

**CONTRIBUTION AND LICENSE AGREEMENT
FOR INTELLECTUAL PROPERTY**

THIS AGREEMENT, dated _____, 20____, (“Effective Date”) is between Cable Television Laboratories, Inc. (“CableLabs”) a Delaware non-stock membership corporation with offices at 858 Coal Creek Circle, Louisville, Colorado 80027-9750 USA and _____ (“Vendor-Author”), a _____ corporation with offices at _____.

RECITALS

A. CableLabs and certain of its member companies (collectively referred to as the “PacketCable Committee”) have established a project to create a specification which will define interoperable interface requirements for products using Internet Protocol technology (the “Specification”) to deliver telephone calls, video-conferencing, and other packet voice and video services over cable networks that comply with the Specification (the “PacketCable™” or “PacketCable” project).

B. The goal of the Specification is to (i) create an open interoperable interface to which any company can build products, without specifying any implementation of the interface or requirements of the products utilizing the interface and (ii) encourage broad and uniform adoption of the Specification.

C. The PacketCable process has been open to any vendor, subject to certain non-disclosure obligations. At CableLabs request, the Participants listed on Exhibit A hereof (collectively, the “Participants”) have agreed to draft or participate in drafting one or more sections of the Specification. The Draft Specification will be available for comment by entities that did not participate in its drafting (provided that they have agreed to the non-disclosure obligations of the Access Agreement, as defined below). The parties intend to operate in good faith and Vendor-Author does not intend to knowingly contribute the IPR of another party to a Draft Specification.

D. To further the goal of broad adoption of the Specification, which will lead to many new products and services being available for consumers, the parties desire to license to one another and to other Participants the copyrights, Licensed Claims and know-how included in any version of the Published Specification, and to provide CableLabs with the right to sublicense, Licensed Claims on a royalty-free basis to any company desiring to build interoperable products that comply fully with any version of the Published Specification.

NOW THEREFORE, in consideration of Vendor-Author being selected to participate in authoring a portion of the Specification, the mutual promises and covenants contained herein, including those contained on the following pages hereof, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree to the following as of the Effective Date.

CABLE TELEVISION LABORATORIES, INC.		LICENSOR: _____	
By: _____		By: _____	
Name: <u>David Reed</u>		Name: _____	
Title: <u>Chief Strategy Officer</u>		Title: _____	
Licensor address for written notice and for Section 10(g): _____		Optional address for duplicate written notices:	
_____		_____	
_____		_____	
Fax: _____		Fax: _____	

AGREEMENT

1. Definitions

- a. "Access Agreement" is the contract attached as Exhibit "C".
- b. "Affiliate" is an entity which directly or indirectly is controlled by another entity. Control for the purposes of this Agreement shall mean beneficial ownership of more than fifty percent of the voting stock or equity in an entity.
- c. "Draft Specification" is a version of the Specification specifically identified by CableLabs as a "Draft" version of the Specification. CableLabs shall make Draft Specifications available promptly to the Participants for review and comment on an as-needed basis. Draft Specifications will be available for comment by entities that did not participate in its drafting, provided they have executed the Access Agreement. Draft Specifications specifically exclude Published Specifications.
- d. "IPR" are intellectual property rights, including without limitation, copyrights, trade secrets, trademarks and patent claims.
- e. "Licensed Claims" are the claims of all patents and patent applications, throughout the world that are entitled to an earliest priority date prior to December 31, 1999, as to which CableLabs or Vendor-Author or its current Affiliates, as the case may be, has the right to grant licenses of the scope granted herein and: (i) which are necessarily infringed by an implementation of any version of the Published Specification, or (ii) for which infringement is based on an implementation which complies with an implementation example included in any version of the Published Specification. Vendor-Author's Licensed Claims shall not include, and no license shall apply to, design patents, design registrations or examples included solely in any appendix, exhibit or other attachment to the actual Specification.
- f. "Licensed Know-how" is information about the Specification and the PacketCable process resulting from the Specification drafting process, and shared among CableLabs and the Participants pursuant to the Access Agreement referred to in Section 7.
- g. "Licensed Products" are products, whether hardware, software or a combination, designed to operate on cable networks, the interface for which fully complies with any version of the Published Specification.
- h. "Licensed Technology" is the copyrights, Licensed Claims and Licensed Know-how included in any version of the Published Specification.
- i. "Published Specification" is any version of the Specification that has been specifically identified by CableLabs to the Participants as a final version of the Specification. CableLabs shall notify Participants of the availability and publication date of each "Published" version of the Specification. Published Specifications specifically exclude Draft Specifications.

2. Vendor-Author Contributions.

- a. Drafting and Review of Specification. Vendor-Author and CableLabs agree to consult with each other and with the other Participants on the content, feasibility, and other aspects of the Specification. Vendor-Author agrees to draft or participate in drafting one or more sections of the Specification (the "Contribution") and to use reasonable technical diligence in reviewing and commenting on other parts of the Specification drafted by other Participants toward the end of developing an effective Specification consistent with the goals recited above.
- b. Copyright License in Contributions. Vendor-Author grants, subject to the terms and conditions of this Agreement, to CableLabs a royalty-free, nontransferable, nonexclusive copyright license to publish, reproduce, use, adapt and distribute (in any and all print, electronic or other means of reproduction, storage or transmission) during the Specification drafting process any Contributions made by Vendor-Author to the Specification among CableLabs, the Packet Cable Committee and the Participants for the purpose of creating and disseminating the Specification and incorporating the Licensed Technology in the Specification. If it continues to participate through the issuance of a

Published Specification, Vendor-Author further agrees to extend such copyright license covering the Published Specification and make it irrevocable.

3. CableLabs Rights and Obligations with Respect to the Specification.

a. Open Process. CableLabs shall make Draft Specifications available to the Participants for comments, under the terms of the confidentiality obligations set forth in the Access Agreement, to which the parties are already bound.

b. Finalization of Specification. Determination of and the disposition of the final versions of Draft Specifications and Published Specification rests with CableLabs, subject to the right of Vendor-Author to withdraw as set forth in Section 6(b) below.

c. Right to Add New Participants. Additional companies may become Participants under this Agreement by executing a copy of this Agreement which is identical in form to this Agreement except that the name and address of each applicable Participant shall be substituted for the names and address of Vendor-Author in this Agreement. The rights and obligations of Vendor-Author and CableLabs under this Agreement shall extend to new Participants effective upon their execution of a copy of this Agreement and the Access Agreement.

4. Licenses Granted Hereunder.

a. Grant of License. With respect to any Licensed Technology owned by Vendor-Author or CableLabs (or as to which CableLabs or Vendor-Author or its current Affiliates, as the case may be, has the right to grant licenses of the scope granted herein) that is incorporated into any version of a Published Specification, Vendor-Author and CableLabs grant to each other and to each other Participant, and to all of their Affiliates, subject to the terms and conditions of this Agreement, a nonexclusive, fully-paid, royalty-free, non-transferable, non-sublicensable (except for a limited right to sublicense end-users to use the interface portions of Licensed Products, subject to the limitations set forth herein, and as provided for in Section 4(b)), worldwide, perpetual license under its Licensed Claims, along with all Licensed Know-how included in any version of the Published Specification (subject to the right to withdraw under Section 6(b)), to make, have made, use, reproduce, market, import, offer to sell and sell, and to otherwise distribute the interface portions of Licensed Products, provided that such license shall not extend to features of a product which are not required to comply with the Specification. In the event this license is terminated, end-user licenses in effect at the time of such termination shall remain in full force.

b. Right of CableLabs to Sublicense. CableLabs shall sublicense on a royalty-free basis the Licensed Technology to any other company who is not a Participant if and only if such company executes a License Agreement in the form attached hereto as Exhibit B (the "License Agreement").

c. Grant of Future-Acquired Rights. Section 3(a) of the form of License Agreement provides for a license from sublicensees to CableLabs of any patent claims of sublicensees that may be in any version of the Published Specification. CableLabs grants to each Participant a non-exclusive, non-transferable, worldwide, perpetual, fully-paid, royalty-free sublicense to any such patent claims it may be granted by sublicensees pursuant to Section 3 of the License Agreement.

d. Rights to Newly-Developed IPR. Unless otherwise agreed to in writing, Vendor-Author agrees that if it is asked to develop new technology related to the Specification and it actually submits such new technology, or it jointly develops such new technology with CableLabs or any of the Participants in the course of drafting and reviewing the proposed Specification, Vendor-Author agrees to assign such new technology, effective upon any withdrawal from this joint development process pursuant to Section 6(b) hereof, jointly to itself and such joint developer Participants or CableLabs, as the case may be, and such new technology shall be licensed pursuant to Section 4(a) hereof; provided, however, that prior to such withdrawal CableLabs and the Vendor-Author shall identify to the other in writing the technology as to which they assert joint ownership rights. All derivative works created by the Vendor-Author that embody technology created solely or owned by such Vendor-Author shall be owned exclusively by such Vendor-Author.

e. **No Other Rights.** Except as expressly set forth above, this Agreement shall not be construed as granting any rights or interests in or to (a) Licensed Claims or Licensed Technology, (b) any improvements thereto, (c) any particular design, mode or method, or (d) the proprietary rights of CableLabs, Vendor-Author any other Participant or any third party.

5. Representations and Disclaimer

a. **Representation.** Except as otherwise disclosed in writing by Vendor-Author at the time of making any Contribution, Vendor-Author represents and warrants at the time of any Contribution that, to the best of its knowledge, the copyrights and trade secrets contained in the Contributions and the patent claims necessarily infringed by implementing the Contribution as made by Vendor-Author: (1) are owned by Vendor-Author or subject to a license held by Vendor-Author that grants it the right to sublicense, (2) may be licensed by Vendor-Author hereunder, and (3) are free and clear of any material adverse claim.

b. **Disclaimer of Warranties.** **The parties disclaim all other warranties, express or implied, including, but not limited to, (1) except as set forth in Section 5(a), any warranty that any Contribution does not infringe the IPR of any other person or entity, (2) any warranty that any claims of any patents or patent applications included in the Licensed Claims are valid or enforceable, (3) any implied warranties of merchantability and fitness for a particular purpose, or (4) that the rights and licenses granted to CableLabs hereunder comprise all the rights and licenses necessary or desirable to practice, develop, make or sell Licensed Products.**

6. Term, Termination, Right to Withdraw.

a. **Term and Termination.** The term of this Agreement shall begin on the date that CableLabs and all Participants set forth on Schedule A have signed this Agreement and shall continue in effect indefinitely unless terminated by the mutual consent of the parties. CableLabs shall maintain a current list of all Participants and sublicensees of CableLabs on the PacketCable website.

b. **Right to Withdraw.** CableLabs will circulate each Draft Specification along with a formal notice to Participants for their review on an as-needed basis prior to its publication. With regard to the first such circulation of a notice and proposed Specification, Vendor-Author shall have sixty days after receipt of such notice (the "Initial Review Period") to notify CableLabs in writing, setting forth with specificity that it claims to be the owner of IPR included in the Specification and that it elects to withdraw such IPR from the proposed Specification. Promptly following receipt of any such Withdrawal Notice, CableLabs shall exclude the specified IPR from the Specification and such IPR shall not be subject to the license grants from Vendor-Author set forth in this Agreement. Vendor-Author shall be required to be diligent in reviewing IPR included in the proposed Specification to determine whether IPR as to which Vendor-Author claims ownership rights is included in such Specification. If Vendor-Author does not deliver to CableLabs a withdrawal notice during the Initial Review Period, Vendor-Author explicitly agrees that such IPR shall be subject to the license grants from Vendor-Author contained in this Agreement.

In each event following the Initial Review Period that CableLabs elects to circulate a revised Specification along with a formal notice for review by Participants prior to publication, Vendor-Author shall have thirty days after receipt of such notice (the "Subsequent Review Period") to notify CableLabs in writing, setting forth with specificity that it claims to be the owner of IPR included in the revised portion of the Specification; provided, however, that Vendor-Author may make no claim as to IPR that was contained in a previously circulated proposed Specification. If such notice is provided, then Vendor-Author shall have thirty additional days to notify CableLabs in writing that it elects to withdraw such IPR from the revised Specification. If Vendor-Author does not deliver to CableLabs a withdrawal notice during such thirty-day period, Vendor-Author explicitly agrees that such IPR shall be subject to the license grants from Vendor-Author contained in this Agreement. CableLabs may withdraw any proposed Specification from circulation during any Review Period should, in CableLabs' reasonable judgment, it becomes apparent that a substantially revised Specification will be necessary and that continuing the Review Period would delay revising and re-circulating the Specification.

If a Vendor-Author elects to withdraw IPR from a proposed Specification as to which it claims ownership rights that it voluntarily contributed to the Specification drafting process, effective upon delivery to CableLabs of a notice of

such withdrawal, all licenses granted to such Vendor-Author pursuant to this Agreement shall terminate. If a Vendor-Author elects to withdraw IPR from a proposed Specification that it did not contribute, all licenses granted to such Vendor-Author hereunder shall remain in full force.

7. Confidentiality. Vendor-Author and CableLabs agree to maintain the confidentiality of all versions of the Specification, and all information related thereto, in accordance with the Access Agreement entered into prior to Vendor-Author's participation in the PacketCable process.

8. Limitation of Liability. In no event shall either party be liable to the other or to any Participant or sublicensee of the Licensed Technology for exemplary, incidental, indirect, special, punitive or consequential damages of any kind, including without limitation loss of profit, savings or revenue, or the claims of third parties, whether or not advised of the possibility of such loss, however caused and on any theory of liability, arising out of this Agreement.

9. Infringement.

a. **Notification of Infringement.** CableLabs shall notify the Participants of any infringement claims of any Licensed Technology which may come to its attention. Vendor-Author may, but shall not be obligated to, notify CableLabs of any infringement claims of any Licensed Technology which may come to its attention.

b. **Enforcement of Rights in Licensed Technology.** Vendor-Author, at its sole expense, shall have the right to determine the appropriate course of action to enforce its rights in its Licensed Technology or otherwise abate the infringement thereof, to take (or refrain from taking) appropriate action to enforce its Licensed Technology, to control any litigation or other enforcement action and to enter into, or permit, the settlement of any such litigation or other enforcement action with respect to its Licensed Technology. CableLabs shall fully cooperate with Vendor-Author in any action to enforce Vendor-Author's rights in its Licensed Technology, including furnishing, without charge, except out-of-pocket expenses, any evidence, documents and testimony as may be required in such action.

c. **Alternative Dispute Resolution for Infringement Claims.** Vendor-Author agrees, with respect to any potential or actual infringement of IPR related to the Specification and involving any other Participant, to refer such dispute to mediation. The mediator of such dispute shall be acceptable to both parties. If the parties are unable to resolve the dispute within thirty days from the commencement of mediation, and legal proceedings are instituted, the prevailing party shall be entitled to recover its costs and fees, including but not limited to reasonable attorney's fees, from the other party.

10. General.

a. **Publicity.** CableLabs and Vendor-Author shall make a public announcement of this Agreement after the signing of this Agreement. Except as required by law, the timing and content of such announcement shall be mutually agreed upon. Neither CableLabs nor Vendor-Author shall use the name of the other, or of any other Participant, in any public announcement relating to this Agreement without the prior written consent of such named party.

b. **Waiver.** The failure of any party to enforce any of the terms and conditions of this Agreement shall not constitute a waiver of that party's right thereafter to enforce each and every term and condition of this Agreement or upon reasonable notice to require correction of a default previously waived.

c. **Severability.** Should one or more provisions of this Agreement be or become invalid, the parties shall substitute, by mutual consent, valid provisions for such invalid provisions which valid provisions in their economic effect are sufficiently similar to the invalid provisions that it can be reasonably assumed that the parties would have entered into this Agreement with such provisions. In case such provisions cannot be agreed upon, the invalidity of one or several provisions of this Agreement shall not affect the validity of this Agreement as a whole, unless the invalid provisions are of such essential importance to this Agreement that it can be reasonably assumed that the parties would not have entered into this Agreement without the invalid provisions.

d. Governing Law. This Agreement shall be governed by and interpreted in accordance with laws of the State of New York, excluding its choice of law rules.

e. Headings. The parties acknowledge that the headings to the sections hereof are for reference purposes only and shall not be used in the interpretation of this Agreement.

f. Assignment. Neither CableLabs, the PacketCable Committee, nor any of its members shall assign its rights or obligations under this Agreement without the prior written consent of Vendor-Author; provided, however, that CableLabs may, without such consent, assign this Agreement and its rights and obligations hereunder in connection with the transfer or sale of all or substantially all of its business, or in the event of its merger or consolidation or change in control or similar transaction to the transferee or purchaser, or to the successor in the event of such merger or consolidation or to the new controlling party in the event of such change of control or similar transaction. Vendor-Author may assign this Agreement including without limitation, all of its rights and obligations hereunder without the consent of CableLabs. Any purported assignment in violation of this Section 10(f) shall be void.

g. Notices. All notices permitted or required under this Agreement shall be in writing and shall be delivered as follows with notice deemed given as indicated: (a) by personal delivery when delivered personally; (b) by overnight courier upon written notification of receipt; (c) by teletype or facsimile transmission upon acknowledgment of receipt of electronic transmission; or (d) by certified or registered mail, return receipt requested, five (5) days after deposit in the mail. All notices must be sent to the following addresses, or to such other address that the receiving party may have provided for the purpose of notice in accordance with this Section:

If to CableLabs:	General Counsel Cable Television Laboratories, Inc. 858 Coal Creek Circle Louisville, Colorado 80027-9750 Telephone: 303/661-9100 Fax: 303/661-9199
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If to Vendor-Author:	The notice address on the front of this Agreement.
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h. Force Majeure. Neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder (except confidentiality obligations) on account of strikes, shortages, riots, insurrection, fires, flood, storm, explosions, acts of God, war, governmental action, labor conditions, earthquakes or any other cause which is beyond the reasonable control of such party.

i. Construction of Agreement. This Agreement shall not be construed for or against any party based on any rule of construction concerning who prepared this Agreement or otherwise. CableLabs and the PacketCable Committee understand that Vendor-Author is an independent company and is not a partner or a joint venturer with CableLabs or any other Participant. While the PacketCable Committee may select an entity to handle certain administrative tasks for them, no party is authorized to make any commitment on behalf of all or any of them.

j. Recovery of Litigation Costs. If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing party shall be entitled to recover reasonable attorney's fees and other costs incurred in connection with that action or proceeding, in addition to any other relief to which it may be entitled.

k. General Construction. As used in this Agreement, the plural form and singular form each shall be deemed to include the other in all cases where such form would apply. "Includes" and "including" are not limiting, and "or" is not exclusive.

l. Amendments. No change, modification, extension, termination or waiver of this Agreement, or any of the provisions herein contained, shall be valid unless made in writing and signed by duly authorized representatives of the parties hereto.

m. Entire Agreement. This Agreement sets forth the entire agreement of the parties with respect to its subject matter, and supersedes all prior agreements, with the exception of the Access Agreement, commitments, or representations of any kind, oral or written with respect thereto. There are no representations, agreements, arrangements or understandings, oral or written, between the parties hereto relating to the subject matter of this Agreement which are not fully expressed herein.

n. Independent Contractors. The relationship of CableLabs and Vendor-Author established by this Agreement is that of independent contractors. This Agreement does not give either party the power to direct and control the day to day activities of the other, constitute the parties as partners, joint venturers, co-owners, principal-agent, or otherwise participants in a joint or common undertaking, or allow either party to create or assume any obligation on behalf of the other party for any purpose whatsoever.

o. Import and Export Controls. In connection with this Agreement, the parties shall comply with all applicable laws, including export, re-export and foreign policy controls and restrictions which may be imposed by any government. Vendor-Author shall require its customers to assume an equivalent obligation with regard to import and export controls.

*******END OF AGREEMENT*******

Exhibit A

Initial Participants

3Com	Lucent Cable Communications, Inc.
8X8	LANcity
ADC Telecommunications	Motorola Multimedia Group
Arris Interactive LLC	NetSpeak
Bell Communications Research, Inc.	Phasecom
Broadband Access Systems	Tellabs
Broadcom	TransNexus, LLC
Cisco Systems	VideoServer
Clarent Corporation	Vienna Systems Corporation
Com21	VocalTec Communications
General Instrument Packet Systems, Inc.	Wipro
Hybrid Networks, Inc.	

Exhibit B

Form of License Agreement for Non-Participants

THIS AGREEMENT, dated _____, 20_, (“Effective Date”) is between Cable Television Laboratories, Inc. (“CableLabs”) a Delaware non-stock membership corporation with offices at 858 Coal Creek Circle, Louisville, Colorado 80027-9750 USA and _____ (“Licensee”), a _____ corporation with offices at _____, _____.

Recitals

CableLabs is the licensee, with limited right of sublicense, to certain proprietary technology related to interfaces for products that use of Internet Protocol to deliver telephone calls, video-conferencing, and other packet voice and video services over cable networks that comply with a proprietary Specification (the “PacketCable™” or “PacketCable” project).

Licensee desires to obtain a non-exclusive royalty-free license to certain Licensed Technology of CableLabs (as defined below) related to PacketCable to permit Licensee to develop and market Licensed Products (as defined below).

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, including those contained on the following pages hereof, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree to the following as of the Effective Date.

CABLE TELEVISION LABORATORIES, INC.		LICENSOR: _____	
By: _____		By: _____	
Name: <u>Christopher J. Lammers</u>		Name: _____	
Title: <u>EVP and COO</u>		Title: _____	
Licensor address for written notice and for Section 5(g):		Optional address for duplicate written notices:	
_____		_____	
_____		_____	
_____		_____	
Fax: _____		Fax: _____	

AGREEMENT

1. Definitions

a. “Licensed Products” are products, whether hardware, software or a combination, designed to operate on cable networks, the interface for which fully complies with any Published Specification.

b. “Licensed Technology” is the patent claims, copyrights and know-how embodied in any version of the Published Specification that are owned by or licensed to CableLabs.

c. “Published Specification” is any version of the Specification that has been specifically identified by CableLabs as a final version of the Specification and published as such.

2. License Grant

CableLabs grants to Licensee a non-exclusive, non-transferable, worldwide fully-paid, royalty-free license to make, have made, use, import, reproduce, market, offer to sell and sell the interface portions of Licensed Products that include Licensed Technology, with a limited right to sublicense end-users to use the interface portions of Licensed Products, subject to the limitations set forth herein. Licensee shall have no other right to practice the Licensed Technology and shall have no right to create derivative works of the Licensed Technology. In the event this license is terminated, end-user licenses in effect at the time of such termination shall remain in full force.

3. Covenants

a. **License Back.** In consideration for the grant of the licenses set forth in Section 2, Licensee grants to CableLabs a non-exclusive, non-transferable, worldwide, perpetual, fully-paid, royalty-free license to patent claims of Licensee that are embodied in any version of the Published Specification, limited to (i) the right to use make, have made, reproduce, import, market and sell the interface portions of Licensed Products, including a right to sublicense end-users to use the interface portions of Licensed Products, and (ii) the right to sublicense to third parties such rights.

b. **Operational Restrictions.** Licensee agrees to comply with reasonable restrictions on the deployment of the Licensed Technology to insure compliance with any version of the Published Specification and interoperability with other Licensed Products.

c. **Limited Rights.** Except as granted in Section 2, Licensee shall not acquire any right to any of CableLabs' or Participants' trademarks, or its copyrights, patents, trade secrets, commercial symbols, goodwill, or other form of its intellectual or commercial property.

d. **Confidential Information.**

(i) As used herein, "Confidential Information" shall mean all information concerning either party (the "disclosing party") to which the other party (the "receiving party") is provided access by virtue of this Agreement or its activities hereunder, including without limitation, Licensed Technology, source code, technical data, sales information, quantity and kind of Licensed Products marketed or sold, prices and methods of pricing, marketing techniques and plans, returns, unannounced products, product and process information, and such other information which, if disclosed to others, might be competitively detrimental to the disclosing party. Confidential Information shall not include any information which has been publicly disseminated in writing by the disclosing party, which the receiving party can show it knew prior to the disclosing party's disclosure hereunder, or which is rightfully received by the receiving party from a third party without restriction.

(ii) During the term hereof and at all times thereafter, the receiving party shall maintain the Confidential Information of the disclosing party in strictest confidence, shall not disclose it to any third party, and shall use it only as necessary to perform hereunder. The receiving party shall cause each of its officers, directors, employees, and agents to restrict disclosure and use of such Confidential Information in like fashion, and shall be responsible for any wrongful disclosure or use by any of them.

(iii) In the event any court or other authority orders the receiving party to disclose any Confidential Information of the disclosing party, the receiving party shall use its best efforts to protect its confidentiality and shall forthwith notify the disclosing party thereof to enable it to do likewise. At the termination of this Agreement, the receiving party shall promptly return all tangible Confidential Information to the disclosing party.

e. **Disclaimer of Warranties.** The parties disclaim all warranties, express or implied, including, but not limited to (1) any warranty that the Licensed Technology does not infringe the intellectual property rights of any other person, (2) any warranty that any patents included in the Licensed Technology are valid or enforceable, (3) any implied warranties of merchantability and fitness for a particular purpose, or (4) that the rights and licenses granted to Licensee hereunder comprise all the rights and licenses necessary or desirable to practice, develop, make and sell Licensed Products.

f. **Limitation of Liability.** **In no event shall CableLabs or the licensors to CableLabs of the Licensed Technology be liable to Licensee for damages of any kind whether or not advised of the possibility of such loss, however caused and on any theory of liability, arising out of this Agreement.**

Louisville, Colorado 80027-9750
Telephone: 303/661-9100
Fax: 303/661-9199

If to Licensee: The notice address on the front of this Agreement.

h. Force Majeure. Neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder on account of strikes, shortages, riots, insurrection, fires, flood, storm, explosions, acts of God, war, governmental action, labor conditions, earthquakes or any other cause which is beyond the reasonable control of such party.

i. Construction of Agreement. This Agreement shall not be construed for or against any party based on any rule of construction concerning who prepared this Agreement or otherwise.

j. Recovery of Litigation Costs. If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing party shall be entitled to recover reasonable attorney's fees and other costs incurred in connection with that action or proceeding, in addition to any other relief to which it may be entitled.

k. General Construction. As used in this Agreement, the plural form and singular form each shall be deemed to include the other in all cases where such form would apply. "Includes" and "including" are not limiting, and "or" is not exclusive.

l. Amendments. No change, modification, extension, termination or waiver of this Agreement, or any of the provisions herein contained, shall be valid unless made in writing and signed by duly authorized representatives of the parties hereto.

m. Entire Agreement. This Agreement sets forth the entire agreement of the parties with respect to its subject matter, and supersedes all prior agreements, commitments, or representations of any kind, oral or written with respect thereto. There are no representations, agreements, arrangements or understandings, oral or written, between the parties hereto relating to the subject matter of this Agreement which are not fully expressed herein.

n. Independent Contractors. The relationship of CableLabs and Licensee established by this Agreement is that of independent contractors. This Agreement does not give either party the power to direct and control the day to day activities of the other, constitute the parties as partners, joint venturers, co-owners, principal-agent, or otherwise participants in a joint or common undertaking, or allow either party to create or assume any obligation on behalf of the other party for any purpose whatsoever.

o. Import and Export Controls. Licensee shall comply with all applicable laws, including export, re-export and foreign policy controls and restrictions which may be imposed by any government.

*****END OF AGREEMENT*****

Exhibit C

PACKETCABLE™ CONFIDENTIAL AND PRIVILEGED INFORMATION ACCESS AGREEMENT

In consideration of being given access to certain non-public information (these documents to include draft documents residing in the vendor-only partition of the web site, www.packetcable.com or documents otherwise designated as subject to this agreement) relating to the development of a system to deliver voice and data services over cable networks using Internet Protocol (the “Project”), the undersigned (the “Recipient”) agrees as follows:

- 1) THE RECIPIENT AGREES THAT SUCH NON-PUBLIC INFORMATION RELATED TO THE PROJECT WILL BE KEPT CONFIDENTIAL AND SHALL NOT BE DISCLOSED BY THE RECIPIENT IN ANY MANNER WHATSOEVER, IN WHOLE OR IN PART, AND SHALL NOT BE USED OTHER THAN IN CONNECTION WITH THE PROJECT. The Recipient shall be responsible for any breach of this confidentiality by its affiliates, agents, employees, representatives, former affiliates, former agents, former employees, and former representatives resulting from the Recipient’s disclosure. Moreover, the Recipient shall agree to transmit the information only to its affiliates, agents, employees, and representatives who need to know the information for the purpose of participating in the Project and who are informed of the confidential nature of the information. Such information shall not include information which: (i) was lawfully in the possession of the Recipient prior to the Recipient receiving it hereunder, as shown by files of the Recipient in existence at the time the Recipient received it, and at a time when the Recipient was under no obligation to CableLabs or any of its member companies to keep such information confidential; (ii) is or becomes available in the public domain through no act of the Recipient that violates this Agreement; (iii) is received by the Recipient from a third person or entity that is not known by the Recipient to be sharing such information in violation of rights of CableLabs; (iv) is developed by or on behalf of the Recipient without any use of the confidential information of CableLabs; (v) is at any time furnished to a third party by CableLabs without restrictions on the third party’s rights to disclose; or (vi) is used or disclosed by the Recipient in any manner after the third anniversary of the date indicated below. Recipient shall have the burden of proving the applicability of any of the exceptions in the immediately preceding sentence that the Recipient claims may apply.

- 2) While the information provided is believed to be reliable, no representation is made by CableLabs as to the accuracy or completeness of such information. Each Recipient is urged to make its own evaluation of the material provided. BY RECEIPT OF THIS INFORMATION, THE RECIPIENT AGREES THAT CABLELABS SHALL HAVE NO RESPONSIBILITY FOR ANY MIS-STATEMENTS OR OMISSION OF FACT OR FOR ANY OPINION EXPRESSED AND THE RECIPIENT RELEASES AND FULLY INDEMNIFIES CABLELABS FROM ANY LIABILITY IN CONNECTION WITH LOSS OR DAMAGES SUFFERED BY THE RECIPIENT RESULTING FROM THE RECIPIENT’S USE OF THE INFORMATION PROVIDED.

Received, acknowledged, and accepted by:

Signature: _____
 Typed Name: _____
 Title: _____
 Organization Name: _____
 Main Contact Person: _____
 Address: _____
 City/State/Zip _____
 Phone: _____ Fax: _____
 Email: _____
 Date: _____

Fax the Signed Form to CableLabs at 303-661-9199, then follow-up by Mailing the Signed Form to PacketCable™, Cable Television Laboratories, Inc., 858 Coal Creek Circle Louisville, CO 80027-9750