

METADATA SPECIFICATION LICENSE AGREEMENT

THIS METADATA SPECIFICATION LICENSE AGREEMENT (“Agreement”), is made as of _____ (“**Effective Date**”), by and 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 the party identified below (“**Licensee**”).

Licensee Information:	
Name of Licensee: _____	Licensee Contact: _____
_____	Title: _____
Address: _____	Phone: _____
_____	Fax: _____
_____	E-Mail: _____

CableLabs has facilitated the development of a published specification related to distribution of content assets (e.g., movies) from multiple content providers sent over diverse networks to cable operators, as updated from time to time by CableLabs (“**Published Specification**”). Licensee desires to obtain a license to use the Published Specification.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree to the following:

1. DEFINITIONS.

1.1 “Affiliate” means an entity that 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.

1.2 “Contributor” means an individual, company, or other entity that provides a material contribution to a Published Specification and has signed a CableLabs Metadata Contribution and License Agreement substantially in the form of such agreement as found at www.cablelabs.com under the MetaData Project (“**Contributor Agreement**”), and such Contributor has not been terminated.

1.3 “Essential Patent Claims” means claims of any patent or patent application throughout the world, owned or licensable by Licensee or any Affiliate that is issued now or in the future, relating to inventions that are necessarily and unavoidably infringed as a result of implementing the Published Specification. Implementation of specifications, technology, or standards developed elsewhere, and merely referenced in the Published Specification, shall be governed by the terms associated with the referenced specification, technology, or standard. Essential Claims shall not include (i) claims in design patents or design registrations (ii) claims, which, if licensed, would require payment of royalties by a party to unaffiliated third parties, (iii) claims related to technology or know-how that may be necessary to make or use, any product or service, or portion thereof, that complies with the Published Specification but are not themselves expressly set forth in the Published Specification, or (iv) any claims other than as set forth above, even if contained in the same patent as Essential Claims.

1.4 “Implementer” means any individual, company, or other entity that desires to implement or has implemented the Published Specification and has signed an agreement substantially in the form of this Agreement (“**Implementer License**”), and that Implementer License has not been terminated.

1.5 “Intellectual Property Rights” or “IPR” means all intellectual property rights throughout the world now or hereafter owned or licensable, without payment of royalty to a licensor, including, without limitation, copyrights, trade secrets, trademarks, patents and any other proprietary, privacy, or moral rights.

1.6 “Licensed Products” means that portion of products, whether hardware, software, services, or a combination thereof, that complies with the relevant portion of any version of the Published Specification and is used in or on a cable system, or intended for use in or on a cable system. For the purposes of this Agreement, Licensed Products shall only include that portion of a product, hardware, software, or services that incorporate or implement technology covered by Essential Claims, and shall not extend to additional features or functions. Such Licensed Products may include, but are not limited to, video encoders, video servers, asset distribution systems, and asset management systems.

2. CABLELABS GRANT OF LICENSE.

2.1 Copyright License. Subject to the terms and conditions of this Agreement, CableLabs grants to Licensee and its Affiliates, under any applicable IPRs (excluding patent, patent applications, or trademarks), now or hereafter owned or licensable by CableLabs, a nonexclusive, nontransferable, worldwide, royalty-free, perpetual, right and license to i) use, copy, distribute, and make derivative works of the Published Specification for the purpose of creating Licensed Products; and (ii) use, make, reproduce, sell, distribute, import, or transmit such Licensed Products.

2.2 Patent License. Subject to the terms and conditions of this Agreement, CableLabs grants to Licensee and its Affiliates, a nonexclusive, nontransferable, worldwide, royalty-free right and license under any Essential Claims owned or licensable by CableLabs, to make, have made, use, reproduce, market, import, sell, offer to sell, and to otherwise distribute Licensed Products.

2.3 Reservation of Rights. CableLabs and/or its licensors reserve all rights in and to the Published Specification not expressly granted to Licensee in this Agreement. There are no implied licenses under this Agreement, and CableLabs and its licensors reserve any rights not expressly granted to Licensee hereunder.

3. LICENSEE GRANT OF LICENSE.

3.1 Patent License. Licensee, on behalf of it and its Affiliates, grants to CableLabs, its members, each Contributor, and each Implementer, a world-wide, royalty-free, nontransferable, nonexclusive, perpetual, irrevocable license under their Essential Claims, to make, have made, use, reproduce, market, import, offer to sell, sell, and to otherwise distribute Licensed Products. The rights granted to a Contributor or an Implementer under this section 3.1 are contingent on such Contributor executing a Contributor Agreement, such Implementer executing an Implementer License. CableLabs shall maintain a current list of all Contributors and Implementers. The rights granted to CableLabs under this Section shall be sublicenseable to Other Contributors and other Implementers.

3.2 Enforcement of Rights. Licensee, at its sole expense, shall have the right to determine the appropriate course of action to enforce its Essential Claims, or otherwise abate the infringement thereof, to take (or refrain from taking) appropriate action to enforce such IPRs, to control any litigation or other enforcement action and to enter into, or permit, the settlement of any such litigation, or other enforcement action related to such Essential Claims. CableLabs shall fully cooperate with Contributor in any action to enforce such Essential Claims, including furnishing, without charge, except out-of-pocket expenses, any evidence, documents and testimony as may be required in such action. If Contributor provides CableLabs with written notice that an entity has commenced an action against Contributor involving Contributor’s IPR in the Contribution, or that Contributor has commenced such action against an entity, then CableLabs shall not grant a license to such entity regarding Contributor’s IPR in the Contribution without the written permission of Contributor. Notwithstanding, CableLabs may grant a license to IPR of Other Contributors and other Implementers to such entity.

4. DISCLAIMER OF WARRANTIES. THE PUBLISHED SPECIFICATION IS LICENSED “AS IS” AND ALL REPRESENTATIONS AND WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, ARE HEREBY DISCLAIMED. Licensee acknowledges that the Published Specification may contain references (both normative and otherwise) to third party documents and specifications not themselves owned or controlled by CableLabs, or made available by CableLabs under this Agreement. Licensee understands that implementation of the Published Specification may require Licensee obtaining rights to use such documents and specifications under separate agreements, and possibly including the obligation to pay a royalty. Without limitation, CableLabs disclaims any warranty that (i) the Published Specification, or any implementation thereof, does not infringe the IPR of any other person or entity, (ii) the Essential Claims licensed by CableLabs are valid or enforceable, (iii) the rights and licenses granted by CableLabs hereunder comprise all the rights and licenses necessary or desirable to use the Published Specification or to make, use, or sell Licensed Products. Licensee hereby disclaims any warranty that the Essential Claims licensed by Licensee hereunder are valid or enforceable.

5. Limitation of Liability. EXCEPT FOR BREACH OF SECTION 2 BY LICENSEE, IN NO EVENT SHALL EITHER PARTY (INCLUDING CABLELABS, ITS MEMBERS, CONTRIBUTORS, OR IMPLEMENTERS) BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES IN CONNECTION WITH OR RELATING TO THIS AGREEMENT (INCLUDING LOSS OF PROFITS, USE, DATA, OR OTHER ECONOMIC ADVANTAGE), NO MATTER WHAT THEORY OF LIABILITY, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OR PROBABILITY OF SUCH DAMAGES.

6. Term and Termination

6.1 Term. The term of this Agreement shall begin on the Effective Date and shall continue until terminated under the provisions of this Section 6.

6.2 Termination. In the event any party shall materially breach, or otherwise materially fail to perform or comply with, this Agreement or any provision thereof and such party fails to remedy such default within thirty (30) days after the receipt of notice to that effect, then the other party shall have the right, at its sole option and upon written notice to the defaulting party, to terminate this Agreement.

6.3 Survival. Notwithstanding any termination of this Agreement, the licenses granted by Licensee herein shall remain in full force and effect indefinitely.

7. General.

7.1 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.

7.2 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 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.

7.3 Arbitration; Governing Law. Any claim, controversy or dispute, sounding under any legal theory, between or among the parties or their officers, directors or employees shall be resolved by arbitration. The Federal Arbitration Act, 9 U.S.C. §§ 1-16, not state law, shall govern the arbitrability of all claims. A single arbitrator shall conduct the arbitration under the then current rules of the American Arbitration Association. The arbitrator shall have authority to award compensatory damages only. The

arbitrator's award shall be final and binding and may be entered in any court having jurisdiction thereof. The parties shall each pay their own attorneys' fees and expenses, and the parties shall share equally in the cost of the arbitration. The arbitration shall occur in New York, New York and the laws of the state of New York shall apply. It is expressly agreed that either party may seek injunctive relief in an appropriate court of law or equity pending an award in arbitration.

7.4 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.

7.5 Assignment. This Agreement may be assigned or transferred by either party to any successor by merger, purchaser or other transferee of all or substantially all of its business or that portion of its business to which this Agreement relates, or other form of corporate reorganization. Except as set forth above, neither party may assign any rights or delegate any duties under this Agreement in whole or in part without the other party's prior written consent (such consent not to be unreasonably withheld), and any such attempted assignment shall be void and of no effect. This Agreement shall be binding upon and inure to the benefit of each of the parties, their successors, and permitted assigns.

Notwithstanding the foregoing, in the event of such merger, purchase, or transfer described above, either party may terminate this Agreement, effective upon the closing of the merger, purchase or transfer upon thirty (30) days notice, *provided that* if Licensee terminates this Agreement under this sentence, then the survival of Section 3 shall not apply to the Essential Claims of Licensee's successor or Licensee's successor's Affiliates, unless such Essential Claims were owned or licensable by Licensee or its Affiliates prior to such merger, purchase or transfer.

7.6 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 telecopy 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 addresses listed on the first page of this Agreement (CableLabs Tel: (303) 661-3765; Fax (303) 661-9199), or to such other address that the receiving party may have provided for the purpose of notice in accordance with this Section.

7.7 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.

7.8 Third Party Beneficiaries. The parties acknowledge that the parties intended as beneficiaries of the rights, licenses, and covenants granted by Licensee under this Agreement are CableLabs' member companies, Contributors, and Implementers.

7.9 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 that are not fully expressed herein.

IN WITNESS WHEREOF, the duly authorized representatives of the parties have executed this Agreement.

By: _____
Name: _____
Title: _____
Date: _____

Cable Television Laboratories, Inc.
By: _____
Name: _____
Title: _____
Date: _____