involve the issuance of Company stock. If we make any acquisitions, we may incur substantial expenditures in conjunction with the acquisition process and the subsequent assimilation of any acquired business, products, technologies or personnel.

### **Critical Accounting Policies and Estimates**

The preparation of financial statements in conformity with accounting principles generally accepted in the U.S. requires management to make estimates and assumptions. These estimates and assumptions affect the reported amounts of assets, liabilities, revenues, expenses and disclosures of contingent assets and liabilities. Actual results could differ from these estimates. Critical accounting policies and significant estimates include revenue recognition, allowance for doubtful accounts receivable, provision for excess and obsolete inventory, valuation of intangible and long-lived assets, valuation of goodwill, litigation, restructuring related accruals, provision for warranty costs, income taxes, and share-based compensation expense.

*Valuation of Intangible and Long-Lived Assets.* We periodically assess the valuation of intangible and long-lived assets, which requires us to make assumptions and judgments regarding the carrying value of these assets. We consider assets to be impaired if the carrying value may not be recoverable based upon our assessment of the following events or changes in circumstances: the asset's ability to continue to generate income from operations and positive cash flow in future periods; loss of legal ownership or title to the asset; significant changes in our strategic business objectives and utilization of the asset; or significant negative industry or economic trends.

Our assessment includes comparing the carrying amounts of intangible and long-lived assets to their associated undiscounted expected future cash flows, which are determined using an expected cash flow model. This model requires estimates of our future revenues, profits, capital expenditures, working capital and other relevant factors. We estimate these amounts by evaluating our historical trends, current budgets, operating plans and other industry data. If the assets are considered to be impaired, the impairment charge recognized is the amount by which the asset's carrying value exceeds its estimated fair value.

The timing and frequency of our impairment test is based on an ongoing assessment of triggering events that could reduce the fair value of our long-lived assets below their carrying value. We monitor our intangible and long-lived asset balances and conduct formal tests on at least an annual basis or earlier when impairment indicators are present. We believe that the assumptions and estimates we used to value intangible and long-lived assets were appropriate based on the information available to management. The majority of our long-lived assets are being amortized or depreciated over two to ten years. As most of these assets are associated with technology or trade conditions that may change rapidly; such changes could have an immediate impact on our impairment analysis.

### **Results of Operations**

#### **Three Months Ended June 30, 2014 Compared to Three Months Ended June 30, 2013**

*Net revenues.* Net revenues for the three months ended June 30, 2014 were \$37.3 million, a decrease of \$53.9 million or 59.1% compared to the same period in 2013.

The following table summarizes net revenues by reportable segment and net revenues by product categories during the three months ended June 30, 2014 and June 30, 2013 (in thousands):

	Three Months Ended		Change	
	June 30,		\$	%
	2014	2013		
<b>Net revenues by reportable segment:</b>				
Mobile Computing Products	\$27,497	\$80,823	\$(53,326)	-66%
M2M Products and Solutions	9,773	10,301	(528)	-5%
Total	<u>\$37,270</u>	<u>\$91,124</u>	<u>\$(53,854)</u>	-59%
<b>Net revenues by product categories:</b>				
Mobile Broadband Devices	\$26,917	\$75,582	\$(48,665)	-64%
Embedded Solutions	4,790	8,790	(4,000)	-46%
Asset Management Solutions & Services	5,563	6,752	(1,189)	-18%
Total	<u>\$37,270</u>	<u>\$91,124</u>	<u>\$(53,854)</u>	-59%

*Mobile Computing Products.* Net revenues from our Mobile Computing Products segment for the three months ended June 30, 2014 were \$27.5 million, a decrease of \$53.3 million or 66.0% compared to the same period in 2013. The decrease is primarily attributable to lower sales of mobile broadband devices caused by competitive pricing pressures at our largest customer and legacy products reaching their end of life cycle. We expect our next product cycle MiFi device to ship in the second half of 2014 and we expect revenues for this segment to increase following the initial shipment of that device.

*M2M Products and Solutions.* Net revenues from our M2M Products and Solutions segment for the three months ended June 30, 2014 were \$9.8 million, a decrease of \$528,000 or 5.1% compared to the same period in 2013. The decrease is primarily due to competitive pricing pressures at our largest customers and delays in customer orders pending the integration of some of our products into our customers' business applications, partially offset by increased sales of embedded products to M2M customers.

*Product Categories.* We have categorized the combined product portfolios of the mobile computing and M2M businesses into three categories (1) Mobile Broadband Devices, (2) Embedded Solutions and (3) Asset Management Solutions and Services. These categories were established due to the different markets and sales channels served. We believe this product categorization facilitates the analysis of our operating trends and enhances our segment disclosures.

The Mobile Broadband Devices category includes all external data modems including MiFi intelligent hotspots, USB modems and PC cards. These devices are sold primarily through wireless operator enterprise and retail channels, telecom equipment distributors and consumer retail chains.

The Embedded Solutions product category includes wireless-broadband modules and related software and services sold to manufacturers of laptop computers, tablets, and other wireless computer devices. This product category also includes M2M modules sold to manufacturers of various asset tracking and monitoring products. Our products are sold directly to OEMs or through distributor channels.

Asset Management Solutions and Services are mobile intelligent wireless broadband terminal devices and N4A DM and/or N4A CMS software which transmit information about the assets into which these products are integrated. These hardware and software products can be bundled or sold separately.

*Cost of net revenues.* Cost of net revenues for the three months ended June 30, 2014 was \$33.3 million, or 89.3% of net revenues, as compared to \$72.1 million, or 79.1% of net revenues, for the same period in 2013. During the second quarter of 2014, the cost of net revenues as a percentage of net revenues increased primarily due to an increase in our inventory obsolescence provision as a percentage of revenue, partially offset by reduced labor costs attributed to headcount reductions. The cost of net revenues as a percentage of net revenues is expected to fluctuate in future quarters depending on revenue levels, the mix of products sold, competitive pricing, new product introduction costs and other factors.

Increased competitive pressures may continue to negatively impact the average sales prices of our products. This may require us in future periods to record inventory write downs to reflect lower of cost or market adjustments and revalue certain assets that may become impaired.

*Gross profit.* Gross profit for the three months ended June 30, 2014 was \$4.0 million, or a gross margin of 10.7% of net revenues, compared to \$19.0 million, or a gross margin of 20.9% of net revenues for the same period in 2013. The gross profit decrease was primarily attributable to the changes in net revenues and cost of net revenues as discussed above. We expect that our gross margin percentage will improve in the second half of 2014 due primarily to the launch of our next MiFi device and more normalized inventory obsolescence provisions.



**Research and development expenses.** Research and development expenses for the three months ended June 30, 2014 were \$8.5 million, or 22.9% of net revenues, compared to \$13.0 million, or 14.3% of net revenues, for the same period in 2013. Research and development expenses for the three months ended June 30, 2014 were lower as compared to the same period in 2013, due to reduced labor costs attributed to headcount reductions, but higher than the first quarter of 2014 due to test and certification related expenses incurred in connection with our next MiFi product, which is expected to launch in the second half of 2014.

We believe that focused investments in research and development are critical to our future growth and competitive position in the marketplace and are directly related to timely development of new and enhanced products that are central to our core business strategy. As such, we expect to make further investments in research and development to remain competitive.

Research and development expenses as a percentage of net revenues are expected to fluctuate in future periods depending on the amount of net revenue recognized, and potential variation in the costs associated with the development of our products, including the number and complexity of the products under development and the progress of the development activities with respect to those products. We may increase our investment in research and development to continue to provide innovative products and services.

**Sales and marketing expenses.** Sales and marketing expenses for the three months ended June 30, 2014 were \$3.0 million, or 8.1% of net revenues, compared to \$5.9 million, or 6.4% of net revenues, for the same period in 2013. Sales and marketing expenses for the three months ended June 30, 2014 were lower as compared to the same period in 2013, primarily due to a decrease in salaries and related expenditures and lower outside service costs.

While managing sales and marketing expenses relative to net revenues, we expect to continue to make selected investments in sales and marketing as we introduce new products, market existing products, expand our distribution channels and focus on key customers around the world.

**General and administrative expenses.** General and administrative expenses for the three months ended June 30, 2014 were \$4.4 million, or 11.9% of net revenues, compared to \$7.8 million, or 8.5% of net revenues, for the same period in 2013. General and administrative expenses for the three months ended June 30, 2014 were lower as compared to the same period in 2013 due to reduced labor costs attributed to headcount reductions, reduced legal fees incurred during the period, and lower facility related cost due to exiting our development site in Calgary, Canada and a portion of our San Diego facility. We expect our general and administrative costs to continue to decline on a sequential basis reflecting our continued focus on reducing operating expenses wherever possible.

**Amortization of purchased intangible assets.** The amortization of purchased intangible assets for the three months ended June 30, 2014 and 2013 was \$141,000.

**Restructuring charges.** Restructuring expenses for the three months ended June 30, 2014 were \$5.3 million, and predominantly consist of estimated severance costs and expense related to the accelerated vesting of restricted stock units and options as a result of the termination of our former Chief Executive Officer in June 2014, other severance costs incurred in connection with the reduction of our workforce, and an increase in our estimated facility exit related costs.

**Interest income, net.** Interest income, net, for the three months ended June 30, 2014 was \$20,000 as compared to \$21,000 for the same period in 2013. The weighted-average interest rate earned by the Company on its cash, cash equivalents and marketable securities was 0.26% and 0.35% in the second quarter of 2014 and 2013, respectively. Effective July 3, 2014, the Company will incur interest expense of approximately \$63,000 per quarter relating to the \$5.0 million secured promissory note issued to the plaintiff class in connection with our settlement of our recent shareholder litigation.

**Other expense, net.** Other expense, net, for the three months ended June 30, 2014 was \$13,000 as compared to \$65,000 for the same period in 2013.

**Income tax expense.** Income tax expense for the three months ended June 30, 2014 was \$24,000, as compared to \$104,000 for the same period in 2013.

The effective tax rate for the three months ended June 30, 2014 is different than the U.S. statutory rate primarily due to a valuation allowance recorded against additional tax assets generated in the second quarter of 2014.

**Net loss.** For the three months ended June 30, 2014, we reported a net loss of \$17.4 million, as compared to a net loss of \$7.9 million for the same period in 2013. Our net loss was impacted by changes in net revenue and restructuring charges recognized during the period.

#### **Six Months Ended June 30, 2014 Compared to Six Months Ended June 30, 2013**

**Net revenues.** Net revenues for the six months ended June 30, 2014 were \$85.6 million, a decrease of \$91.5 million or 51.7% compared to the same period in 2013.

The following table summarizes net revenues by reportable segment and net revenues by product categories during the six months ended June 30, 2014 and June 30, 2013 (in thousands):

	Six Months Ended June 30,		Change	
	2014	2013	\$	%
<b>Net revenues by reportable segment:</b>				
Mobile Computing Products	\$63,695	\$156,443	\$(92,748)	-59%
M2M Products and Solutions	21,859	20,602	1,257	6%
Total	<u>\$85,554</u>	<u>\$177,045</u>	<u>\$(91,491)</u>	-52%
<b>Net revenues by product categories:</b>				
Mobile Broadband Devices	\$61,298	\$145,740	\$(84,442)	-58%
Embedded Solutions	13,753	18,203	(4,450)	-24%
Asset Management Solutions & Services	10,503	13,102	(2,599)	-20%
Total	<u>\$85,554</u>	<u>\$177,045</u>	<u>\$(91,491)</u>	-52%

**Mobile Computing Products.** Net revenues from our Mobile Computing Products segment for the six months ended June 30, 2014 were \$63.7 million, a decrease of \$92.7 million or 59.3% compared to the same period in 2013. The decrease is primarily attributable to lower sales of mobile broadband devices caused by competitive pricing pressures at our largest customer and legacy products reaching their end of life cycle. Additionally, our product shipments were limited by shortages of certain hardware components. We expect our next product cycle MiFi device to ship in the second half of 2014 and we expect revenues for this segment to increase following the initial shipment of that device.

**M2M Products and Solutions.** Net revenues from our M2M Products and Solutions segment for the six months ended June 30, 2014 were \$21.9 million, an increase of \$1.3 million or 6.1% compared to the same period in 2013. The increase is primarily due to increased sales of embedded products to M2M customers. While we believe we will see several new customer opportunities in the second half of 2014, much of the increased revenue impact from these customers will likely be seen in the first half of 2015.

**Cost of net revenues.** Cost of net revenues for the six months ended June 30, 2014 was \$71.5 million, or 83.6% of net revenues, as compared to \$141.2 million, or 79.7% of net revenues, for the same period in 2013. During the six months ended June 30, 2014, the cost of net revenues as a percentage of net revenues increased primarily due to an increase in the inventory obsolescence provision as a percentage of net revenue, partially offset by reduced labor costs attributed to headcount reductions.

**Gross profit.** Gross profit for the six months ended June 30, 2014 was \$14.1 million, or a gross margin of 16.4% of net revenues, compared to \$35.9 million, or a gross margin of 20.3% of net revenues for the same period in 2013. The gross profit decrease was primarily attributable to the changes in net revenues and cost of net revenues as discussed above.

**Research and development expenses.** Research and development expenses for the six months ended June 30, 2014 were \$17.2 million, or 20.1% of net revenues, compared to \$26.8 million, or 15.2% of net revenues, for the same period in 2013. Research and development expenses for the six months ended June 30, 2014 were lower as compared to the same period in 2013, due to reduced labor costs attributed to headcount reductions and lower outside service costs and depreciation expenses. The six months ended June 30, 2014 included approximately \$1.2 million in third-party test and certification costs associated with our next MiFi product, which is expected to launch in the second half of 2014.

**Sales and marketing expenses.** Sales and marketing expenses for the six months ended June 30, 2014 were \$7.0 million, or 8.2% of net revenues, compared to \$11.6 million, or 6.6% of net revenues, for the same period in 2013. Sales and marketing expenses for the six months ended June 30, 2014 were lower as compared to the same period in 2013, primarily due to a decrease in salaries and related expenditures and lower outside service costs.

**General and administrative expenses.** General and administrative expenses for the six months ended June 30, 2014 were \$9.5 million, or 11.1% of net revenues, compared to \$14.1 million, or 8.0% of net revenues, for the same period in 2013. General and administrative expenses for the six months ended June 30, 2014 were lower as compared to the same period in 2013 due primarily to reduced labor costs attributed to headcount reductions and reduced legal fees incurred during the period.

**Amortization of purchased intangible assets.** The amortization of purchased intangible assets for the six months ended June 30, 2014 and 2013 was \$281,000.

**Restructuring charges.** Restructuring expenses for the six months ended June 30, 2014 were \$6.4 million, and predominantly consist of estimated severance costs and expenses related to the accelerated vesting of restricted stock units and options as a result of the termination of our former Chief Executive Officer in June 2014, other severance costs incurred in connection with the reduction of our workforce, and an increase in our estimated facility exit related costs. In September 2013, the Company commenced certain restructuring initiatives including the closure of the Company's development site in Calgary, Canada, and the consolidation of certain supply chain management activities.

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**Interest income, net.** Interest income, net, for the six months ended June 30, 2014 was \$35,000 as compared to \$78,000 for the same period in 2013 on lower cash and marketable securities balances. Effective July 3, 2014, the Company will incur interest expense of approximately \$63,000 per quarter relating to the \$5.0 million secured promissory note issued to the plaintiff class in connection with our recent settlement of our shareholder litigation.

**Other expense, net.** Other expense, net, for the six months ended June 30, 2014 was \$57,000 as compared to \$142,000 for the same period in 2013.

**Income tax expense.** Income tax expense for the six months ended June 30, 2014 was \$49,000, as compared to \$21,000 for the same period in 2013.

The effective tax rate for the six months ended June 30, 2014 is different than the U.S. statutory rate primarily due to a valuation allowance recorded against additional tax assets generated in the six months ended June 30, 2014.

**Net loss.** For the six months ended June 30, 2014, we reported a net loss of \$26.4 million, as compared to a net loss of \$17.0 million for the same period in 2013. Our net loss was impacted by changes in net revenue and restructuring charges recognized during the period.

### **Liquidity and Capital Resources**

Our principal sources of liquidity are our existing cash, cash equivalents and marketable securities and cash generated from operations.

Although we have an existing margin credit facility with one of the banks that holds our marketable securities, the use of this margin credit facility is limited to meeting short-term cash requirements and avoiding selling cash equivalents and marketable securities. Borrowings under this facility are collateralized by our cash and cash equivalents and marketable securities on deposit at the bank. During the three and six months ended June 30, 2014, we did not borrow against the facility, and had no outstanding borrowings under this facility at June 30, 2014. Under the terms of the credit facility, the bank may liquidate any of our cash equivalents or marketable securities held at any time in order to recoup the outstanding balance of the facility. Our unused borrowing capacity at June 30, 2014 under the credit facility was \$1.9 million. We are in discussions with other lenders in an effort to establish a revolving credit facility in order to strengthen our financial flexibility. It is expected that this facility would be collateralized by all of our assets and that availability would be determined by the amount of qualifying account receivables and inventory levels. We can provide no assurance that we will be successful in obtaining such a credit facility, or obtaining one on reasonable terms acceptable to us. In the event that such a facility is obtained, it is likely that an initial borrowing of \$5.0 million would take place to repay the secured promissory note the Company issued in July 2014 in connection with its shareholder litigation settlement.

We are continuing to negotiate a final separation agreement with our former Chief Executive Officer, who was terminated in June 2014. We have accrued an estimate of \$2.4 million as of June 30, 2014 as the cash portion of that expected agreement and a meaningful portion of that amount is likely to be paid during the second half of 2014.

### Working Capital, Cash and Cash Equivalents and Marketable Securities

The following table presents working capital, cash and cash equivalents and marketable securities (in thousands):

	June 30, 2014 (unaudited)	December 31, 2013	Increase / (Decrease)
Working capital <sup>(1)</sup>	\$ 22,975	\$ 40,928	\$(17,953)
Cash and cash equivalents <sup>(2)</sup>	\$ 8,925	\$ 2,911	\$ 6,014
Short-term marketable securities <sup>(2)(3)</sup>	13,503	16,612	(3,109)
Long-term marketable securities	0	3,443	(3,443)
Total cash and cash equivalents and marketable securities	<u>\$ 22,428</u>	<u>\$ 22,966</u>	<u>\$ (538)</u>

- (1) Working capital is defined as the excess of current assets over current liabilities.  
(2) Included in working capital.  
(3) Excludes restricted marketable securities.

Our working capital decreased \$18.0 million from December 31, 2013 to June 30, 2014. The decrease was primarily due to losses from operations incurred during the six months ended June 30, 2014.

As of June 30, 2014, cash and cash equivalents and marketable securities decreased by \$538,000 from December 31, 2013.

### Historical Cash Flows

The following table summarizes our condensed consolidated statements of cash flows for the periods indicated (in thousands):

	Six Months Ended June 30,	
	2014	2013
Net cash provided by operating activities	\$ 1,037	\$ 6,501
Net cash provided by investing activities	7,878	1,130
Net cash provided by (used in) financing activities	(2,850)	1,295
Effect of exchange rates on cash and cash equivalents	(51)	(107)
Net increase in cash and cash equivalents	6,014	8,819
Cash and cash equivalents, beginning of period	2,911	16,044
Cash and cash equivalents, end of period	<u>\$ 8,925</u>	<u>\$24,863</u>

**Operating activities.** Net cash provided by operating activities was \$1.0 million for the six months ended June 30, 2014 compared to net cash provided by operating activities of \$6.5 million for the same period in 2013. Net cash provided for the six months ended June 30, 2014 was attributable to net losses in the period, offset by a net increase in cash caused by changes in working capital accounts, and non-cash charges for depreciation and amortization, inventory provision and share based compensation expense. The net increase in cash caused by changes in net working capital accounts primarily included decreases in accounts receivable and prepaid expenses and other assets, as well as an increase in accounts payable. Net cash provided by operating activities for the six months ended June 30, 2013 was attributable to a net increase in cash caused by changes in working capital accounts, and non-cash charges for depreciation and amortization and share based compensation expense, partially offset by net losses in the period. The net increase in cash caused by changes in net working capital accounts primarily included decreases in accounts receivable and inventory, as well as an increase in accounts payable.

**Investing activities.** Net cash provided by investing activities during the six months ended June 30, 2014 was \$7.9 million compared to \$1.1 million used during the same period in 2013. Cash provided by investing activities during the six months ended June 30, 2014 was related to net sales of marketable securities of \$9.1 million, partially offset by purchases of property, plant, and equipment for approximately \$1.2 million. Cash used in investing activities during the same period in 2013 was primarily related to net sales of marketable securities of \$4.9 million, partially offset by purchases of property, plant, and equipment for approximately \$3.7 million.

**Financing activities.** Net cash used in financing activities during the six months ended June 30, 2014 was \$2.9 million compared to cash provided of \$1.3 million during the same period in 2013. Net cash used in financing activities during the six months ended June 30, 2014 was primarily related to principal repayments on our margin credit facility borrowings, and payroll taxes paid on behalf of employees for restricted stock units which vested during the period. Net cash provided by financing activities during the six months ended June 30, 2013 was primarily related to proceeds received from borrowing on our margin credit facility, partially offset by principal repayments on our margin credit facility borrowings, and payroll taxes paid on behalf of employees for restricted stock units which vested during the period.

#### *Other Liquidity Needs*

We expect to incur ongoing professional fees and expenses to defend litigation filed against us or related to our products, which litigation is discussed in Note 8 to our condensed consolidated financial statements included in this report. These costs cannot be estimated at this time.

During the next twelve months, we currently plan to incur approximately \$1.7 million for discretionary capital expenditures, including the acquisition of additional software licenses.

Although we believe our cash resources from cash and cash equivalents and marketable securities, together with anticipated cash flows from operations will be sufficient to meet our working capital needs for the next twelve months, our liquidity could be significantly impaired if there is any interruption in our business operations, a material failure to satisfy our contractual commitments, a failure to generate revenue from new or existing products or a delay in the launch of such new products, material judgments against us in patent infringement cases brought against us or restrictions imposed by key suppliers based on their downgrades of our credit.

We may seek to raise additional capital through private and/or public offerings of debt or equity securities. We may also seek additional capital through arrangements with strategic partners or from other sources. There can be no assurance that any required additional financing will be available on terms favorable to us, or at all. If additional funds are raised by the issuance of equity securities, our shareholders could experience dilution of their ownership interests and securities issued may have rights senior to those of the holders of our common stock. If additional funds are raised by the issuance of debt securities, we may be subject to certain limitations on our operations. If adequate funds are not available or not available on acceptable terms, we may be unable to take advantage of acquisition opportunities, develop or enhance products or respond to competitive pressures, any of which could have a material adverse effect on our business, financial condition and results of operations.

### **Item 3. *Quantitative and Qualitative Disclosures About Market Risk.***

Market risk is the risk of potential economic loss principally arising from adverse changes in the fair value of financial instruments. The major components of market risk affecting us are interest rate risk, global credit risk and foreign currency exchange rate risk.

Since December 31, 2013, there have been no material changes in the quantitative or qualitative aspect of our market risk profile. For additional information regarding the Company's exposure to certain market risks, see Item 7A, "*Quantitative and Qualitative Disclosures About Market Risk*" in our Annual Report on Form 10-K for the year ended December 31, 2013.

### **Item 4. *Controls and Procedures.***

#### **Evaluation of Disclosure Controls and Procedures.**

The Company maintains disclosure controls and procedures, as defined in Rule 13a-15(e) promulgated under the Securities Exchange Act of 1934 (the "Exchange Act"), that are designed to ensure that information required to be disclosed by the Company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and that such information is accumulated and communicated to the Company's management, including its Interim Chief Executive Officer and Interim Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure. The Company carried out an evaluation, under the supervision and with the participation of the Company's management, including the Company's Interim Chief Executive Officer and Interim Chief Financial Officer, of the effectiveness of the design and operation of the Company's disclosure controls and procedures as of June 30, 2014, the end of the period covered by this report. Based on the evaluation of these disclosure controls and procedures, the Company's Interim Chief Executive Officer and Interim Chief Financial Officer concluded that the Company's disclosure controls and procedures were effective.

#### **Changes in Internal Control Over Financial Reporting.**

There were no changes in the Company's internal control over financial reporting, as defined in Rule 13a-15(f) promulgated under the Exchange Act, during the three and six months ended June 30, 2014, that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

## PART II—OTHER INFORMATION

### Item 1. Legal Proceedings.

In the case *In re Novatel Wireless Securities Litigation*, on June 20, 2014 the Court gave final approval to the Stipulation of Settlement negotiated by the Company and the plaintiffs and announced in December 2013. For additional information regarding this matter, see Note 8, “Commitments and Contingencies” in the accompanying consolidated financial statements.

The Company is also engaged in numerous other legal actions arising in the ordinary course of our business and, while there can be no assurance, the Company believes that the ultimate outcome of these other legal actions will not have a material adverse effect on its business, results of operations, financial condition or cash flows.

### Item 1A. Risk Factors.

There have been no material changes in our risk factors from those disclosed in Item 1A of the Company’s Annual Report Form 10-K for the year ended December 31, 2013.

### Item 2. Unregistered Sales of Equity Securities and Use of Proceeds.

None, other than as reported in the Company’s Current Report on Form 8-K filed on July 2, 2014.

### Item 3. Defaults Upon Senior Securities.

Not applicable.

### Item 4. Mine Safety Disclosures.

Not applicable.

### Item 5. Other Information.

Not applicable

### Item 6. Exhibits.

<u>Exhibit Number</u>	<u>Description</u>
4.1	Stipulation of Settlement dated January 31, 2014 and effective as of June 20, 2014.
4.2	Promissory Note dated July 3, 2014.
4.3	Security Agreement dated July 3, 2014.
4.4	Final Judgment and Order of Dismissal With Prejudice dated June 23, 2014.
4.5	Order Granting Motion to Amend the Judgment Date dated July 8, 2014.
10.1	Letter Agreement, dated as of April 29, 2014, by and among the Company and each of Cobb H. Sadler, Edward T. Shadek, Robert Ellsworth, Alex Mashinsky, Richard A. Karp, Maguire Financial, LP, a Delaware limited partnership, Maguire Asset Management, LLC, a Delaware limited liability company, and Timothy Maguire (incorporated by reference to Exhibit 10.1 to the Company’s Current Report on Form 8-K, filed May 6, 2014).
10.2	Letter Agreement, dated as of April 29, 2014, by and between the Company and Peter V. Leparulo (incorporated by reference to Exhibit 10.2 of the Company’s Current Report on Form 8-K, filed May 6, 2014).
31.1	Certification of our Principal Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Certification of our Principal Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1	Certification of our Principal Executive Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2	Certification of our Principal Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101	The following financial statements and footnotes from the Novatel Wireless, Inc. Quarterly Report on Form 10-Q for the quarter ended June 30, 2014 formatted in Extensible Business Reporting Language (XBRL): (i) Condensed Consolidated Balance Sheets; (ii) Condensed Consolidated Statements of Operations; (iii) Condensed Consolidated Statements of Comprehensive Loss; (iv) Condensed Consolidated Statements of Cash Flows; and (v) the Notes to Condensed Consolidated Financial Statements.

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**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

Date: August 8, 2014

Novatel Wireless, Inc.

By: /s/ ALEX MASHINSKY  
Alex Mashinsky  
Interim Chief Executive Officer

By: /s/ THOMAS D. ALLEN  
Thomas D. Allen  
Interim Chief Financial Officer

ROBBINS GELLER RUDMAN & DOWD LLP  
JEFFREY D. LIGHT (159515)  
DOUGLAS R. BRITTON (188769)  
ROBERT R. HENSSLER JR. (216165)  
LUCAS F. OLTS (234843)  
ERIC I. NIEHAUS (239023)  
655 West Broadway, Suite 1900  
San Diego, CA 92101  
Telephone: 619/231-1058  
619/231-7423 (fax)  
jeffl@rgrdlaw.com  
dougbr@rgrdlaw.com  
bhenssler@rgrdlaw.com  
lolts@rgrdlaw.com  
ericn@rgrdlaw.com

Lead Counsel for Plaintiffs

[Additional counsel appear on signature page.]

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

In re NOVATEL WIRELESS  
SECURITIES LITIGATION

\_\_\_\_\_

This Document Relates To:  
ALL ACTIONS.

\_\_\_\_\_

) Lead Case No.  
) 08-CV-01689-AJB(RBB)  
)  
) CLASS ACTION  
) STIPULATION OF SETTLEMENT  
)  
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This Stipulation of Settlement dated January 31, 2014 (the “Stipulation”), submitted pursuant to Rule 23 of the Federal Rules of Civil Procedure, embodies a settlement (the “Settlement”) made and entered into by and among the following Settling Parties: (i) Plumbers & Pipefitters’ Local #562 Pension Fund and Western Pennsylvania Electrical Employees Pension Fund (collectively, “Lead Plaintiffs”), on behalf of themselves and each of the members of the Class, as defined in ¶¶1.3-1.4, *infra*, on the one hand, and (ii) Novatel Wireless, Inc. (“NWI” or the “Company”), Peter V. Leparulo, George B. Weinert, Robert M. Hadley, Slim S. Souissi, and Catherine F. Ratcliffe (the “Individual Defendants,” together with NWI, the “Defendants”), on the other hand, by and through their counsel of record in the above-captioned litigation pending in the United States District Court for the Southern District of California (the “Action”). The Stipulation is intended by the Settling Parties to fully, finally, and forever resolve, discharge, and settle the Released Claims, upon and subject to the terms and conditions hereof and subject to the approval of the Court. Throughout this Stipulation, all capitalized terms used, but not immediately defined, have the meanings given to them in Section IV.1, below.

## **I. THE LITIGATION**

This case has been hotly contested from its inception, combing its way through the entire litigation process over the course of five years and stopping just short of trial. During that time, the parties filed, opposed, appealed, requested reconsideration on, and/or sought certification under 28 U.S.C. §1292 for countless motions, mediated with multiple mediators (including Judge Brooks), and involved two district court judges. The following highlights the major aspects of this complex litigation.

The case started like all securities cases with an original complaint followed by multiple motions to consolidate, motions for lead plaintiff pursuant to 15 U.S.C. §78u-4(a)(3)(B), and an amended complaint. Lead Plaintiffs filed their motion for lead plaintiff with the Court on November 17, 2008, the Court granted that motion a few weeks later on December 10, 2008, and Lead Plaintiffs filed their amended complaint on January 9, 2009, alleging violations of the federal securities laws, including §§10(b) and 20(a) of the Securities Exchange Act of 1934 (the “Exchange Act”).

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The amended complaint was subject to intense scrutiny. Over the ensuing five months, the Court considered two separate motions to dismiss – one under the standards existing when Lead Plaintiffs filed the amended complaint and the other under the standards handed down by the United States Supreme Court in *Ashcroft v. Iqbal*, 556 U.S. 662 (2009). Defendants filed their first motion to dismiss on February 9, 2009, Lead Plaintiffs opposed on March 11, 2009, and Defendants replied on March 23, 2009. After the Court denied Defendants’ first motion to dismiss, Defendants moved for reconsideration, which the Court granted over Lead Plaintiffs’ objection. Defendants then renewed their motion to dismiss on June 26, 2009, Lead Plaintiffs opposed on July 10, 2009, and Defendants replied on July 17, 2009. The Court denied Defendants’ renewed motion to dismiss on July 28, 2009.

Discovery started shortly thereafter and continued for 15 months. And like the remainder of the litigation, discovery was hotly contested. The parties filed multiple motions to compel with Judge Brooks and appealed many of his decisions to Judge Huff for review. Those efforts ultimately culminated in Defendants producing (and Lead Plaintiffs reviewing) millions of pages of documents with Lead Plaintiffs using the results of that review to take dozens of depositions throughout the country. At the same time, Defendants conducted discovery in connection with Lead Plaintiffs’ motion for class certification. Lead Plaintiffs filed their motion on January 11, 2010, Defendants opposed on March 15, 2010, and Lead Plaintiffs replied on April 9, 2010. That reply was followed by a sur-reply by Defendants on April 25, 2010, and a response to that sur-reply by Lead Plaintiffs on May 7, 2010. The Court certified the Class on May 12, 2010.

Following expert discovery, on February 14-15, 2011, defendant Leparulo moved for Judgment on the Pleadings with respect to the insider trading claims asserted against him, and all Defendants moved for Summary Judgment on all claims

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and to exclude three of Lead Plaintiffs' experts under the standards announced in *Daubert v. Merrell Dow Pharm.*, 509 U.S. 579 (1993). Lead Plaintiffs opposed those motions on March 4, 2011 and March 7, 2011, respectively, and Defendants replied on March 14, 2011. Judge Huff then entered an order transferring the case to the calendar of Judge Battaglia on March 15, 2011, before oral argument was heard and a decision was rendered on the outstanding motions. Lead Plaintiffs filed their own motions challenging Defendants' experts under *Daubert* a few months later on July 15, 2011. Defendants opposed those motions on August 5, 2011, and Lead Plaintiffs replied on August 19, 2011.

The Court issued its orders on the foregoing substantive motions periodically over the ensuing months. It granted in part the parties' motions to exclude each other's accounting experts on November 17, 2011, and it granted Leparulo's Motion for Judgment on the Pleadings and granted in part Defendants' Motion for Summary Judgment on November 23, 2011, dismissing Lead Plaintiffs' channel-stuffing claims. In particular, the Court held that the alleged practice of pulling sales forward, accelerating sales, or incentivizing sales, which Lead Plaintiffs had alleged made NWI's financial statements misleading, did not state a claim for a securities fraud. The Court also found that Peter V. Leparulo had established that, on the face of the pleadings, no material fact remained to be resolved with respect to the insider trading claims asserted against him. And, throughout 2012 and 2013, it issued orders on the parties' remaining motions to exclude their respective experts, dealing with multiple motions for reconsideration, renewed motions, and a request for interlocutory appeal under 28 U.S.C. §1292. The end result was that the Court excluded one of Defendants' experts, and excluded certain parts of the opinions proffered by the parties' other experts. The Court scheduled trial for January 6, 2014.

While the parties had mediated multiple times with different mediators, the Court's decisions on the dispositive motions and the risks and uncertainties of proceeding through trial, combined with NWI's current level of available cash,

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compelled the parties to negotiate a resolution of the case amongst themselves. The parties executed a Memorandum of Understanding on December 6, 2013, requested that day to have the Court suspend the deadline for the parties to file their motions *in limine*, and moved to stay the proceedings on December 11, 2013.

## **II. CLAIMS OF LEAD PLAINTIFFS AND BENEFITS OF SETTLEMENT**

Lead Plaintiffs and Lead Counsel believe that the claims asserted in the Action have merit. However, Lead Plaintiffs and Lead Counsel recognize and acknowledge the uncertainties presented by continued proceedings through trial and NWI's current level of available cash. Lead Plaintiffs and Lead Counsel have taken into account the uncertain outcome and the risk of trial, especially in complex actions such as this Action, and the potential harm that a verdict for the Class would cause NWI. Lead Plaintiffs and Lead Counsel also are aware of the defenses to the securities law violations asserted in the Action. Lead Plaintiffs and Lead Counsel believe that the Settlement set forth in this Stipulation confers substantial benefits upon the Class in light of the circumstances present here. Based on their evaluation, Lead Plaintiffs and Lead Counsel have determined that the Settlement set forth in this Stipulation is in the best interests of Lead Plaintiffs and the Class.

## **III. DEFENDANTS' DENIALS OF WRONGDOING AND LIABILITY**

Defendants, individually and collectively, have denied and continue to deny that they have violated the federal securities laws or any laws. Defendants, individually and collectively, have denied and continue to deny specifically each and all of the claims and contentions alleged in the Action, along with all charges of wrongdoing or liability against them arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged, in the Action. Defendants also have denied and continue to deny, *inter alia*, the allegations that any of the Defendants made any material misstatements or omissions; that any of the Defendants sold NWI common stock based on material nonpublic information; that any member of the Class has

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suffered damages; that the price of NWI common stock was artificially inflated by reason of the alleged misrepresentations, omissions, non-disclosures or otherwise; that Lead Plaintiffs or the members of the Class were harmed by the conduct alleged in the Action; or that any of the Defendants knew or was reckless with respect to the alleged misconduct. In addition, Defendants maintain that they have meritorious defenses to all claims alleged in the Action.

Nonetheless, taking into account the uncertainty, risks, and costs inherent in any litigation, especially in complex cases such as this Action, Defendants have concluded that it is desirable and beneficial that the Action be fully and finally settled in the manner and upon the terms and conditions set forth in this Stipulation. As set forth in ¶9.4 below, this Stipulation shall in no event be construed as or deemed to be evidence of an admission or concession by Defendants with respect to any claim of any fault or liability or wrongdoing or damage whatsoever.

#### **IV. TERMS OF STIPULATION AND AGREEMENT OF SETTLEMENT**

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among Lead Plaintiffs (for themselves and the members of the Class), on the one hand, and Defendants, on the other hand, by and through their respective counsel of record, that, subject to the approval of the Court, in consideration of the benefits flowing to the Settling Parties from the Settlement set forth herein, the Action and the Released Claims shall be finally and fully compromised, settled, and released, and the Action shall be dismissed with prejudice, as to all Settling Parties, upon and subject to the terms and conditions of the Stipulation, as follows:

##### **1. Definitions**

As used in the Stipulation, the following terms have the meanings specified below:

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1.1 "Authorized Claimant" means any member of the Class who submits a timely and valid Proof of Claim and Release form and whose claim for recovery has been allowed pursuant to the terms of the Stipulation.

1.2 "Claims Administrator" means the firm of Gilardi & Co. LLC.

1.3 "Class" means all Persons who purchased NWI common stock between February 27, 2007 and September 15, 2008, inclusive, and were damaged thereby, as ordered by the Court in that Order dated May 12, 2010, and titled, in part, "Order Granting Motion to Certify Class" (Dkt. No. 180). Excluded from the Class are: Defendants, directors, and officers of NWI, and their families and affiliates. Also excluded from the Class are those Class Members who previously excluded themselves pursuant to the Notice of Pendency of Class Action that was provided to the Class pursuant to the Court's Order dated January 18, 2011 (Dkt. No. 264) and those Class Members who submit valid requests for exclusion pursuant to the Notice of Proposed Settlement of Class Action described in ¶4.1 of this Stipulation.

1.4 "Class Member" means a Person who falls within the definition of the Class as set forth in ¶1.3 of this Stipulation.

1.5 "Class Period" means the period between February 27, 2007 and September 15, 2008, inclusive.

1.6 "Defendants" means NWI, Peter V. Leparulo, George B. Weinert, Robert M. Hadley, Slim S. Souissi, and Catherine F. Ratcliffe.

1.7 "Effective Date" means the first date by which all of the events and conditions specified in ¶8.1 of the Stipulation have been met and have occurred.

1.8 "Escrow Account" means the account controlled by the Escrow Agent into which Defendants shall cause the deposit of the cash component of the Settlement Fund.

1.9 "Escrow Agent" means Robbins Geller Rudman & Dowd LLP or its successor(s).

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1.10 "Final" means the time when a Judgment that has not been reversed, vacated, or modified in any way is no longer subject to appellate review, either because of disposition on appeal and conclusion of the appellate process, or because of the passage of time for seeking appellate review. More specifically, it is when the last of the following has occurred with respect to the Judgment: (a) the date of final affirmance on an appeal of the Judgment, the expiration of the time for a petition for or a denial of a writ of certiorari to review the Judgment and, if certiorari is granted, the date of final affirmance of the Judgment following review pursuant to that grant; or (b) the date of final dismissal of any appeal from the Judgment or the final dismissal of any proceeding on certiorari to review the Judgment and expiration of time to seek any further review or appeal of such dismissal; or (c) if no appeal is filed, the expiration date of the time for the filing or noticing of any appeal from the Judgment. For purposes of this definition, an "appeal" shall include any motion to alter, amend, or otherwise review the Judgment, and any petition for any writ, including a writ of certiorari, that may be filed in connection with the approval or disapproval of this Stipulation. Any proceeding or order, or any appeal or petition for a writ of certiorari pertaining to any Plan of Distribution and/or application(s) for attorneys' fees, costs, or expenses or Lead Plaintiffs' expenses, shall not in any way delay or preclude the Judgment from becoming Final.

1.11 "Individual Defendants" mean Peter V. Leparulo, George B. Weinert, Robert M. Hadley, Slim S. Souissi, and Catherine F. Ratcliffé.

1.12 "Judgment" means the Final Judgment and Order of Dismissal with Prejudice to be rendered by the Court upon approval of the Settlement, in all material respects in the form attached hereto as Exhibit B.

1.13 "Lead Counsel" means Robbins Geller Rudman & Dowd LLP, 655 West Broadway, Suite 1900, San Diego, California 92101.

1.14 "Lead Plaintiffs" means Plumbers & Pipefitters' Local #562 Pension Fund and Western Pennsylvania Electrical Employees Pension Fund.

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1.15 “Net Settlement Fund” means the portion of the Settlement Fund that shall be distributed to Authorized Claimants as allowed by the Stipulation, the Plan of Distribution, or the Court, after provision for the other amounts set forth in ¶6.3(a)-(c) of this Stipulation.

1.16 “Person” means an individual, corporation, partnership, limited partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity and his, her or its spouses, heirs, predecessors, successors, representatives, or assignees.

1.17 “Plaintiffs’ Counsel” means any counsel who filed a complaint in the Action or any action that has been consolidated with the Action.

1.18 “Plan of Distribution” means a plan or formula of allocation of the Net Settlement Fund whereby the Settlement Fund shall be distributed to Authorized Claimants after payment of expenses of notice and administration of the Settlement, Taxes and Tax Expenses, and such attorneys’ fees, costs, expenses and interest, and other expenses as may be awarded by the Court. Any Plan of Distribution is not part of the Stipulation and the Released Persons shall have no responsibility or liability with respect thereto.

1.19 “Related Persons” means, with respect to the Defendants, each and all of their respective past or present parents, affiliates, associates, executors, personal representatives, subsidiaries, officers, directors, employees, principals, agents, controlling persons, general or limited partners or partnerships, attorneys, legal counsel, accountants, consultants, financial advisors, investment advisors, commercial bank lenders, investment bankers, partners, limited liability companies, shareholders, immediate family members, heirs, estates, administrators, predecessors, successors, indemnitors, indemnitees, insurers (including but not limited to the Defendants’ Directors and Officers insurance carriers), reinsurers, any entity in which any Defendant has a controlling interest, assigns, any trust of which any Defendant is the



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settlor or which is for the benefit of any Defendant and/or members of any Defendant's family; and, as to each of the foregoing, all of their past, present, or future directors, officers, agents, partners, members, managers, employees, heirs, subsidiaries, predecessors, and successors, and any Person acting on their behalf.

1.20 "Released Claims" means any and all claims, whether known or unknown, arising from the purchase of NWI common stock during the Class Period and the acts, facts, statements or omissions that were or could have been alleged by Lead Plaintiffs or members of the Class in the Action. "Released Claims" includes "Unknown Claims" as defined herein. The inclusion of Unknown Claims in the definition of Released Claims was separately bargained for and was a key element of the Settlement. Released Claims do not include any claim arising from the performance or non-performance of the Settlement.

1.21 "Released Persons" means each and all of Defendants in their individual and corporate capacities and each and all of their Related Persons.

1.22 "Security Agreement" means that agreement accompanying the Settlement Note that provides the Class a security interest for the Settlement Note in all rights, title and interests of NWI in and to the property described as NWI's accounts receivable, which shall be the Collateral for the Settlement Note.

1.23 "Settlement Amount" means Sixteen Million Dollars (\$16,000,000.00) to be paid, or caused to be paid, by NWI pursuant to ¶3.1 of this Stipulation.

1.24 "Settlement Fund" means the Settlement Amount, together with all interest and income earned thereon.

1.25 "Settlement Note" means that component of the Settlement Fund represented by a \$5 million Promissory Note with a 5% interest rate and a 30-month maturity and secured by the collateral outlined in the Security Agreement.

1.26 "Settling Parties" means, collectively, Defendants and Lead Plaintiffs on behalf of themselves and the Class Members.

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1.27 “Unknown Claims” means any Released Claims which Lead Plaintiffs or any Class Members do not know or suspect to exist in his, her or its favor at the time of the release of the Released Persons which, if known by him, her or it, might have affected his, her or its settlement with and release of the Released Persons, or might have affected his, her or its decision not to object to this Settlement.

**2. CAFA Notice**

2.1 Pursuant to the Class Action Fairness Act (“CAFA”), no later than ten (10) days after the Stipulation is filed with the Court, the Claims Administrator shall, at NWT’s expense and supervision, serve proper notice of the proposed Settlement upon the United States Attorney General and each State Attorney General. Simultaneously, the Claims Administrator shall provide a copy of such notice as well as proof of service of such notice to counsel for Lead Plaintiffs and Defendants.

**3. The Settlement**

**a. The Settlement Fund**

3.1(a) The Settlement Fund consists of Sixteen Million Dollars (\$16,000,000.00), broken down as follows: \$6 million in cash, 2,407,318 shares of NWT common stock (the “Settlement Stock”), and the Settlement Note. Defendants shall have the right, at any point, prior to the entry of the Judgment, to substitute cash as a full replacement for the Settlement Note. These funds, together with any interest and income earned thereon, shall constitute the Settlement Fund. Except for NWT’s obligations under ¶¶2.1, 3.1(b)(5) and 3.1(b)(6) herein, Defendants shall not be required to pay more than the Settlement Amount pursuant to this Stipulation and the Settlement.

**b. Deposit of Settlement Fund**

3.1(b) Defendants shall pay or cause to be paid to the Class, in settlement of the claims against them, the principal amount of the Settlement Fund, as follows:

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1. Defendants have already caused the portion of the cash component of the Settlement Fund represented by the remaining proceeds from the applicable insurance policies related to this Action to be deposited into an Escrow Account controlled by the Escrow Agent. That amount totaled \$1,674,134.69.

2. NWI shall fund the remaining amount of the cash component on a schedule not to exceed \$250,000 per month prior to the entry of the Judgment should such amounts be required to fund Class Notice and Administration Costs, with all remaining amounts of the cash portion of the Settlement Fund due within ten (10) business days of the entry of the Judgment approving this Settlement. Subject to the provisions of this Stipulation, in the event that any such portion of the remaining unpaid amount of the cash component is required to fund Class Notice and Administration Costs prior to the entry of the Judgment, NWI shall have ten (10) business days from the date that Lead Counsel provides written notice of such required funds to deposit or cause to be deposited the required payment (not to exceed \$250,000 per month) into the Escrow Account.

3. The Settlement Stock shall consist of 2,407,318 shares of NWI common stock. The Settlement Stock shall be unrestricted, freely tradable, and either registered or exempt from registration under the Securities Act of 1933 (the "Securities Act"), pursuant to §3(a)(10) of the Securities Act, 15 U.S.C. §77c(a)(10), in that the Settlement Stock will be issued to or for the benefit of Class Members in exchange for their release of claims against the Defendants under the terms of the Stipulation. Pursuant to §3(a)(10), the Court's judgment of the fairness of the Settlement shall serve as a substitute for the registration requirements of the Securities Act with regard to any Settlement Stock. At the Settlement Hearing, the Court will be asked to find with regard to the Settlement Stock being issued as part of the Settlement Fund that: (i) the terms and conditions of the proposed issuance are fair to all those who will receive securities in the proposed exchange; and (ii) the terms and conditions of, and the procedures for, the proposed issuance are fair. In the alternative, NWI, in its sole discretion, shall have the right to file a registration statement with the Securities and Exchange Commission covering the issuance of the Settlement Stock.

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4. The Settlement Stock may be sold or transferred by recipients thereof who are not affiliates of NWI (as that term is defined in Rule 144 of the Securities Act) or recipients deemed to be underwriters under the Securities Act without registration under §5 of the Securities Act or compliance with Rule 144. The number of shares constituting the Settlement Stock will be adjusted to account for stock splits, reverse stock splits, and other similar actions taken by NWI. If NWI is sold, acquired or merges prior to distribution of the Settlement Stock to the Class, the shares will be treated for purposes of any corporate transaction as if they had been issued, distributed and outstanding, and will receive the same proportionate treatment as other shares of NWI. In addition, the stock price protections set forth below shall be adjusted in a manner consistent with such treatment.

5. NWI agrees that, with respect to the Settlement Stock, if the price of the common stock of NWI is trading below \$2.077 per share on the date the Court enters the Judgment, NWI shall, within thirty (30) days thereof, contribute to the Settlement Fund the cash amount representing the difference between \$2.077 per share and the average closing price of NWI stock for the 15 trading days prior to the date the Court enters the Judgment multiplied by 2,407,318.

6. NWI will transfer the Settlement Stock to the Escrow Agent pursuant to instructions provided by Lead Counsel within ten (10) business days after the Court enters the Judgment. All costs associated with the transfer of the NWI Settlement Stock to the Escrow Agent shall be borne by NWI.

7. There will be two distribution dates by the Escrow Agent and/or the Claims Administrator: (1) the date of the distribution of attorneys' fees awarded to Lead Counsel by the Court; and (2) the date of distribution to Authorized Claimants following claims administration. No fractional shares of NWI Settlement Stock will

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be issued. The calculation of the number of shares to be distributed will be rounded up or down to the nearest whole share. Upon receipt of the NWI Settlement Stock, the Escrow Agent will have the right to take any measures they deem appropriate to protect the overall value of the NWI Settlement Stock prior to distribution to Authorized Claimants. The Escrow Agent or Lead Counsel shall have no liability for any sale, liquidation, transfer or other disposition of the NWI Settlement Stock absent gross negligence or willful misconduct, but shall not sell the Settlement Stock to Lead Counsel. The Escrow Agent shall also have the right to use the cash component of the Settlement Fund to protect the overall value of the Settlement Fund.

8. The Settlement Note shall be a \$5 million note, with a 5% interest rate (compounded monthly), and will be secured by NWI's accounts receivables (the "Collateral"), maintained in a ratio of at least five (5) times the outstanding amount of the Note (including all outstanding principal and accrued interest) (the "Required Ratio"). The interest earned on the Note shall be payable to the Escrow Agent in cash quarterly. The outstanding principal will be due and payable in cash on the Maturity Date, which will be defined as the earlier of (i) the expiration of 30 months from the entry of the Judgment, when all amounts under the terms of the Settlement Note and Security Agreement become automatically due and payable; or (ii) the occurrence of an event of default (as defined generally below and more specifically in the Settlement Note).

9. As of the date of the Settlement Note and Security Agreement, the Company will pledge to and grant to the Class a security interest in all rights, title and interests of NWI in and to the property described as its accounts receivable, which shall be set forth and defined in the Security Agreement as the "Collateral" for the Settlement Note and as consistent with the Required Ratio. The Settlement Note may be prepaid without penalty at any time at the option of NWI.

10. The Settlement Note's "owner" will be the Escrow Agent, with the Class identified as the beneficiary. The Settlement Note will be fully transferable and will

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accelerate in the event that NWI is acquired or defaults on the Note. An "Event of Default" will be defined in the Settlement Note. In the event of NWI's default, interest on the Settlement Note will increase to 10% (the "default rate") until such time as the Escrow Agent takes possession of and liquidates the Collateral in an amount that satisfies the entire obligation, including principal, accrued interest, and any expenses to enforce the terms of the Settlement Note.

11. NWI will deliver the Settlement Note to the Escrow Agent pursuant to instructions provided by Lead Plaintiffs within ten (10) business days after the Court enters the Judgment. The Settlement Note may be sold by the Escrow Agent, but notice of any such sale shall be provided to NWI within five (5) business days. The Escrow Agent shall not sell the Settlement Note to Lead Counsel.

**c. The Escrow Agent**

3.2 The Escrow Agent shall invest the cash component of the Settlement Fund deposited pursuant to ¶3.1 hereof in instruments backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof and shall reinvest the proceeds of these instruments as they mature in similar instruments at their then-current market rates. All risks related to the investment of the Settlement Fund in accordance with the guidelines set forth in this paragraph shall be borne by the Settlement Fund, and the Released Persons shall have no responsibility or liability related to such investments.

3.3 The Escrow Agent shall not disburse the Settlement Fund except (a) as provided in the Stipulation, or (b) by an order of the Court.

3.4 Subject to further order(s) and/or directions as may be made by the Court, or as provided in the Stipulation, the Escrow Agent is authorized to execute such transactions as are consistent with the terms of the Stipulation. The Released Persons shall have no responsibility for, interest in, or liability whatsoever with respect to the actions of the Escrow Agent, or any transaction executed by the Escrow Agent.

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3.5 All funds held by the Escrow Agent shall be deemed and considered to be in *custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed pursuant to the Stipulation and/or further order(s) of the Court.

3.6 (a) Prior to the Effective Date, the Escrow Agent, without further approval of Defendants or the Court, may pay from the Settlement Fund up to \$200,000.00 in notice and administration costs ("Class Notice and Administration Costs") associated with the administration of the Settlement, including, without limitation: the cost of identifying and locating members of the Class, mailing the Notice and Proof of Claim and Release form and publishing notice (such amount shall include, without limitation, the actual costs of publication, printing and mailing the Notice, and reimbursement to nominee owners for forwarding notice to their beneficial owners), soliciting Class claims, assisting with the filing of claims, administering and distributing the Net Settlement Fund to Authorized Claimants, processing Proof of Claim and Release forms, and paying escrow fees and costs, if any, and the administrative expenses incurred and fees charged by the Claims Administrator in connection with providing notice and processing the submitted claims. Prior to the Effective Date, payment of any Class Notice and Administration Costs exceeding \$200,000.00 shall require notice to and agreement from Defendants, through Defendants' counsel, which agreement shall not be unreasonably refused. Subsequent to the Effective Date, without further approval by Defendants or the Court, the Settlement Fund may be used by the Escrow Agent to pay reasonable and necessary Class Notice and Administration Costs in excess of \$200,000.00.

(b) In the event that the Settlement is not consummated, money actually paid or sums incurred for this purpose shall not be returned or repaid to Defendants or their insurance carriers, but any remainder in the Settlement Fund shall be so returned. All costs and fees, including expenses of notice, escrow fees, and other settlement administration expenses, shall be paid solely out of the Settlement Fund, and none of the Released Persons, individually or collectively, shall have any liability therefor.

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**d. Taxes**

3.7(a) The Settling Parties agree to treat the Settlement Fund as being at all times a “Qualified Settlement Fund” within the meaning of Treas. Reg. §1.468B-1. In addition, the Escrow Agent shall timely make such elections as necessary or advisable to carry out the provisions of this ¶3.7, including the “relation-back election” (as defined in Treas. Reg. §1.468B-1) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of the Escrow Agent to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur.

(b) For the purpose of §468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the “administrator” shall be the Escrow Agent. The Escrow Agent shall timely and properly file all informational and other tax returns necessary or advisable with respect to the Settlement Fund (including, without limitation, the returns described in Treas. Reg. §1.468B-2(k)). Such returns (as well as the election described in ¶3.7(a) hereof) shall be consistent with this ¶3.7 and in all events shall reflect that all Taxes (including any estimated Taxes, interest, or penalties) on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided in ¶3.7(c) hereof.

(c) The Escrow Agent shall be authorized and directed to timely and properly pay from the Settlement Fund all (a) Taxes (including any estimated Taxes, interest, or penalties) arising with respect to the income earned by the Settlement Fund, including any Taxes or tax detriments that may be imposed upon the Released Persons with respect to any income earned by the Settlement Fund for any period during which the Settlement Fund does not qualify as a “Qualified Settlement Fund” for federal or state income tax purposes (“Taxes”), and (b) expenses and costs



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incurred in connection with the taxation of the Settlement Fund and the operation and implementation of this ¶3.7 (including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses relating to filing (or failing to file) the returns described in this ¶3.7) (“Tax Expenses”); in all events the Released Persons shall have no liability or responsibility for the Taxes or the Tax Expenses or the payment or non-payment thereof. The Settlement Fund shall indemnify and hold each of the Released Persons harmless for Taxes and Tax Expenses (including, without limitation, Taxes payable by reason of any such indemnification). Further, Taxes and Tax Expenses shall be treated as, and considered to be, a cost of administration of the Settlement Fund and shall be timely paid by the Escrow Agent out of the Settlement Fund without prior order from the Court, and the Escrow Agent shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution to Authorized Claimants any funds necessary to pay such amounts, including the establishment of adequate reserves for any Taxes and Tax Expenses (as well as any amounts that may be required to be withheld under Treas. Reg. § 1.468B-2(1)(2)); the Released Persons shall have no liability or responsibility therefor. The Settling Parties hereto agree to cooperate with the Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this ¶3.7. The Released Persons shall not have any responsibility for, or liability whatsoever with respect to, the acts or omissions of Lead Counsel, the Escrow Agent, or the Claims Administrator, as described herein.

**e. Termination of Settlement**

3.8 In the event that the Stipulation: (i) is not approved; (ii) is terminated, canceled, or fails to become effective for any reason, including, without limitation, in the event the Judgment is reversed or vacated following any appeal taken therefrom; or (iii) is successfully collaterally attacked, the Settlement Fund (including accrued interest) less expenses actually incurred or due and owing for Class Notice and Administration Costs, Taxes or Tax Expenses pursuant to ¶¶3.6 or 3.7, shall be returned pursuant to written instructions from NWI’s counsel.

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#### **4. Notice Order and Settlement Hearing**

4.1 Promptly after execution of the Stipulation, and in no event later than January 31, 2014, Lead Counsel shall submit the Stipulation together with its exhibits (the "Exhibits") to the Court and shall apply for entry of an order (the "Notice Order"), in all material respects in the form of Exhibit A attached hereto, requesting, *inter alia*, the preliminary approval of the Settlement set forth in the Stipulation, and approval for the mailing of a Notice of Proposed Settlement of Class Action (the "Notice") and publication of a summary notice, in all material respects in the forms of Exhibits A-1 and A-3 attached hereto. The Notice shall include the general terms of the Settlement set forth in the Stipulation, the proposed Plan of Distribution, the general terms of the Fee and Expense Application, and the date of the Settlement Hearing.

4.2 Lead Counsel shall request that after notice is given to the Class, the Court hold a hearing (the "Settlement Hearing") and approve the Settlement of the Action as set forth herein. At or after the Settlement Hearing, Lead Counsel shall also request that the Court approve the proposed Plan of Distribution and the Fee and Expense Application.

#### **5. Releases**

5.1 Upon the Effective Date, Lead Plaintiffs and each of the Class Members who have not validly opted out of the Class on behalf of themselves, their predecessors, successors, agents, representatives, attorneys and affiliates, and the heirs, executors, administrators, successors, and assigns of each of them shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged against the Released Persons (whether or not such Class Members execute and deliver the Proof of Claim and Release forms) any and all Released Claims (including, without limitation, Unknown Claims), as well

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as any claims arising out of, relating to, or in connection with, the defense, settlement, or resolution of the Action or the Released Claims; provided, however, that Lead Plaintiffs shall retain the right to enforce the terms of the Stipulation and Settlement.

5.2 Upon the Effective Date, Lead Plaintiffs and each of the Class Members who have not validly opted out of the Class shall be permanently barred and enjoined from the assertion, institution, maintenance, prosecution, or enforcement against Defendants, or any Released Persons, in any state or federal court or arbitral forum, or in the court of any foreign jurisdiction, of any and all Released Claims (including, without limitation, Unknown Claims), as well as any claims arising out of, relating to, or in connection with, the defense, settlement, or resolution of the Action or the Released Claims; provided, however, that Lead Plaintiffs shall retain the right to enforce the terms of the Stipulation and Settlement.

5.3 Upon the Effective Date, Lead Plaintiffs and the Class Members on behalf of themselves, their current and former heirs, executors, administrators, successors, attorneys, legal representatives, and assigns, shall be deemed to have, and by operation of the Judgment shall have, expressly waived the benefits of (i) the provisions of § 1542 of the California Civil Code, which provides that:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR,

and (ii) any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, foreign jurisdiction, or principle of common law, which is similar, comparable or equivalent to California Civil Code § 1542. Lead Plaintiffs and Class Members may hereafter discover facts in addition to or different from those which he, she or it now knows or believes to be true with respect to the subject matter of the Released Claims, but Lead Plaintiffs shall expressly, and Lead Plaintiffs and each Class Member on behalf of themselves, their current and former heirs, executors,

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administrators, successors, attorneys, legal representatives and assigns, upon the Effective Date, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever settled and released any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, matured or unmatured, foreseen or unforeseen, whether class or individual in nature, whether concealed or hidden, which now exist, or heretofore have existed, arising under United States federal, state, local, statutory, or common law, or any other law, rule or regulation whether foreign or domestic, or upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct that is negligent, intentional, with or without malice, or a breach of any duty, law, or rule, without regard to the subsequent discovery or existence of such different or additional facts. Lead Plaintiffs acknowledge, and the Class Members shall be deemed by operation of the Judgment to have acknowledged, that the foregoing waiver was separately bargained for and a key element of the Settlement of which this release is a part.

5.4 The Proof of Claim and Release form shall be in all material respects in the form contained in Exhibit A-2 attached hereto.

5.5 Upon the Effective Date, each of the Released Persons shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged Lead Plaintiffs, each and all of the Class Members, and Plaintiffs' Counsel from all claims (including, without limitation, Unknown Claims) arising out of, relating to, or in connection with, the institution, prosecution, assertion, settlement, or resolution of the Action or the Released Claims; provided, however, that Defendants shall retain the right to enforce the terms of the Stipulation and Settlement.

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**6. Administration and Calculation of Claims, Final Awards, and Supervision and Distribution of the Settlement Fund**

6.1 The Claims Administrator, subject to such supervision and direction of the Court as may be necessary or as circumstances may require, shall provide notice of the Settlement to the Class, shall administer and calculate the claims submitted by Class Members, and shall oversee distribution of the Net Settlement Fund to Authorized Claimants.

6.2 In accordance with the schedule set forth in the Notice Order, Lead Counsel will cause to be mailed to all Class Members who can be identified with reasonable efforts, including those who were previously identified for purposes of providing the January 18, 2011 Notice of Pendency of Class Action, the Notice, in all material respects in the form of Exhibit A-1 attached hereto, and a Proof of Claim and Release form, in all material respects in the form of Exhibit A-2 attached hereto. The Notice shall set forth the terms of the Stipulation, including the proposed Plan of Distribution and Lead Counsel's request for attorneys' fees and expenses and Lead Plaintiffs' expenses; the date and time of the Settlement Hearing; the right to object to the Settlement, proposed Plan of Distribution, or request for fees and expenses; the right to appear at the Settlement Hearing; and the right to request exclusion from the Class. The Notice and Proof of Claim and Release form shall also be posted on the Claims Administrator's website. In accordance with the schedule set forth in the Notice Order, a summary notice, in all material respects in the form of Exhibit A-3 attached hereto, will also be published once in the national edition of *Investor's Business Daily* and once over the *Business Wire*. The cost of providing such notice shall be paid out of the Settlement Fund.

6.3 The Settlement Fund shall be applied as follows:

(a) to pay Plaintiffs' Counsel's attorneys' fees and expenses (the "Fee and Expense Award") and Lead Plaintiffs' expenses, if and to the extent allowed by the Court;

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(b) to pay all the Class Notice and Administration Costs and expenses reasonably and actually incurred;

(c) to pay the Taxes and Tax Expenses described in ¶3.7 hereof; and

(d) to distribute the Net Settlement Fund to Authorized Claimants as allowed by the Stipulation, the Plan of Distribution, or the Court.

6.4 Upon the Effective Date and thereafter, and in accordance with the terms of the Stipulation, the Plan of Distribution, or such further approval and further order(s) of the Court as may be necessary or as circumstances may require, the Net Settlement Fund shall be distributed to Authorized Claimants, subject to and in accordance with the following:

(a) Each Person claiming to be an Authorized Claimant shall be required to submit to the Claims Administrator a completed Proof of Claim and Release form, in all material respects in the form of Exhibit A-2 attached hereto, postmarked by no later than ninety (90) calendar days after the Notice Date (as defined in Exhibit A attached hereto), or such other time as may be set by the Court (the "Bar Date"), signed under penalty of perjury and supported by such documents as are specified in the Proof of Claim and Release form and as are reasonably available to such Person.

(b) Except as otherwise ordered by the Court, all Class Members who fail to submit a Proof of Claim and Release form by the Bar Date, or such other period as may be ordered by the Court, or who file a Proof of Claim and Release form that is rejected, shall be forever barred from receiving any payments pursuant to the Stipulation and the Settlement set forth herein, but will in all other respects be subject to and bound by the provisions of the Stipulation, the releases contained herein, and the Judgment. Notwithstanding the foregoing, Lead Counsel may, in their discretion, accept for processing late submitted claims so long as the distribution of the Net Settlement Fund to Authorized Claimants is not materially delayed.

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(c) The Claims Administrator shall calculate the claims of Authorized Claimants in accordance with the Plan of Distribution. Following the Effective Date, the Claims Administrator shall send to each Authorized Claimant his, her, or its *pro rata share of the Net Settlement Fund*.

(d) Defendants shall not have a reversionary interest in the Net Settlement Fund. If there is any balance remaining in the Net Settlement Fund after the initial distribution of the Net Settlement Fund, Lead Counsel shall, if feasible, distribute such balance among Authorized Claimants who negotiated the checks sent to them in the initial distribution in an equitable and economical fashion. These redistributions shall be repeated until the balance remaining in the Net Settlement Fund is *de minimis* and such remaining balance shall, upon approval by the Court, be donated to an appropriate non-profit organization designated by Lead Counsel.

6.5 The Released Persons shall have no responsibility for, interest in, or liability whatsoever with respect to the investment, administration, or distribution of the Settlement Fund, the Plan of Distribution, the determination, administration, calculation or processing of claims, the Net Settlement Fund or any funds held by the Escrow Agent, the payment or withholding of Taxes, or any losses incurred in connection therewith.

6.6 Defendants shall take no position with respect to the Plan of Distribution or any other such plan as may be approved by the Court.

6.7 It is understood and agreed by the Settling Parties that any proposed Plan of Distribution of the Net Settlement Fund including, but not limited to, any adjustments to an Authorized Claimant's claim set forth therein, is not a part of the Stipulation and is to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement set forth in the Stipulation, and any order or proceeding relating to the Plan of Distribution shall not operate to terminate or cancel the Stipulation or affect the finality of the Court's Judgment approving the Stipulation and the Settlement set forth therein, or

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any other orders entered pursuant to the Stipulation. Class Members and Defendants shall be bound by the terms of this Stipulation, irrespective of whether the Court disapproves or modifies the Plan of Distribution.

6.8 No Person shall have any claim against Lead Plaintiffs, Plaintiffs' Counsel, Released Persons, Defendants' counsel, or the Claims Administrator based on distributions made substantially in accordance with the Settlement, the Stipulation, and the Plan of Distribution, or otherwise as further ordered by the Court.

**7. Lead Counsel's Attorneys' Fees and Expenses**

7.1 Lead Counsel may submit an application or applications (the "Fee and Expense Application") for distributions from the Settlement Fund for (a) an award of attorneys' fees to be paid out of the Settlement Fund, plus (b) expenses incurred in connection with prosecuting the Action, plus interest on both amounts. Neither Lead Counsel nor any Class Member shall be entitled to terminate the Stipulation if the Court disapproves of or modifies the terms of this Stipulation with respect to attorneys' fees or expenses or Lead Plaintiffs' expenses or the distribution of the Net Settlement Fund.

7.2 The attorneys' fees and expenses and/or Lead Plaintiffs' expenses, as awarded by the Court, shall be paid by the Escrow Agent to Lead Counsel from the Settlement Fund, as ordered, immediately after the Court enters Judgment and executes an order awarding such fees and expenses. This provision shall apply notwithstanding timely objections to, potential for appeal from, or collateral attack on the Settlement. Lead Counsel shall thereafter allocate the attorneys' fees amongst other Plaintiffs' Counsel in a manner that Lead Counsel in good faith believes reflects the contributions of such counsel to the prosecution and settlement of the Action. Any such awards of attorneys' fees and expenses or Lead Plaintiffs' expenses shall be paid solely by the Settlement Fund. In the event that the Judgment or the order awarding such fees and expenses paid to Lead Counsel or Lead Plaintiffs pursuant to ¶7.1 is reversed, modified, or successfully attacked collaterally, or if the Settlement is



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cancelled or terminated for any reason, then Lead Counsel (and any successor firm) and/or Lead Plaintiffs, as appropriate, shall, in an amount consistent with such reversal, modification, collateral attack, cancellation, or termination, refund such fees or expenses to the Settlement Fund, plus interest thereon at the same rate as earned on the Settlement Fund, within twenty (20) business days from receiving notice from NWI's counsel or from a court of competent jurisdiction. Any refunds required pursuant to this paragraph shall be the obligation of each Plaintiffs' Counsel (and their successor firms) to make appropriate refunds or repayments to the Settlement Fund. Lead Counsel and other Plaintiffs' Counsel, as a condition of receiving such attorneys' fees and expenses, on behalf of themselves and each partner and/or shareholder of them, agree that the law firms and their partners and/or shareholders are subject to the jurisdiction of the Court for the purpose of enforcing the provisions of this paragraph.

7.3 The procedure for and the allowance or disallowance by the Court of the Fee and Expense Application and any Lead Plaintiffs' expenses, to be paid out of the Settlement Fund, are not part of the Settlement set forth in the Stipulation, and are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement, and any order or proceeding relating to the Fee and Expense Application or Lead Plaintiffs' expenses, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel the Stipulation, or affect or delay the finality of the Judgment approving the Stipulation and the settlement of the Action.

7.4 Released Persons shall have no responsibility or liability for any payment of attorneys' fees and expenses to Lead Counsel or any Plaintiffs' Counsel or any Lead Plaintiffs' expenses over and above payment of the Settlement Fund pursuant to ¶3.1.

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7.5 Released Persons shall have no responsibility or liability for the allocation among Plaintiffs' Counsel and/or any other Person who may assert some claim thereto, of any Fee and Expense Award that the Court may make in the Action.

**8. Conditions of Settlement, Effect of Disapproval, Cancellation, or Termination**

8.1 The Effective Date of the Stipulation shall be conditioned on the occurrence of all of the following events:

(a) execution of the Stipulation and such other documents as may be required to obtain final Court approval of the Stipulation in a form satisfactory to the Settling Parties;

(b) the Court has entered the Notice Order, as required by ¶4.1 hereof;

(c) payment of the Settlement Amount of \$16,000,000 in accordance with ¶3.1(b) of this Stipulation;

(d) Defendants have not exercised their option to terminate the Stipulation pursuant to ¶8.3 hereof;

(e) the Court has entered the Judgment in all material respects in the form of Exhibit B attached hereto that, *inter alia*, dismisses with prejudice the Action as set forth above; and

(f) the Judgment has become Final, as defined in ¶1.10 hereof.

8.2 Upon the occurrence of all of the events referenced in ¶8.1 hereof, any and all remaining interest or right of Defendants in or to the Settlement Fund, if any, shall be absolutely and forever extinguished other than claims to enforce the terms of this Stipulation or orders or judgments issued by the Court in connection with the Settlement. If all of the conditions specified in ¶8.1 hereof are not met, then the Stipulation shall be canceled and terminated subject to ¶8.4 hereof unless Lead Counsel and counsel for Defendants mutually agree in writing to proceed with the Settlement.

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8.3 If Persons who otherwise would be members of the Class have timely requested exclusion from the Class in accordance with the provisions of the Notice Order and the notice given pursuant thereto, and such Persons in the aggregate purchased a number of shares of NWI common stock during the Class Period in an amount greater than the sum specified in a separate "Supplemental Agreement" executed between Lead Plaintiffs and Defendants, Defendants shall have, in their sole and absolute discretion, the option to terminate this Stipulation and Settlement in accordance with the procedures set forth in the Supplemental Agreement.

8.4 Unless otherwise ordered by the Court, in the event the Stipulation shall terminate, or be canceled, or shall not become effective for any reason, within five (5) business days after written notification of such event is sent by counsel for Defendants or Lead Counsel to the Escrow Agent, the Settlement Fund (including accrued interest), less expenses which have either been incurred or disbursed pursuant to ¶¶3.6 or 3.7 hereof, shall be refunded pursuant to written instructions from NWI's counsel. At the request of counsel for Defendants, the Escrow Agent or its designee shall apply for any tax refund owed on the Settlement Fund and pay the proceeds, after deduction of any expenses incurred in connection with such application(s) for refund, at the written direction of NWI's counsel.

8.5 In the event that the Stipulation is not approved by the Court or the Settlement set forth in the Stipulation is canceled, terminated or fails to become effective in accordance with its terms, the Settling Parties shall be restored to their respective positions in the Action as of December 6, 2013. In such event, the terms and provisions of the Stipulation, with the exception of ¶¶1.1-1.27, 3.6-3.8, 7.2, 8.4-8.5 and 9.4 hereof, shall have no further force and effect with respect to the Settling Parties and shall not be used in this Action or in any other proceeding for any purpose, and any judgment or order entered by the Court in accordance with the terms of the Stipulation shall be treated as vacated, *nunc pro tunc*, and the Settling Parties shall be deemed to return to their status as of December 6, 2013, and shall be required to

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present an amended schedule to the Court. No order of the Court or modification or reversal on appeal of any order of the Court concerning the Plan of Distribution, the amount of any attorneys' fees, expenses, and interest awarded by the Court to Lead Counsel, or the amount of any expenses awarded by the Court to Lead Plaintiffs shall constitute grounds for cancellation or termination of the Stipulation.

8.6 Lead Counsel shall have the right, but not the obligation, to terminate the Settlement fifteen (15) calendar days after Defendants' failure to timely pay the cash component of the Settlement Amount into the Escrow Account or timely deliver to the Escrow Agent the Settlement Stock and Settlement Note.

#### **9. Miscellaneous Provisions**

9.1 The Settling Parties (a) acknowledge that it is their intent to consummate this Stipulation; and (b) agree to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of the Stipulation and to exercise their best efforts to accomplish the foregoing terms and conditions of the Stipulation expeditiously.

9.2 Each Defendant warrants and represents as to himself, herself or itself only, that he, she or it is not "insolvent" within the meaning of 11 U.S.C. §101(32) as of the time the Stipulation is executed and as of the time the payments are actually transferred or made as reflected in the Stipulation.

9.3 The Settling Parties intend this Settlement to be a final and complete resolution of all disputes between them with respect to the Action. The Settlement shall not be deemed an admission by any Settling Party as to the merits of any claim or defense. The Settling Parties and their counsel agree that they shall not assert or allege in any action, proceeding, or claim that any party hereto violated Rule 11 of the Federal Rules of Civil Procedure, and the Judgment shall contain a finding that all Settling Parties and their counsel complied with the requirements of Rule 11 with respect to the institution, prosecution, defense, and resolution of the Action. The Settling Parties agree that the amount paid to the Settlement Fund and the other terms

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of the Settlement were negotiated in good faith by the Settling Parties and reflect a settlement that was reached voluntarily after consultation with competent legal counsel. The Settling Parties reserve their right to rebut, in a manner that such party determines to be appropriate, any contention made in any public forum regarding the Action, including that the Action was brought or defended in bad faith or without a reasonable basis.

9.4 Neither the Stipulation nor the Settlement contained herein, nor any act performed or document executed pursuant to or in furtherance of the Stipulation or the Settlement (a) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim, or of any wrongdoing or liability of the Released Persons; or (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the Released Persons; or (c) is or may be deemed to be or may be used as an admission or evidence that any claims asserted by Lead Plaintiffs were not valid or that the amount recoverable was not greater than the Settlement Amount, in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal. The Defendants continue to deny liability and the Released Persons may file the Stipulation and/or the Judgment in any action that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim. If any Released Claims (including, without limitation, Unknown Claims) are asserted against any Released Persons in any court prior to final Court approval of the Settlement, the Settling Parties shall cooperate in obtaining the withdrawal or dismissal of such related litigation, including, where appropriate, joining in any motion to dismiss such litigation.

9.5 All agreements made and orders entered during the course of the Action relating to the confidentiality of information shall survive this Stipulation.

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9.6 All of the Exhibits to the Stipulation are material and integral parts hereof and are fully incorporated herein by this reference.

9.7 The Stipulation may be amended or modified only by a written instrument signed by or on behalf of all Settling Parties or their respective successors-in-interest.

9.8 The Stipulation and the Exhibits attached hereto (together with the Supplemental Agreement referred to in ¶8.3) constitute the entire agreement among the Settling Parties and no representations, warranties, or inducements have been made to any Settling Party concerning the Stipulation or its Exhibits other than the representations, warranties, and covenants contained and memorialized in such documents. Except as otherwise provided herein (or, as between Defendants, in any separate agreements between them), each Settling Party shall bear its own costs.

9.9 Neither the Class Members nor Defendants shall be bound by the Stipulation if the Court modifies material terms thereof, provided, however, that it shall not be a basis for Class Members to terminate the Settlement if the Court modifies any proposed Plan of Distribution or criteria for allocation of the Net Settlement Fund amongst Class Members, or the Plan of Distribution is modified on appeal. Nor shall it be a basis to terminate the Stipulation if the Court disapproves of or modifies the terms of this Stipulation with respect to attorneys' fees or expenses, Lead Plaintiffs' expenses or the distribution of the Net Settlement Fund. Notwithstanding any such modification of the terms of the Plan of Distribution or the Stipulation with respect to attorneys' fees or expenses or Lead Plaintiffs' expenses, Defendants shall be entitled to all benefits of the Settlement and shall not, under any circumstances, be called upon to contribute additional funds to the Settlement Fund.

9.10 Lead Counsel, on behalf of the Class, is expressly authorized by Lead Plaintiffs to take all appropriate action required or permitted to be taken by the Class pursuant to the Stipulation to effectuate its terms and also is expressly authorized to enter into any modifications or amendments to the Stipulation on behalf of the Class which it deems appropriate.

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9.11 Lead Plaintiffs and Lead Counsel represent and warrant that none of the Lead Plaintiffs' claims or causes of action referred to in this Action or this Stipulation has been assigned, encumbered, or in any manner transferred in whole or in part.

9.12 Each counsel or other Person executing the Stipulation or any of its Exhibits on behalf of any Settling Party hereby warrants that such Person has the full authority to do so.

9.13 The Stipulation may be executed in one or more counterparts, including by e-mail in PDF format or by telecopier. All executed counterparts and each of them shall be deemed to be one and the same instrument. A complete set of executed counterparts shall be filed with the Court.

9.14 The Stipulation shall be binding upon, and inure to the benefit of, the heirs, successors, and assigns of the Settling Parties hereto.

9.15 The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of the Stipulation, and all Settling Parties hereto submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in the Stipulation.

9.16 Pending approval of the Court of the Stipulation and its Exhibits, all proceedings in this Action shall be stayed and Lead Plaintiffs and all members of the Class shall be barred and enjoined from prosecuting any of the Released Claims (including, without limitation, Unknown Claims) against any of the Released Persons.

9.17 This Stipulation and the Exhibits hereto shall be considered to have been negotiated, executed, and delivered, and to be wholly performed, in the State of California, and the rights and obligations of the parties to the Stipulation shall be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of California without giving effect to that State's choice-of-law principles.

IN WITNESS WHEREOF, the parties hereto have caused the Stipulation to be executed, by their duly authorized attorneys, dated January 31, 2014.

ROBBINS GELLER RUDMAN & DOWD LLP JEFFREY D.  
LIGHT  
DOUGLAS R. BRITTON  
ROBERT R. HENSSLER JR.  
LUCAS F. OLTS  
ERIC I. NIEHAUS

/s/ Douglas R. Britton

DOUGLAS R. BRITTON

655 West Broadway, Suite 1900  
San Diego, CA 92101  
Telephone: 619/231-1058  
619/231-7423 (fax)

Lead Counsel for Plaintiffs

DYER & BERENS LLP  
ROBERT J. DYER III  
JEFFREY A. BERENS  
303 East 17th Avenue, Suite 810  
Denver, CO 80203  
Telephone: 303/861-1764  
303/395-0393 (fax)

HOLZER HOLZER & FISTEL, LLC  
COREY D. HOLZER  
MICHAEL I. FISTEL, JR.  
MARSHALL P. DEES  
200 Ashford Center North, Suite 300  
Atlanta, GA 30338  
Telephone: 770/392-0090  
770/392-0029 (fax)

Additional Counsel for Plaintiff



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JONES DAY  
THOMAS R. JACKSON

/s/ Thomas R. Jackson

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THOMAS R. JACKSON

2727 North Harwood Street  
Dallas, TX 75201-1515  
Telephone: 214/220-3939  
214/969-5100 (fax)

Attorneys for Novatel Wireless, Inc. and the Individual  
Defendants

## NOVATEL WIRELESS, INC.

## SETTLEMENT NOTE

\$5,000,000

July 3, 2014 (“Note Date”)

FOR VALUE RECEIVED, Novatel Wireless, Inc. (“**NWI**” or the “**Company**”), promises to pay to the Escrow Agent, for the benefit of the Class (as defined in the Stipulation (as defined below)), in lawful money of the United States of America, the principal sum of \$5,000,000, or such lesser amount as shall equal the outstanding principal amount hereof after any payment in accordance with Section 2 hereof, together with interest from the date of this Note on the unpaid principal balance at a rate equal to 5% per annum (which rate shall represent the yield on this Note for income tax purposes), computed on the basis of the actual number of days elapsed and a year of 365 days. The interest earned on the principal amount of this Note shall be payable in cash quarterly to the Escrow Agent, as defined in that Stipulation of Settlement dated January 31, 2014 (the “**Stipulation**” or “**Settlement**”) in the *In re Novatel Wireless, Inc. Securities Litigation* (the “**Action**”). NWI shall pay the quarterly interest payments to the Escrow Agent, for the benefit of the Class, by the fifth business day following the close of each of NWI’s fiscal quarters during the term of this Note, beginning on October 7, 2014. The outstanding principal amount of this Note shall be due and payable in cash on the Maturity Date (as defined below). The obligations due under this Note are secured by a Security Agreement (the “**Security Agreement**”), dated July 3, 2014 and executed by the Company in favor of the Escrow Agent, for the benefit of the Class. Additional rights of the Escrow Agent, for the benefit of the Class, are set forth in the Security Agreement.

The following is a statement of the rights of the Escrow Agent, for the benefit of the Class, and the conditions to which this Note is subject, and to which the Escrow Agent, for the benefit of the Class, by the acceptance of this Note, agrees:

1. **Definitions.** As used in this Note, the following capitalized terms have the following meanings:

(a) “**Maturity Date**” means the earlier of (i) the occurrence of an Event of Default (as defined below), or (ii) December 24, 2016, when all amounts hereunder are declared by the Escrow Agent due and payable or made automatically due and payable in accordance with the terms hereof.

(b) “**Obligations**” means all principal, interest and other reasonable costs and expenses (including reasonable attorneys’ fees and costs) required to be paid by the Company to the Escrow Agent, for the benefit of itself or the Class, pursuant to the terms of this Note and the Security Agreement, in each case, whether absolute or contingent, due or to become due, and whether or not arising after the commencement of a proceeding under Title 11 of the United States Code (11 U.S.C. Section 101 et seq.), as amended from time to time (including post-petition interest) and whether or not allowed or allowable as a claim in any such proceeding.

(c) “**Transaction Documents**” means, collectively, this Note and the Security Agreement.

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2. **Repayment.** All accrued interest payable on this Note shall be due and payable in cash to the Escrow Agent, for the benefit of the Class, (a) quarterly, by the fifth business day following the close of each of NWP's fiscal quarters during the term of this Note, beginning on October 7, 2014, and (b) on the Maturity Date. All outstanding principal on this Note shall be due and payable in cash to the Escrow Agent, for the benefit of the Class, on the Maturity Date. If any payment due date is not a business day when banks are open for business in the State of California, the applicable payment due date shall be the next business day when such banks are so open. Notwithstanding anything to the contrary contained in any Transaction Document, the Company may, at its option and from time to time and at any time prior to the Maturity Date, prepay all or any portion of the principal amount of this Note, accrued interest thereon and all other Obligations without premium or penalty.

3. **Events of Default.** The occurrence of any of the following shall constitute an "Event of Default" under this Note and the other Transaction Documents to the extent applicable:

(a) *Failure to Pay.* The Company shall fail to pay (i) when due any principal on the due date hereunder; or (ii) any interest or other payment required under the terms of this Note or any other Transaction Document on the date due and such payment shall not have been made within fifteen (15) calendar days of written notice by the Escrow Agent to the Company of such failure to pay; or

(b) *Voluntary Bankruptcy or Insolvency Proceedings.* The Company shall (i) apply for or consent to the appointment of a receiver, trustee, liquidator or custodian of itself or of all or a substantial part of its property, (ii) be unable, or admit in writing its inability, to pay its debts generally as they mature, (iii) make a general assignment for the benefit of its or any of its creditors, (iv) be dissolved or liquidated, (v) become insolvent (as such term may be defined or interpreted under any applicable statute), (vi) commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or consent to any such relief or to the appointment of or taking possession of its property by any official in an involuntary case or other proceeding commenced against it, or (vii) take any action for the purpose of effecting any of the foregoing; or

(c) *Involuntary Bankruptcy or Insolvency Proceedings.* Proceedings for the appointment of a receiver, trustee, liquidator or custodian of the Company or of all or a substantial part of the property thereof, or an involuntary case or other proceedings seeking liquidation, reorganization or other relief with respect to the Company or the debts thereof under any bankruptcy, insolvency or other similar law now or hereafter in effect shall be commenced and an order for relief entered or such proceeding shall not be dismissed or discharged within forty (40) business days of commencement; or

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(d) *Breaches.* (i) The Company breaches, in any material respect, any covenant or other agreement made by the Company in this Note or any other Transaction Document, or (ii) any warranty made by the Company in this Note or any other Transaction Document shall prove to have been false in any material respect when made and, in each case, the Company fails to cure such breach or misstatement within ten (10) business days after the earlier of (1) an executive officer or in-house counsel of the Company becoming aware of the occurrence of such breach, or (2) written notice from the Escrow Agent – this cure period does not apply to a failure to pay as defined in paragraph 3(a) hereof; or

(e) *Indebtedness.* A default by the Company shall occur and be continuing under one or more agreements (other than the Transaction Documents) to which the Company is a party and pursuant to which the Company owes one or more unaffiliated third parties indebtedness (other than (i) trade payables entered into in the ordinary course of business not more than 90 days past due and (ii) trade payables for which the Company is withholding payment because of a claim being asserted by the Company in good faith against the applicable creditor) in an aggregate principal amount of \$ 1,000,000 or more and such default (i) occurs at the final maturity of the obligations thereunder, or (ii) entitles such unaffiliated third parties to accelerate the maturity date of the Company's obligations under such agreements or terminate such unaffiliated parties' commitments to provide indebtedness under such agreements; or

(f) *Security.* If, at any time after the date hereof, the Security Agreement shall become unenforceable or shall not be in full force and effect, or if, at any time, the Escrow Agent, for the benefit of the Class, ceases to have a valid and perfected security interest in any collateral purported to be covered thereby unless the Escrow Agent has failed to take all necessary steps to perfect such security interest.

4. **Rights of the Escrow Agent upon Default.** Upon the occurrence or existence of any Event of Default (other than an Event of Default described in Sections 3(b) or 3(c)) and at any time thereafter during the continuance of such Event of Default, the Escrow Agent may, by written notice to the Company, declare all outstanding Obligations payable by the Company hereunder to be immediately due and payable without presentment, demand, protest or any other notice of any kind, all of which are hereby expressly waived. Upon the occurrence or existence of any Event of Default described in Sections 3(b) and 3(c), immediately and without notice, all outstanding Obligations payable by the Company hereunder shall automatically become immediately due and payable, without presentment, demand, protest or any other notice of any kind, all of which are hereby expressly waived. In addition to the foregoing remedies, upon the occurrence or existence of any Event of Default, the interest rate on this Note shall increase to 10% per annum until such time as the Escrow Agent takes possession of and liquidates the Collateral in an amount that satisfies in full all of the Obligations, and the Escrow Agent may exercise any other right, power or remedy granted to it by the Transaction Documents or otherwise permitted to it by law, either by suit in equity or by action at law, or both.

5. **Secured Note.** The full amount of this Note is secured by the collateral identified and described as security therefor in the Security Agreement.

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6. **Successors and Assigns.** Subject to the restrictions on transfer described in the Transaction Documents, the rights and obligations of the Company, the Escrow Agent and the Class shall be binding upon and benefit the successors, assigns, heirs, administrators and transferees of the parties.

7. **Waiver and Amendment.** Any provision of this Note may be amended, waived or modified upon the written consent of the Company and the Escrow Agent.

8. **Notices.** All notices, requests, demands, consents, instructions or other communications required or permitted hereunder shall be in writing and faxed, mailed or delivered to each party at the respective addresses of the parties as set forth in the Security Agreement, or at such other address or facsimile number as the Company shall have furnished to the Escrow Agent in writing. All such notices and communications will be deemed effectively given the earlier of (i) when received; (ii) when delivered personally; (iii) one business day after being delivered by facsimile (with receipt of appropriate confirmation); (iv) one business day after being deposited with an overnight courier service of recognized standing; or (v) three business days after being deposited in the U.S. mail, first class with postage prepaid.

9. **Usury.** In the event any interest is paid on this Note which is deemed to be in excess of the then applicable legal maximum rate, then that portion of the interest payment representing an amount in excess of such then legal maximum rate shall be deemed a payment of principal and applied against the principal of this Note.

10. **Waivers.** The Company hereby waives notice of default, presentment or demand for payment, protest or notice of nonpayment or dishonor and all other notices or demands relative to this Note (except those notices set forth in Section 3 hereof).

11. **Transfer.** The Transaction Documents may be sold or transferred by the Escrow Agent, but the Escrow Agent shall provide notice to the Company of any such sale or transfer within five (5) business days; provided that, notwithstanding the foregoing contained in this sentence, the Escrow Agent shall not sell or transfer the Transaction Documents to Lead Counsel, as defined in the Stipulation.

12. **Governing Law.** This Note and all actions arising out of or in connection with this Note shall be governed by and construed in accordance with the laws of the State of California, without regard to the conflicts of law provisions of the State of California, or of any other state.

*(Signature Page Follows)*

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The Company has caused this Settlement Note to be issued as of the date first written above.

Novatel Wireless, Inc.



By: \_\_\_\_\_

Name: Slim Souissi

Title: COO

**SECURITY AGREEMENT**

THIS SECURITY AGREEMENT (as amended, modified or otherwise supplemented from time to time, this “**Security Agreement**”), dated as of July 3, 2014, is executed by Novatel Wireless, Inc. (“**NWI**” or the “**Company**”) (together with its successors and assigns), in favor of the Escrow Agent (defined below) for the benefit of the Class (as such term is defined in the Stipulation of Settlement (the “**Stipulation**”) in *In re Novatel Wireless, Inc. Securities Litigation*, and all references to the term Class in this Security Agreement shall have such meaning). The “**Owner**” of this Security Agreement shall be the “**Escrow Agent**” as defined in the Stipulation and will hold this Security Agreement and perform all rights and obligations of the Class provided herein for the beneficial interest of the Class. The Class is the beneficiary of this Security Agreement.

**RECITALS**

A. Simultaneously herewith, Company has executed and delivered to the Escrow Agent that certain Settlement Note, dated as of the date hereof, made by the Company payable to the Escrow Agent, for the benefit of the Class, in the aggregate principal amount of \$5,000,000 (the “**Note**”).

B. In order to induce the Escrow Agent, for the benefit of the Class, to extend the credit evidenced by the Note, Company has agreed to enter into this Security Agreement and to grant the Escrow Agent, for the benefit of the Class, the security interest in the Collateral described below.

**AGREEMENT**

NOW, THEREFORE, in consideration of the above recitals and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Company hereby agrees with the Escrow Agent, for the benefit of the Class, as follows:

1. **Definitions and Interpretation**. When used in this Security Agreement, the following terms have the following respective meanings:

(a) “**Collateral**” has the meaning given to that term in Section 2 hereof.

(b) “**Lien**” means any mortgage, deed of trust, pledge, security interest, assignment, deposit arrangement, charge or encumbrance, or other type of lien.

(c) “**Obligations**” means all principal, interest and other reasonable costs and expenses (including reasonable attorneys’ fees and costs) required to be paid by the Company to the Escrow Agent, for the benefit of itself or the Class, pursuant to the terms of the Note and this Security Agreement (the “**Transaction Documents**”), in each case, whether absolute or contingent, due or to become due, and whether or not arising after the commencement of a proceeding under Title 11 of the United States Code (11 U.S.C. Section 101 et seq.), as amended from time to time (including post-petition interest) and whether or not allowed or allowable as a claim in any such proceeding.

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(d) “**Permitted Liens**” means any security interests or lien in that portion of Collateral not necessary to satisfy the Required Ratio.

(e) “**Required Ratio**” has the meaning set forth in Attachment 1 hereto.

(f) “**UCC**” means the Uniform Commercial Code as in effect in the State of California from time to time.

All capitalized terms not otherwise defined herein shall have the respective meanings given in the Note and the Stipulation. Unless otherwise defined herein, all terms defined in the UCC have the respective meanings given to those terms in the UCC.

2. Grant of Security Interest. As security for the Obligations, Company hereby pledges to and grants to the Escrow Agent, for the benefit of the Class, a security interest in all right, title and interests of Company in and to the Accounts Receivable (as defined in Attachment 1 hereto), whether now owned or hereafter arising or acquired, including all proceeds from the disposition or collection of the Accounts Receivable, all chattel paper or other instruments evidencing any Accounts Receivable and all claims the Company may have against the applicable account debtors for unpaid amounts owed by such account debtors in respect of any Accounts Receivable (collectively all such Accounts Receivable, chattel paper, instruments and claims, the “Collateral”).

3. General Representations and Warranties. Company represents and warrants to the Escrow Agent, for the benefit of the Class, that (a) Company is the owner of the Collateral (or, in the case of after-acquired Collateral, at the time Company or its subsidiaries acquires rights in the Collateral, will be the owner thereof) and that no other person or entity has (or, in the case of after-acquired Collateral, at the time Company acquires rights therein, will have) any right, title, claim or interest (by way of Lien or otherwise) in, against or to the Collateral, other than Permitted Liens; (b) upon the filing of UCC-1 financing statements in the appropriate filing offices, the Escrow Agent, for the benefit of the Class, has (or in the case of after-acquired Collateral, at the time Company acquires rights therein, will have) a valid first-priority perfected security interest in the Collateral to the extent that a security interest in the Collateral can be perfected by such filing, except for Permitted Liens; (c) all Accounts Receivable are genuine and enforceable against the party obligated to pay the same; (d) the originals of all documents evidencing all accounts receivable and payment intangibles of Company and the only original books of account and records of Company relating thereto are as of the date hereof, and will continue to be (unless the Company notifies the Escrow Agent), kept at the address of Company set forth on the signature page of this Security Agreement, provided, however, that in no event, without prior written notice to the Escrow Agent, shall the Company relocate such documents to any location outside of the State of California, and in no event, without prior written consent of the Escrow Agent, shall the Company relocate such documents to any location outside of the United States; (e) all corporate action on the part of Company and its directors, officers and



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stockholders necessary for the authorization, execution and delivery of the Transaction Documents by Company and the performance of all of Company's obligations under the Transaction Documents has been taken or will be taken prior to execution of the Transaction Documents; (f) the Transaction Documents, when executed and delivered by Company, shall constitute valid and binding obligations of Company, enforceable in accordance with its terms, except (1) as limited by laws of general application relating to bankruptcy, insolvency and the relief of debtors, and (2) as limited by rules of law governing specific performance, injunctive relief or other equitable remedies and by general principles of equity; (g) the Required Ratio is satisfied as of the date hereof; (h) the financial statements contained in NWI's Quarterly Report on Form 10 Q dated May 8, 2014 present fairly, in all material respects, the consolidated financial condition of Company and its consolidated subsidiaries as of the date thereof and the consolidated results of operations of Company and its consolidated subsidiaries for the period then ended, (i) since March 12, 2014, no event, circumstance, or change has occurred that has had, or would reasonably be expected to have, (1) a material adverse change in the business, assets, liabilities or financial condition of Company and its consolidated subsidiaries, taken as a whole, (2) a material impairment of Company's ability to perform its obligations under the Transaction Documents or of the Escrow Agent's ability to enforce the Obligations or realize upon the Collateral, or (3) a material impairment of the enforceability or priority of the Escrow Agent's security interests in the Collateral granted pursuant hereto that has occurred as a result of a breach by Company of the terms of this Security Agreement, and (j) there are no liens or security interests in the Collateral as of the date hereof, other than those granted to the Escrow Agent for the benefit of itself or the Class pursuant to this Security Agreement.

4. Covenants Relating to Collateral. Company hereby agrees (a) to comply with the provisions set forth in Attachment I hereto and not to otherwise encumber the Collateral other than by Permitted Liens or by the security interest granted to the Escrow Agent for the benefit of itself or the Class pursuant to this Security Agreement; (b) to deliver to the Escrow Agent, contemporaneous with NWI's quarterly interest payment, a compliance confirmation from a senior officer that NWI is in compliance with the Required Ratio; (c) to provide notice to the Escrow Agent at least five (5) business days prior to the Company granting any security interest in the Collateral other than pursuant to this Security Agreement; (d) to perform all acts that may be necessary to maintain, preserve, protect and perfect the Collateral, the Lien granted herein and the perfection of such Lien, except for Permitted Liens or as otherwise permitted hereby; (e) not to use or permit any Collateral to be used (1) in violation in any material respect of any applicable law, rule or regulation, or (2) in violation of any policy of insurance covering the Collateral; (f) to pay promptly when due all material taxes and other governmental charges, all Liens (other than the security interests created hereby and Permitted Liens) and all other charges now or hereafter imposed upon or affecting any Collateral, except to the extent being contested in good faith by appropriate proceedings; (g) without written notice to the Escrow Agent, not to change (1) Company's name or place of business (or, if Company has more than one place of business, its chief executive office), (2) the office in which Company's records relating to accounts receivable and payment intangibles are kept to any location outside of the State of California, or (3) Company's state of incorporation; (h) without prior written consent of the Escrow Agent, not to change the office in which Company's records relating to accounts

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receivable and payment intangibles are kept to any location outside of the United States; and (i) to procure, execute and deliver from time to time any endorsements, assignments, financing statements and other writings reasonably deemed necessary or appropriate by the Escrow Agent to perfect, maintain and protect its Lien hereunder and to deliver promptly upon the request of the Escrow Agent all originals of Collateral consisting of instruments.

5. Authorized Action by Escrow Agent. Company hereby irrevocably appoints the Escrow Agent as its attorney-in-fact (which appointment is coupled with an interest) and agrees that such Escrow Agent may perform (but the Escrow Agent shall not be obligated to and shall incur no liability to Company or any third party for failure so to do) any act which Company is obligated by this Security Agreement to perform, and to exercise such rights and powers as Company might exercise with respect to the Collateral, including the right to (a) gain access to the books of Company pertaining to the Collateral and to NWI's premises at all reasonable times to inspect, make copies of and audit such books of NWI; (b) collect by legal proceedings or otherwise and endorse, receive and receipt for all dividends, interest, payments, proceeds and other sums and property now or hereafter payable on or on account of the Collateral; (c) enter into any extension, reorganization, deposit, merger, consolidation or other agreement pertaining to, or deposit, surrender, accept, hold or apply other property in exchange for the Collateral; (d) make any compromise or settlement, and take any action it deems advisable, with respect to the Collateral; (e) insure, process and preserve the Collateral; and (f) pay any indebtedness of Company relating to the Collateral; provided, however, that the Escrow Agent shall not exercise or perform any such rights or powers granted pursuant to this sentence (including those described in subsections (a) through (f) of this sentence) prior to the occurrence of an Event of Default and shall only exercise such rights and powers during the continuance of an Event of Default. Company agrees to reimburse the Escrow Agent upon demand for any reasonable costs and expenses, including reasonable attorneys' fees, the Escrow Agent may incur while acting as Company's attorney-in-fact in accordance with this Section 5, all of which costs and expenses are included in the Obligations. It is further agreed and understood between the parties hereto that such care as the Escrow Agent gives to the safekeeping of its own property of like kind shall constitute reasonable care of the Collateral when in the Escrow Agent's possession; provided, however, that the Escrow Agent shall not be required to make any presentment, demand or protest, or give any notice and need not take any action to preserve any rights against any prior party or any other person in connection with the Obligations or with respect to the Collateral. The Escrow Agent may file, amend or modify any UCC financing statements to perfect the security interest granted by Company pursuant to this Agreement. Additionally, the Escrow Agent will be permitted access, during the normal business hours of Company and upon five (5) business days' prior written notice from the Escrow Agent to Company, to Company's books and records pertaining to the Collateral for the purpose of determining Company's compliance with the Security Agreement, provided that, notwithstanding the foregoing contained in this sentence, (a) the Escrow Agent can only exercise the rights granted pursuant to this sentence one time during any six consecutive month period, and (b) unless an Event of Default shall have occurred, the Escrow Agent shall bear all costs and expenses associated with its exercise of such rights, with no obligations of Company to reimburse the Escrow Agent for any such costs and expenses.

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6. Litigation and Other Proceedings. Upon the occurrence and during the continuation of an Event of Default, the Escrow Agent shall have the right but not the obligation to bring suit or institute proceedings in the name of Company or the Class to enforce any rights in the Collateral, including any license thereunder, in which event Company shall at the request of the Escrow Agent do any and all lawful acts and execute any and all documents reasonably required by the Escrow Agent in aid of such enforcement.

7. Default and Remedies.

(a) Default. Company shall be deemed in default under this Security Agreement upon the occurrence and during the continuance of an Event of Default (as defined in the Note).

(b) Remedies. Upon the occurrence and during the continuance of any Event of Default, the Escrow Agent, for the benefit of the Class, shall have the rights of a secured creditor under the UCC, all rights granted by this Security Agreement and by applicable law, including the right to: (a) require Company to assemble the Collateral and make it available to the Escrow Agent at a place to be designated by the Escrow Agent; and (b) prior to the disposition of the Collateral, store, process, repair or recondition it or otherwise prepare it for disposition in any manner and to the extent the Escrow Agent deems appropriate. Company hereby agrees that ten (10) days notice of any intended sale or disposition of any Collateral is reasonable.

(c) Application of Collateral Proceeds. The proceeds of the Collateral, or any part thereof, and the proceeds of any remedy hereunder (as well as any other amounts of any kind held by the Escrow Agent at the time of, or received by the Escrow Agent after, the occurrence and during the continuance of an Event of Default in accordance with this Agreement) shall be paid to and applied as follows:

(i) First, to the payment of reasonable costs and expenses, including reasonable legal expenses and attorneys' fees, incurred by the Escrow Agent that are required to be paid by Company pursuant to this Security Agreement or the Note;

(ii) Second, to the payment to the Class of the amount then owing or unpaid on the Note on a pro rata basis, and in case such proceeds shall be insufficient to pay in full the whole amount so due, owing or unpaid upon such Note, then its pro rata share of the amount remaining to be distributed (to be applied first to accrued interest and second to outstanding principal);

(iii) Third, to the payment of other amounts then payable to the Class in accordance with the Transaction Documents, and in case such proceeds shall be insufficient to pay in full the whole amount so due, owing or unpaid, then its pro rata share of the amount remaining to be distributed; and

(iv) Fourth, to the payment of the surplus, if any, to Company, its successors and assigns, or to whosoever may be lawfully entitled to receive the same.

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8. Miscellaneous.

(a) Notices. All notices, requests, demands, consents, instructions or other communications required or permitted hereunder shall be in writing and faxed, mailed or delivered to each party at the respective addresses of the parties as set forth in the Security Agreement, or at such other address or facsimile number as the Company shall have furnished to the Escrow Agent in writing. All such notices and communications will be deemed effectively given the earlier of (i) when received; (ii) when delivered personally; (iii) one business day after being delivered by facsimile (with receipt of appropriate confirmation); (iv) one business day after being deposited with an overnight courier service of recognized standing; or (v) three business days after being deposited in the U.S. mail, first class with postage prepaid.

(b) Termination of Security Interest. Upon the payment in full of all Obligations, the security interest granted herein shall terminate and all rights to the Collateral shall revert to the Company. Upon such termination, the Escrow Agent, for the benefit of the Class, hereby authorizes Company to file any UCC termination statements necessary to effect such termination, and the Escrow Agent will execute and deliver to Company any additional documents or instruments as Company shall reasonably request to evidence such termination.

(c) Nonwaiver. No failure or delay on the Escrow Agent's part in exercising any right hereunder shall operate as a waiver thereof or of any other right nor shall any single or partial exercise of any such right preclude any other further exercise thereof or of any other right.

(d) Amendments and Waivers. This Security Agreement may not be amended or modified, nor may any of its terms be waived, except by written instruments signed by Company and the Escrow Agent. Each waiver or consent under any provision hereof shall be effective only in the specific instances for the purpose for which given.

(e) Assignments. This Security Agreement shall be binding upon and inure to the benefit of the Escrow Agent, the Class and Company and their respective successors and assigns; provided, however, that Company may not sell, assign or delegate rights and obligations hereunder without the prior written consent of the Escrow Agent.

(f) Cumulative Rights, etc. The rights, powers and remedies of the Escrow Agent, for the benefit of the Class, under this Security Agreement shall be in addition to all rights, powers and remedies given to the Escrow Agent, for the benefit of the Class, by virtue of any applicable law, rule or regulation of any governmental authority, or any other agreement, all of which rights, powers, and remedies shall be cumulative and may be exercised successively or concurrently without impairing the rights of the Escrow Agent, for the benefit of the Class, hereunder. Company waives any right to require the Escrow Agent, for the benefit of the Class, to proceed against any person or entity or to exhaust any Collateral or to pursue any remedy in the Escrow Agent's power.

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(g) Payments Free of Taxes, etc. All payments made by Company under the Note shall be made by Company free and clear of and without deduction for any and all present and future taxes, levies, charges, deductions and withholdings. In addition, Company shall pay upon demand any stamp or other taxes, levies or charges of any jurisdiction with respect to the execution, delivery, registration, performance and enforcement of this Security Agreement. Upon request by the Escrow Agent, Company shall furnish evidence satisfactory to such Escrow Agent that all requisite authorizations and approvals by, and notices to and filings with, governmental authorities and regulatory bodies have been obtained and made and that all requisite taxes, levies and charges have been paid.

(h) Partial Invalidity. If at any time any provision of this Security Agreement is or becomes illegal, invalid or unenforceable in any respect under the law or any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Security Agreement nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired thereby.

(i) Expenses. Company shall, subject to the immediately following sentence, pay on demand all reasonable fees and expenses, including reasonable attorneys' fees and expenses, incurred by the Escrow Agent upon the occurrence and during the continuance of an Event of Default in connection with (a) the sale of, or other realization on, any of the Collateral by the Escrow Agent or (b) the Escrow Agent's enforcement or attempt to enforce any of the Obligations which are not performed as and when required by this Security Agreement. Any demand made by the Escrow Agent for fees and expenses payable by Company in accordance with this Security Agreement shall be in writing, accompanied by a statement detailing such fees and expenses to Company's reasonable satisfaction, which fees and expenses shall then be payable by Company within thirty (30) calendar days after Company's receipt of such demand and accompanying statement.

(j) Entire Agreement. This Security Agreement, the Note, and the Stipulation constitute and contain the entire agreement of Company and the Escrow Agent, for the benefit of the Class, and supersede any and all prior agreements, negotiations, correspondence, understandings and communications among the parties, whether written or oral, respecting the subject matter hereof.

(k) Governing Law. This Security Agreement shall be governed by and construed in accordance with the laws of the State of California without reference to conflicts of law rules (except to the extent governed by the UCC).

(l) Counterparts. This Security Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall be deemed to constitute one instrument. Original signatures hereto may be delivered by facsimile or by portable data format (PDF) which shall be deemed originals.

*[The remainder of this page is intentionally left blank]*

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

**COMPANY:**

Novatel Wireless, Inc.



By: \_\_\_\_\_

Name: Slim Souissi

Title: COO

Address: \_\_\_\_\_

\_\_\_\_\_

Attn: \_\_\_\_\_

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

**ESCROW AGENT:**

By:

\_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Attn: \_\_\_\_\_

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**ATTACHMENT 1  
TO SECURITY AGREEMENT**

All right, title and interest of NWI in and to its trade accounts receivable arising in the ordinary course of NWI's business (collectively, the "**Accounts Receivable**"), provided that (a) as of any date of determination while this Security Agreement is in effect, the aggregate value of the Collateral, as set forth in the quarterly report on Form 10-Q or annual report on Form 10-K then most recently filed by NWI with the SEC pursuant to the Securities Exchange Act, shall at all times be an amount equal to at least the product determined by multiplying (i) five (5) by (ii) the outstanding amount of the Note as of any such date (including all outstanding principal and accrued interest) (the "**Required Ratio**"), and (b) notwithstanding anything to the contrary in the Transaction Documents, (i) NWI is hereby permitted to sell, transfer or encumber at any time all or any portion of the Collateral not required to satisfy the Required Ratio, so long as (A) both before and immediately after giving effect to any such sale, transfer or encumbrance, the Required Ratio is and will be satisfied, and (B) in the case of any such encumbrance, (1) if Company elects to encumber Collateral not required to satisfy the Required Ratio and such Collateral is separate, identifiable and distinct from other existing Collateral (any such Collateral, "Separate Existing Collateral"), Company provides the Escrow Agent with a reasonably detailed description of such Separate Existing Collateral to be so encumbered sufficient for filing with a UCC-3 amendment to the UCC-1 financing statement then covering the Collateral, to release the Escrow Agent's security interests in such Separate Existing Collateral and/or (2) if Company elects to encumber any existing or future Collateral not required to satisfy the Required Ratio and such Collateral is not Separate Existing Collateral (any such Collateral, "Other Collateral"), Company causes the person or entity in favor of which any such encumbrance will be granted (each, an "Other Secured Party") to enter into an agreement with the Escrow Agent, pursuant to which the Escrow Agent and the Other Secured Party mutually agree upon an allocation of such Other Collateral between such parties, and the Escrow Agent hereby agrees to negotiate reasonably and in good faith in reaching such an agreement, and (ii) if Company sells, transfers or encumbers Collateral having complied with and in accordance with the terms of subclause(b)(i) of this sentence, the Escrow Agent's security interests and rights with respect to any such Collateral not required to satisfy the Required Ratio shall be automatically released upon any such sale, transfer or encumbrance. Only those Accounts Receivable that have been outstanding for not more than ninety (90) calendar days from the original invoice date or date incurred if no invoice shall be considered in computing NWI's compliance with the Required Ratio.



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

In re NOVATEL WIRELESS  
SECURITIES LITIGATION

) Civil No. 08cv1689 AJB (RBB)

)  
) CLASS ACTION

\_\_\_\_\_  
This Document Relates to  
ALL ACTIONS.

) FINAL JUDGMENT AND ORDER  
) OF DISMISSAL WITH PREJUDICE

)  
)  
)  
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\_\_\_\_\_  
This matter came before the Court for hearing pursuant to the Order Preliminarily Approving Settlement and Providing for Notice ("Notice Order") dated March 10, 2014, on the application of the Settling Parties for approval of the Settlement set forth in the Stipulation of Settlement dated January 31, 2014 ("Stipulation"). Due and adequate notice having been given to the Class as required in said Notice Order, and the Court having considered all papers filed and proceedings had herein and otherwise being fully informed in the premises and good cause appearing therefore, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

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1. This Final Judgment incorporates by reference the definitions in the Stipulation, and all capitalized terms used herein shall have the same meanings as set forth in the Stipulation, unless otherwise set forth herein.

2. This Court has jurisdiction over the subject matter of the Action and over all Settling Parties to the Action, including all members of the Class.

3. Pursuant to the May 12, 2010 Order Granting Motion to Certify Class (Dkt. No.180) and Rule 23 of the Federal Rules of Civil Procedure, the Court has certified a Class defined as all Persons who purchased NWI common stock between February 27, 2007 and September 15, 2008, inclusive, and were damaged thereby. Excluded from the Class are Defendants, directors, and officers of NWI, and their families and affiliates. Also excluded from the Class are those Persons (identified in Exhibit 1 attached hereto) who have validly and timely requested exclusion from the Class.

4. Pursuant to the May 12, 2010 Order Granting Motion to Certify Class (Dkt. No.180) and Rule 23 of the Federal Rules of Civil Procedure, the Court has found that the prerequisites for a class action under Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure have been satisfied in that (a) the size of the Class is so numerous that it would be impracticable to join all Class Members as individual parties; (b) the claims of the Lead Plaintiffs are typical of the claims of the members of the Class; (c) there are questions of law and fact common to the Class which predominate over any individual question; (d) Lead Plaintiffs and Lead Counsel have fairly and adequately represented the interests of the Class; and (e) a class action is the superior method for resolving the disputes between the parties.

5. Pursuant to Federal Rule of Civil Procedure 23, this Court hereby finally approves the Settlement set forth in the Stipulation in all respects and finds that said Settlement is, in all respects, fair, reasonable, and adequate to the Class, and the Settling Parties are hereby directed to perform its terms.

6. The Court also finds that the Settlement Stock, as defined in the Stipulation, is exempt from registration under the Securities Act of 1933 (the "Securities Act"), pursuant

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to §3(a)(10) of the Securities Act, 15 U.S.C. §77c(a)(10), in that the Settlement Stock will be issued to or for the benefit of Class Members in exchange for their release of claims against the Defendants under the terms of the Stipulation. Pursuant to §3(a)(10), this Court's judgment of the fairness of the Settlement shall serve as a substitute for the registration requirements of the Securities Act with regard to the Settlement Stock. The Court also hereby finds, that with regard to the Settlement Stock being issued as part of the Settlement Fund that: (l) the terms and conditions of the proposed issuance are fair to all those who will receive securities in the proposed exchange; and (ii) the terms and conditions of, and the procedures for, the proposed issuance are fair.

7. Accordingly, the Court authorizes and directs implementation of all the terms and provisions of the Stipulation, as well as the terms and provisions hereof. The Court hereby dismisses, as to Defendants, the Action and all Released Claims of the Class with prejudice, without costs as to any Settling Party, except as and to the extent provided in the Stipulation.

8. Upon the Effective Date, Lead Plaintiffs and each of the Class Members who have not validly opted out of the Class on behalf of themselves, their predecessors, successors, agents, representatives, attorneys and affiliates, and the heirs, executors, administrators, successors, and assigns of each of them shall be deemed to have, and by operation of this Judgment shall have, fully, finally, and forever released, relinquished, and discharged against the Released Persons (whether or not such Class Members execute and deliver the Proof of Claim and Release forms) any and all Released Claims (including, without limitation, Unknown Claims), as well as any claims (including, without limitation, Unknown Claims) arising out of, relating to, or in connection with, the defense, settlement, or resolution of the Action or the Released Claims; provided, however, that Lead Plaintiffs shall retain the right to enforce the terms of the Stipulation and Settlement. Any and all claims for contribution are permanently barred, enjoined, and finally discharged as provided by 15 U.S.C. §78u-4(f)(7)(A).

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9. Upon the Effective Date, Lead Plaintiffs and the Class Members on behalf of themselves, their current and former heirs, executors, administrators, successors, attorneys, legal representatives, and assigns, shall be deemed to have, and by operation of this Judgment shall have, expressly waived the benefits of (I) the provisions of §1542 of the California Civil Code, which provides that:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR,

and (ii) any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, foreign jurisdiction, or principle of common law, which is similar, comparable or equivalent to California Civil Code §1542. Lead Plaintiffs and Class Members may hereafter discover facts in addition to or different from those which he, she or it now knows or believes to be true with respect to the subject matter of the Released Claims, but Lead Plaintiffs shall expressly, and Lead Plaintiffs and each Class Member on behalf of themselves, their current and former heirs, executors, administrators, successors, attorneys, legal representatives and assigns, upon the Effective Date, shall be deemed to have, and by operation of this Judgment shall have, fully, finally, and forever settled and released any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, matured or unmatured, foreseen or unforeseen, whether class or individual in nature, whether concealed or hidden, which now exist, or heretofore have existed, arising under United States federal, state, local, statutory, or common law, or any other law, rule or regulation whether foreign or domestic, or upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct that is negligent, intentional, with or without malice, or a breach of any duty, law, or rule, without regard to the subsequent discovery or existence of such different or additional facts. Lead Plaintiffs acknowledge, and the Class Members shall be deemed by operation of this Judgment to have acknowledged, that the foregoing waiver was separately bargained for and a key element of the Settlement of which this release is a part.

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10. Upon the Effective Date, each of the Released Persons shall be deemed to have, and by operation of this Judgment shall have, fully, finally, and forever released, relinquished, and discharged Lead Plaintiffs, each and all of the Class Members, and Plaintiffs' Counsel from all claims (including, without limitation, Unknown Claims) arising out of, relating to, or in connection with, the institution, prosecution, assertion, settlement, or resolution of the Action or the Released Claims; provided, however, that Defendants shall retain the right to enforce the terms of the Stipulation and Settlement.

11. Upon the Effective Date, Lead Plaintiffs and each of the Class Members who have not validly opted out of the Class shall be permanently barred and enjoined from the assertion, institution, maintenance, prosecution, or enforcement against Defendants, or any Released Persons, in any state or federal court or arbitral forum, or in the court of any foreign jurisdiction, of any and all Released Claims (including, without limitation, Unknown Claims), as well as any claims arising out of, relating to, or in connection with, the defense, settlement, or resolution of the Action or the Released Claims; provided, however, that Lead Plaintiffs shall retain the right to enforce the terms of the Stipulation and Settlement.

12. The distribution of the Notice of Proposed Settlement of Class Action and the publication of the summary notice as provided for in the Notice Order constituted the best notice practicable under the circumstances, including individual notice to all members of the Class who could be identified through reasonable effort. Said notice provided the best notice practicable under the circumstances of those proceedings and of the matters set forth therein, including the Settlement set forth in the Stipulation, to all Persons entitled to such notice, and said notice fully satisfied the requirements of Federal Rule of Civil Procedure 23, §21D(a)(7) of the Securities Exchange Act of 1934, 15 U.S.C. §78u-4(a)(7) as amended by the Private Securities Litigation Reform Act of 1995, due process and any other applicable law.

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13. Any plan of distribution submitted by Lead Counsel (or orders related thereto) or any orders entered regarding any attorneys' fee and expense application or Lead Plaintiffs' expense application shall in no way disturb, affect, or delay the finality of this Judgment and shall be considered separate from this Judgment.

14. Neither the Stipulation nor the Settlement, nor any act performed or document executed pursuant to or in furtherance of the Stipulation or the Settlement (a) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim, or of any wrongdoing or liability of the Released Persons; or (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the Released Persons; or (c) is or may be deemed to be or may be used as an admission or evidence that any claims asserted by Lead Plaintiffs were not valid or that the amount recoverable was not greater than the Settlement Amount, in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal. The Released Persons may file the Stipulation and/or this Judgment in any action that may be brought against them in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

15. Without affecting the finality of this Judgment in any way, this Court hereby retains continuing exclusive jurisdiction over: (a) implementation of this Settlement and any award or distribution of the Settlement Fund, including interest earned thereon; (b) disposition of the Settlement Fund; (c) hearing and determining applications for attorneys' fees, interest, and expenses in the Action; and (d) all Settling Parties hereto for the purpose of construing, enforcing, and administering the Stipulation.

16. The Court finds that during the course of the Action, the Settling Parties and their respective counsel at all times complied with the requirements of Federal Rule of Civil Procedure 11.

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17. In the event that the Settlement does not become effective in accordance with the terms of the Stipulation, or the Effective Date does not occur, then this Judgment shall be rendered null and void to the extent provided by and in accordance with the Stipulation and shall be vacated and, in such event, all orders entered and releases delivered in connection herewith shall be null and void to the extent provided by and in accordance with the Stipulation.

18. Without further order of the Court, the Settling Parties may agree to reasonable extensions of time to carry out any of the provisions of the Stipulation.

19. The Court directs immediate entry of this Final Judgment by the Clerk of the Court.

DATED: June 23, 2014



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Hon. Anthony J. Battaglia  
U.S. District Judge

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

In re NOVATEL WIRELESS SECURITIES LITIGATION	)	Civil No.08cv1689 AJB (RBB)
	)	
	)	ORDER GRANTING MOTION TO
	)	AMEND THE JUDGMENT DATE
_____	)	
This Document Relates to	)	[Doc. No. 525]
ALL ACTIONS.	)	
	)	
	)	
	)	
	)	
	)	
_____	)	

This matter comes before the Court on Defendants’ motion to amend the judgment entered June 23, 2014. (Doc. No. 525.) Specifically, Defendants request this Court to amend the date such that judgment is entered as of the date of the final approval hearing, i.e., June 20,2014. Plaintiffs’ oppose. (Doc. No. 527.) As the error committed by the Court is a clerical mistake within the scope of Federal Rule of Civil Procedure 60(a), Defendants’ motion is GRANTED.

**I. BACKGROUND**

On Friday June 20, 2014, this Court held a hearing on: (1) the final approval of Settlement Stipulation; (2) the plan of distribution of the net settlement proceeds in the action; and (3) award of attorneys’ fees and expenses to Lead Counsel for Lead Plaintiffs.



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Additionally, the Court heard oral arguments on a motion to intervene for purposes of opposing the final approval of Settlement. After full consideration of all Parties' respective position, the Court, during the hearing: (1) granted the motion to intervene; (2) overruled the objections; and (3) approved the Settlement, plan of distribution of settlement, and award of attorneys' fees and expenses. The Court noted its intent to issue the final written order memorializing the actions taken at the hearing later that day. However, judgment was not entered and filed until one court date later on June 23, 2014. (Doc. Nos. 522; 521; 520; 519.) Defendants now seek an amendment of the final judgment to reflect the date of the hearing

## **II. DISCUSSION**

### **A. Legal Standard**

Pursuant to Federal Rule of Civil Procedure 60(a), “[c]lerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders.” Fed. R. Civ. Proc. 60(a). In determining whether a mistake may be corrected under this rule, the Ninth Circuit focuses on what the court originally intended to do. *Tattersalls, Ltd. v. DeHaven*, 745 F.3d 1294, 1297 (9th Cir. 2014) (citing *Blanton v. Anzalone*, 813 F.2d 1574, 1588 (9th Cir. 1987)). Thus, “[t]he basic distinction between ‘clerical mistakes’ and mistakes that cannot be corrected pursuant to Rule 60(a) is that the former consist of ‘blunders in execution’ whereas the latter consist of instances where the court changes its mind.” *Blanton*, 813 F.2d at n.2.

### **B. Analysis**

In the instant case, the Court's *original* intention was that judgment would be signed and entered as of the date of the hearing. Correcting the date to reflect this intention is within the purview contemplated by Rule 60(a). See *Garamendi v. Henin*, 683 F.3d 1069, 1079-81 (9th Cir. 2012) (concluding Rule 60(a) “allows a court to clarify a judgment in order to correct a failure to memorialize part of its decision, to reflect the necessary implications of the original order, to ensure that the court's purpose is fully implemented,

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or to permit enforcement.”) “The ‘touchstone’ of Rule 60(a)... is ‘fidelity to the intent behind the original judgment.’” *Tattersalls*, 745 F.3d at 1298 (quoting *Garamendi*, 683 F.3d at 1078). This was not an instance in which the Court consciously changed its mind intending the date of judgment to be one court date after. *See id.* (“A clerical error... is a blunder in execution that the court may try to correct so long as it does not change its mind.” (internal quotation marks and citations omitted)).

Plaintiffs oppose the motion arguing it does not meet Rule 60’s standards and Defendants in actuality are asking the Court to absolve them of the obligation under the negotiated settlement agreement.<sup>1</sup> (Doc. No. 527 at 2-4.) The Court disagrees. Indeed, the Court stated, from the bench, its approval of the final Settlement Stipulation, plan of distribution, and award of attorneys’ fees and costs at the June 20, 2014 hearing. During the proceedings, Court noted its intent to issue the final written approval orders and judgment soon thereafter. However, due to the lateness of the proceeding that day and the voluminous amount of work caused by a heavy calendar, the Court was unable to issue the final orders, file them, and enter judgment until one court date later on Monday June 23, 2014. Such an oversight and/or omission constitutes the type of “blunder in execution” contemplated by the Ninth Circuit for proper resolution under Rule 60(a). *Blanton*, 813 F.2d at 1577, n.2. As such, an amendment of the date of judgment is proper under Rule 60(a) as it would memorialize the Court’s original intent.

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<sup>1</sup> The Settlement Stipulation provides:

NWI agrees that, with respect to the Settlement Stock, if the price of the common stock of NWI is **trading below** \$2.077 per share **on the date the Court enters the Judgment**, NWI shall, within thirty (30) days thereof, contribute to the Settlement Fund the cash amount representing the difference between \$2.077 per share and the average closing price of NWI stock for the 15 trading days prior to the date the Court enters the Judgment multiplied by 2,407,318.

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**III. CONCLUSION**

For the foregoing reasons, Defendants' motion to amend pursuant to Rule 60(a) is **GRANTED**. The judgment in this action is deemed entered on June 20, 2014. The Clerk of Court is instructed to amend the docket filing date accordingly.

DATED: July 8, 2014



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Hon. Anthony J. Battaglia  
U.S. District Judge

**CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER**  
**Pursuant to Rule 13a-14(a) adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002**

I, Alex Mashinsky, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Novatel Wireless, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 8, 2014

/s/ ALEX MASHINSKY  
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Alex Mashinsky  
*Interim Chief Executive Officer*

**CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER**  
**Pursuant to Rule 13a-14(a) adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002**

I, Thomas Allen, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Novatel Wireless, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 8, 2014

/s/ THOMAS D. ALLEN

Thomas D. Allen

*Interim Chief Financial Officer*

**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350  
AS ADOPTED PURSUANT TO SECTION 906  
OF THE SARBANES-OXLEY ACT OF 2002**

I, Alex Mashinsky, Interim Chief Executive Officer of Novatel Wireless, Inc. (Company), do hereby certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to the best of my knowledge:

- the Quarterly Report on Form 10-Q of the Company for the quarter ended June 30, 2014 (Report) fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company for the periods presented therein.

Date: August 8, 2014

/s/ ALEX MASHINSKY

Alex Mashinsky

*Interim Chief Executive Officer*

**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350  
AS ADOPTED PURSUANT TO SECTION 906  
OF THE SARBANES-OXLEY ACT OF 2002**

I, Thomas Allen, Interim Chief Financial Officer of Novatel Wireless, Inc. (Company), do hereby certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to the best of my knowledge:

- the Quarterly Report on Form 10-Q of the Company for the quarter ended June 30, 2014 (Report) fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company for the periods presented therein.

Date: August 8, 2014

/s/ THOMAS D. ALLEN

Thomas D. Allen

*Interim Chief Financial Officer*