

CERTIFICATION MARK USE AGREEMENT

THIS CERTIFICATION MARK USE AGREEMENT (“Agreement”) effective on _____, 2005 (the “Effective Date”) is between **CABLE TELEVISION LABORATORIES, INC.**, a Delaware non-stock membership corporation, (“CableLabs”), located at 858 Coal Creek Circle, Louisville, Colorado 80027-9750 and the Vendor identified below.

CableLabs owns the registered certification mark CL CABLELABS CERTIFIED AND DESIGN (“the Mark”), as depicted in Exhibit A to this Agreement.

CableLabs working with the cable industry has developed groups of interface specifications, such as Data Over Cable Services Interface Specification (“DOCSIS®”), CableHome and PacketCable (as to any one or more than one, the “Specification” or “Specifications”), for the creation of interoperable products that work on a cable network. Each group of interface specifications has or may have in the future different versions (such as DOCSIS 1.0, DOCSIS 1.1, DOCSIS 2.0, CableHome 1.0, PacketCable 1.0).

CableLabs tests products for compliance with each Specification and allows manufacturers to use the Mark to signify compliance with any Specification.

The company named above (“Vendor”) has submitted one or more product(s) as particularly identified in Exhibit B to this Agreement (the “Product” or “Products”) to CableLabs for testing against the requirements of the Specification(s) requested by Vendor (the “Tested Specification(s)”). CableLabs has reviewed the test results with the appropriate CableLabs Certification Board and has found that the Product complies with the Tested Specification(s).

Vendor wishes to use the Mark to indicate that the Product complies with the Tested Specification. CableLabs and Vendor desire to use additional mechanisms to inform purchasers of Products bearing the Mark with which Specifications the Product is in compliance.

CableLabs is willing to permit Vendor’s use of the Mark subject to all the terms and conditions of this Agreement.

In consideration of the mutual promises and covenants contained herein, the parties have entered into this Agreement and agree to be bound by its terms and conditions, including those contained on the following pages hereof, as of the Effective Date.

CABLE TELEVISION LABORATORIES, INC.		“VENDOR” COMPANY NAME:	
By: _____	_____	By: _____	_____
Name: <u>Christopher J. Lammers</u>	_____	Name: _____	_____
Title: <u>EVP and COO</u>	_____	Title: _____	_____
Vendor Address: _____ _____ _____	Contact to receive legal notices: Name: _____ Title: _____ Phone: _____ E-Mail: _____		
Fax: _____			

AGREEMENT

In consideration of the mutual covenants set forth below, CableLabs and Vendor agree as follows:

1. Conditions of Use of the Mark.

(a) Vendor may affix the Mark only on the Product(s) that CableLabs has determined complies with the Tested Specification(s). Vendor shall not use the Mark on (i) products that CableLabs has determined do not comply with a Tested Specification; (ii) that CableLabs has not yet tested; or (iii) any product with different hardware or software revisions. Except where otherwise specifically authorized, the Mark shall be affixed to the Product or its packaging in the manner described in the Use Guidelines set forth in Exhibit C. Vendor acknowledges that the Mark is identical for all Specification(s) for which the Product has been determined in compliance, and that it is the Vendor's responsibility to clearly identify to purchasers the Tested Specification(s) the Product has been determined to be in compliance with.

(b) CableLabs will permit the use of appropriate references to "Certified by CableLabs" or "CableLabs Certified" in promotional or advertising material solely in connection with Product(s) that meet the Tested Specification(s), provided that, in the opinion of CableLabs, the promotional or advertising material is not in conflict with the findings of CableLabs and that the reference in no way tends to create a misleading impression as to the nature of CableLabs' findings or the Tested Specification(s) for which the Product has been determined to be in compliance. Notwithstanding the foregoing, Vendor may use the Mark on its website in connection with Products that meet the Tested Specification.

(c) Unless otherwise specifically authorized by CableLabs, Vendor must use the Mark in the form of a separable label that has been approved by CableLabs or must print or engrave the mark directly on the Product and/or its packaging using "camera ready" artwork that has been provided by CableLabs.

(d) Notwithstanding that the manufacturing costs of labels or other means of applying the Mark to the Product is not paid by CableLabs, Vendor agrees that title to and the right of control of labels or other means of applying the Mark shall be vested in CableLabs until such time as the Mark is properly applied to the Product in accordance with this Agreement. CableLabs shall have the right, on demand, to acquire possession of any or all unused labels or other means of applying the Mark when, in the judgment of CableLabs, such action is warranted.

(e) CableLabs shall have no liability for any injuries, losses, claims or damages caused by placement of a label bearing the Mark on the Product or by engraving or printing the Mark on the Product, including, but not limited to, claims relating to Product malfunctions or fires caused by the placement of the Mark on the Product.

2. Quality Standards

(a) By entering into this Agreement with CableLabs, Vendor acknowledges and covenants that each Product bearing the Mark complies with the Tested Specification as set forth

in Exhibit B and such Product has not been modified in any way from the form in which it existed at the time CableLabs determined it complied with the Tested Specification.

(b) Vendor agrees that CableLabs may maintain a web page that is available to the public which lists the Specifications and those Products which have been certified thereto.

(c) Vendor agrees that CableLabs may, without advance notice to Vendor, purchase Product at retail or obtain them from the CableLabs' member companies to determine compliance with the Tested Specification. CableLabs may, without advance notice to Vendor, visit Vendor's premises at reasonable times to audit Vendor's use of the Mark according to the Use Guidelines. Vendor shall make the labels or other devices bearing the Mark, and the means for applying the mark, available at all reasonable times for inspection by CableLabs.

(d) If CableLabs determines the Product is not in compliance with the Tested Specification(s), CableLabs shall provide written notice to Vendor. If Vendor fails to take corrective action within 15 days of the receipt of such notice, CableLabs shall have the right to announce publicly that the Product no longer complies with the Tested Specification(s). Corrective action may include modification of the Product so that it is in compliance with the Tested Specification(s) or removal of the Mark from the Product. Further, in the event that Vendor has sold or otherwise distributed products that bear the Mark and that do not comply with the Tested Specification(s), CableLabs shall have the right to announce publicly that such products do not comply with the Specification(s). The remedies in this section are not exclusive and shall not serve to limit Vendor's liability to any third party.

(e) Vendor agrees that the samples of the Product retained under the Certification Wave Guidelines will also be retained under this Agreement for the purposes of comparing the Products CableLabs tested against the Products Vendor commercially offers. Vendor acknowledges that the samples may be damaged or destroyed during the testing process and agrees that CableLabs is not responsible for damage or loss of samples that occurs during testing or shipment of the samples.

(f) If the Product is modified in any way from the form in which it existed at the time Vendor applied for certification and at the time CableLabs determined it complied with the Tested Specification(s), Vendor may not use the Mark on the modified Product unless Vendor submits the modified Product to CableLabs for re-certification in accordance with the procedures set forth in the then-current Certification Wave Guidelines promulgated by CableLabs.

3. Certification Mark Use Fees

(a) In consideration of CableLabs' permission to use the Mark on the Product and/or its packaging, Vendor shall pay to CableLabs a net fee of US\$0.25 per unit of the Product that displays the Mark on its packaging or the Product itself that is sold, licensed or otherwise distributed worldwide by Vendor (the "Certification Mark Use Fees"). The Certification Mark Use Fees shall accrue when the Product is distributed by the Vendor. For purposes of this Agreement, "distribution" shall mean the earlier of the date of shipment or the date of invoice for such Product.

(b) Certification Mark Use Fees due CableLabs hereunder shall be paid by Vendor to CableLabs and submitted with the a report substantially in the form of Exhibit D provided to CableLabs pursuant to subsection (e) below within thirty days after the close of the calendar quarter during which the Certification Mark Use Fees accrued. A late payment penalty on any Certification Mark Use Fees not paid when due shall be assessed at the rate of one percent per thirty days, beginning on the thirty-first day after the last day of the calendar quarter to which the delayed payment relates.

(c) All payments hereunder shall be made in lawful United States currency and shall in no case be refundable.

(d) All taxes, duties, fees and other governmental charges of any kind (including sales and use taxes, but excluding taxes based on the gross revenues or net income of CableLabs) that are imposed by or under the authority of any government or any political subdivision thereof on the Certification Mark Use Fees or any aspect of this Agreement shall be borne by Vendor and shall not be considered a part of, a deduction from or an offset against Certification Mark Use Fees.

(e) A report substantially in the form of Exhibit D to this Agreement setting forth the calculation of Certification Mark Use Fees due from Vendor and signed by a responsible officer or authorized agent of Vendor shall be delivered to CableLabs on or before the thirtieth day after the close of each calendar quarter during the term of this Agreement, regardless of whether Certification Mark Use Fee payments are required to be made. The report shall include, at a minimum, the following information with respect to the relevant quarter: (i) the total number of copies/units of each Product sold, licensed or otherwise distributed by Vendor; (ii) the identity of any distributor or end user manufacturer authorized by Vendor to co-brand or private label the Product for redistribution to end user customers and the number of Products so affected and (iii) total Certification Mark Use Fees accrued. CableLabs shall treat all reports provided to it in accordance with this section as confidential and shall not distribute them to any party other than Vendor. CableLabs shall use the reports solely for the purpose of computing Certification Mark Use Fees due hereunder.

(f) Vendor acknowledges that CableLabs shall each have the right, at its sole cost and expense, to have an independent certified public accountant conduct during normal business hours and not more frequently than annually for either of them, an audit of the appropriate records of Vendor to verify the number of copies/units of Products sold, licensed or otherwise distributed by Vendor and Vendor's calculation of Certification Mark Use Fees. If the Certification Mark Use Fees accrued are different than those reported, Vendor will be invoiced or credited for the difference, as applicable. Any additional Certification Mark Use Fees, along with the late payment penalty assessed in accordance with subsection (b) above, shall be payable within thirty days of such invoice. If the deficiency in Certification Mark Use Fees paid by Vendor is greater than five percent of the Certification Mark Use Fees reported by Vendor for the period of the audit, Vendor will pay the reasonable expenses associated with such audit, in addition to the deficiency.

4. Intellectual Property Rights in the Specification

Nothing herein shall be construed as granting or conferring any rights by license or otherwise, expressly, implied or otherwise, to any patent or other intellectual property rights contained in the Specifications. Nothing herein shall preclude Vendor from using the CableLabs' trademark "DOCSIS", "CableHome" or "PacketCable" in accordance with the Certification Wave Guidelines. No other rights in the use of the trademark "DOCSIS", "CableHome" or "PacketCable" are otherwise granted.

5. Indemnification of CableLabs

Vendor agrees to hold harmless, indemnify and defend CableLabs from and against any and all claims, damages, costs, and expenses (including reasonable attorneys' fees) arising out of the marketing, sale or distribution of the Product, including, but not limited to claims relating to defective products, incompatibility with the Specification(s), inability to interoperate with a qualified Cable Modem Termination System, or any other product liability claim, Vendor's misuse of the Mark or Vendor's violation of the terms and conditions of this Agreement.

6. Remedies

Vendor agrees that the manufacture, sale, delivery, shipment, distribution or promotion of any product using the Mark or description referring to CableLabs would mislead the public if such product does not comply with the Tested Specification or if the Mark is used in any other way than as herein provided and agrees that any breach of this Agreement in this respect could not adequately be compensated for in money damages. Accordingly, Vendor agrees that, in the event of the violation of any of the terms and conditions of this Agreement, a temporary injunction may be issued at the instance of CableLabs restraining Vendor from further use of the Mark or any reference to CableLabs in its advertising or in connection with its products, and from selling, offering for sale, distributing or delivering products bearing the Mark, and any other relief deemed appropriate. Such injunction shall not restrain the sale or distribution of Products properly bearing the Mark that are in compliance the Tested Specification(s) and the Use Guidelines. The granting or issuance of such an injunction shall not affect the right of CableLabs to compensatory or punitive damages for the misuse of the Mark or its name and shall be in addition to, and not in lieu of, any other rights and remedies provided by this Agreement.

7. Term of Agreement

The term of this Agreement shall be for a period of ten years from the Effective Date; provided, however, that CableLabs or Vendor shall have the right to terminate this Agreement with or without cause upon thirty days prior written notice.

8. Notices

All notices and other communications under this Mark Agreement shall be in writing and shall be deemed given if delivered personally, mailed, or sent by facsimile or email with a receipt confirmed by telephone, to the noticed party.

<u>Party:</u>	CableLabs Cable Television Laboratories, Inc. 858 Coal Creek Circle Louisville, CO 80027-9750 USA	Vendor To Contact Person and Address Shown on Cover Page
<u>Attention:</u>	Dorothy Gill Raymond	
<u>Fax:</u>	(303) 661-9199	
<u>Phone:</u>	(303) 661-3765	
<u>With Copy To:</u>	DOCSIS Project Head	
<u>Email:</u>	d.raymond@cablelabs.com	

9. Integration

This Agreement including the exhibits referred to herein (incorporated herein by this reference) constitute the complete, final and exclusive agreement of the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings whether oral or written. This Agreement may be modified only by a written agreement signed by all parties.

10. Governing Law; Attorneys' Fees

This Agreement shall be governed by and construed in accordance with federal law as it applies to trademarks and with the laws of the State of Colorado as it applies to all other matters. Vendor hereby consents to jurisdiction and venue in the state and federal courts in Colorado. In any dispute to enforce rights arising out of or related to this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs.

11. No Waiver

No waiver of any breach of any provision of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provision hereof, and no waiver shall be effective unless made in writing and signed by an authorized representative of the waiving party.

12. Severability

If any provision of this Agreement shall be held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect.

13. Relationship

Neither this Agreement, nor any terms and conditions contained hereto, shall be construed as creating a partnership, joint venture or agency relationship or as granting a franchise.

EXHIBIT A

CL CABLE LABS CERTIFIED Mark

You must use the Mark only on the Product particularly identified in Exhibit B, in a way authorized by CableLabs pursuant to the Use Guidelines in Exhibit C.



EXHIBIT B

Data Over Cable Service Interface Specifications

As an authorized Vendor, you may use the Mark on the following Product submitted by Vendor to CableLabs on _____[date] and which has been tested by CableLabs and meets the Data Over Cable Services Interface Specification 1.0, Data Over Cable Services Interface Specification 1.1, or Data Over Cable Services Interface Specification 2.0. (“DOCSIS 1.0, DOCSIS 1.1, or DOCSIS 2.0” or the “Specification”), which includes all approved Engineering Change Request (“ECR”), Engineering Change Order (“ECO”) and Engineering Change Notice (“ECN”) changes, as posted on the DOCSIS web site, which can be found at <http://www.cablemodem.com>.

Vendor’s Product

Product Name

Model Number

Serial Number

Hardware Rev:

Software Rev:

CableHome Specification

As an authorized Vendor, you may use the Mark on the following Product submitted by Vendor to CableLabs on _____[date] and which has been tested by CableLabs and meets the CableHome Specification 1.0, which includes all approved Engineering Change Request (“ECR”), Engineering Change Order (“ECO”) and Engineering Change Notice (“ECN”) changes, as posted on the CableHome web site, which can be found at <http://www.cablelabs.com/projects/cablehome/>

Vendor’s Product

Product Name

Model Number

Serial Number

Hardware Rev:

Software Rev:

PacketCable Specification

As an authorized Vendor, you may use the Mark on the following Product submitted by Vendor to CableLabs on _____[date] and which has been tested by CableLabs and meets the PacketCable Specification 1.0, which includes all approved Engineering Change Request (“ECR”), Engineering Change Order (“ECO”) and Engineering Change Notice (“ECN”) changes, as posted on the PacketCable web site, which can be found at <http://www.packetcable.com/>

Vendor’s Product

Product Name

Model Number

Serial Number

Hardware Rev:

Software Rev:

EXHIBIT C

Use Guidelines For The Mark

Except as expressly authorized in writing by CableLabs, Vendor (or “you”) may only use the Mark in compliance with these requirements.

CableLab’s Quality Standards

You can only use the Mark on the Product which complies with the Specification(s). You may not use the mark on any products (including different hardware or software revisions) that do not comply with the Specification(s).



The Mark

The Mark is composed of the letters “CL” in black on a green (Pantone 354) or white background (or white letters on a black background) within a slightly curved rectangular box with the words “CableLabs Certified” below such box and a rectangular box around the entire design.

You may not alter the Mark in any manner including the size, typeface, proportions, colors, elements, or location of any of the text in relation to the other elements in the mark. You may not animate, morph, or otherwise distort its perspective or appearance. Do not translate elements of the mark into another language or change them to another character set, such as Japanese or Arabic, without written permission from CableLabs.

How and Where to Use the Mark

The Mark can be used in the form of a 1 inch x 1 inch label that is affixed to the Product or can be printed or engraved on the Product using “camera ready” artwork supplied by CableLabs. If your logo on the Product is smaller than one inch square, the Mark may be

proportionally reduced so as not to be longer along either dimension than the longest dimension of your logo. Larger sizes of the Mark may be used on Product packaging or marketing materials.

Where Not to Use the Mark

The CableLabs name and the Mark may not appear on or in connection with any product that has not been tested by CableLabs or that does not comply with the Specification(s).

The Mark may not appear on materials:

- 1) that disparage CableLabs, its affiliated companies, or its products or services; or
- 2) that violate any state, federal, or foreign law or regulation.

Referencing CableLabs in Text

In text you may make accurate references that the Product is certified by CableLabs and that you have authorized permission from CableLabs to use the Mark. You must avoid all statements and implications that your Product is manufactured or supported by CableLabs. Some examples follow:

Do Say:

- XYZ Product has been certified by CableLabs
- XYZ Product is CableLabs Certified

Do Not Say:

- CableLabs Certified XYZ Product
- XYZ CableLabs Certified Product

Trademark Notices

Include the following notice on all marketing materials that refer to CableLabs or display Products bearing the Mark:

The CL CABLELABS CERTIFIED and Design mark, and the terms “CableLabs Certified” or “Certified by CableLabs” are certification marks of Cable Television Laboratories, Inc. and cannot be used without authorization of Cable Television Laboratories, Inc.

Review Process

CableLabs reserves the right to review and approve any product, package, advertisement, collateral, Web site, or promotional material that contains the Mark. On a periodic basis, with reasonable notice, you may be required to submit to CableLabs samples of items in or upon which you have used the Mark.

Misuse of the Mark

If CableLabs determines the Product is not in compliance with the Specification(s), CableLabs shall provide written notice to Vendor. If Vendor fails to take corrective action within 15 days of the receipt of such notice, CableLabs shall have the right to announce publicly that the Product no longer complies with the Specification(s). Corrective action may include modification of the Product so that it is in compliance with the Specification(s) or removal of the Mark from the Product. Further, in the event that the Product fails to comply with the Specification(s) and the Product has already been sold or otherwise distributed bearing the Mark, Vendor must offer corrective modifications, including, but not limited to, software upgrades, at no charge to purchasers of the Product or to cable system operators. Further, in the event that Vendor has sold or otherwise distributed products that bear the Mark and that do not comply with the Specification(s), CableLabs shall have the right to announce publicly that such products do not comply with the Specification(s).

EXHIBIT D

FORM FOR QUARTERLY CERTIFICATION MARK USE REPORT (SECTION 3(f))

(This report is due to CableLabs on or before the thirtieth day after the close of each calendar quarter, and must be signed by a responsible officer or authorized agent of Vendor)

TO: Certification Fee Administration Dept. **Date of report:** _____
 c/o CableLabs
 858 Coal Creek Circle
 Louisville, Colorado 80027-9750

CableLabs shall treat all reports provided to it in accordance with this section as confidential and shall not distribute them to any party other than Vendor. CableLabs shall use the reports solely for the purpose of computing Certification Mark Use Fees due hereunder.

1. Vendor's Product

Cable Modem Name	Model Number	Software Version	Hardware Version	Number of units sold/licensed/distributed

2. For the quarter ending: _____, Vendor calculates the Certification Mark Use Fees due as follows:

A. Total number of units of each Product sold, licensed or otherwise distributed by Vendor for this quarter:	
B. Total Certification Mark Use Fees accrued for this quarter the application of the pre-paid Certification Mark Use Fees to such accrued Certification Mark Use Fees. (\$0.25 X (the number of Product units reported in A above))	\$ _____
C. Names of distributors or end user manufacturers authorized by Vendor to co-brand or private label the Product for redistribution by such distributors or end user manufacturers and the number of units of the Product so affected .	_____ _____ _____ _____

Vendor: _____

By: _____

Name: _____

Title: _____

Date: _____