

CableLabs®
OPENCABLE CONTRIBUTION AGREEMENT

This **OPENCABLE CONTRIBUTION AGREEMENT** (“**Agreement**”) is made effective 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, and the party identified below (“**Contributor**”).

Contributor Name: _____	Contact: _____
_____	Title: _____
Address: _____	Phone: _____
_____	Fax: _____
_____	E-Mail: _____

CableLabs and certain of its member companies have established the OpenCable Project to develop a family of specifications as defined at www.opencable.com, as well as related test materials (collectively, the “**OpenCable Specification(s)**”).

Contributor owns or has rights to certain information related to the OpenCable Specification. Contributor desires to participate in the ongoing development of the OpenCable Specifications by making such information available under the terms and conditions specified herein.

CONTRIBUTOR HAS READ AND AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT, INCLUDING THOSE TERMS CONTAINED ON THE FOLLOWING PAGES HEREOF. 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 have executed this Agreement and enter into this Agreement as of the Effective Date.

CABLE TELEVISION LABORATORIES, INC.	CONTRIBUTOR
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

Agreement

1. DEFINITIONS.

1.1 “**Affiliate**” means any legal entity which directly or indirectly controls, is controlled by or is under common control with Contributor, where the term “control” means the ownership, directly or indirectly, of more than fifty percent (50%) of the interest representing the right to vote or to manage the affairs of an entity.

1.2 “**Contribution**” shall mean any documents, software, tables, charts, descriptions, engineering change requests (ECRs), comments, e-mails, submissions, white papers, technical notes, or other information or materials that are, or have been, submitted in writing by Contributor to CableLabs for incorporation into the OpenCable Specifications, and including any verbal contributions later confirmed and agreed to by Contributor and CableLabs as Contributions in writing by the Contributor.

1.3 “**Draft OpenCable Specification**” means a version of an OpenCable Specification specifically identified by CableLabs as a “Work in Progress” or “Draft” version of the OpenCable Specification. Draft OpenCable Specifications are only made available by CableLabs for review and comment by individuals and entities that have signed an *OpenCable Confidential Information Access Agreement* in substantially the same form as the agreement found at www.opencable.com (“**OpenCable Confidential Information Access Agreement**”). Draft OpenCable Specifications specifically exclude Issued OpenCable Specifications. Each Draft OpenCable Specification shall be considered an OpenCable Specification.

1.4 “**Essential Claim**” means a claim of any patent or published patent application throughout the world that is issued now or in the future, that is necessarily infringed as a result of implementing any Issued OpenCable Specification. Essential Claims shall not include (i) claims in design patents or design registrations, (ii) claims related to technology or know-how that may be necessary to make or use a product or service, or portion thereof, that complies with an OpenCable Specification, but such technology or know-how is not set forth in an OpenCable Specification, (iii) any enabling technologies that may be necessary to make or use any product or portion thereof that complies with the Issued Specification, but are not themselves expressly set forth in the Issued Specification (*e.g.*, semiconductor manufacturing technology, compiler technology, object oriented technology, basic operating system technology, etc.), or (iv) any claims other than as set forth above, even if contained in the same patent as Essential Claims.

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 “**Issued OpenCable Specification**” means any version of an OpenCable Specification that has been specifically identified by CableLabs as a published version of the OpenCable Specification. Upon becoming an Issued OpenCable Specification, an OpenCable Specification is no longer considered a Draft OpenCable Specification. Each Issued OpenCable Specification shall be considered an OpenCable Specification.

1.7 “**Participant**” means an entity that has signed, and not terminated, an *OpenCable Confidential Information Access Agreement* in substantially the same form as the agreement found at www.opencable.com.

1.8 “**Parties**” or “**Party**” shall mean the signator(s) of this Agreement.

2. ADHERENCE TO OPENCABLE IPR POLICY

2.1 **OpenCable IPR Policy.** Contributor hereby agrees to be bound by the terms and conditions of the OpenCable IPR Policy, attached hereto and incorporated herein as Exhibit A.

3. RIGHTS AND OBLIGATIONS OF CABLELABS.

3.1 CableLabs shall make available to Contributor each Draft OpenCable Specification with a notice to Contributor calling for Contributor to review each such Draft OpenCable Specification. CableLabs reserves the right for any reason to withdraw any such Draft OpenCable Specification from review by Contributor at any time prior to CableLabs designating such Draft OpenCable Specification as an Issued OpenCable Specification.

3.2 CableLabs reserves the right to modify any OpenCable Specification in accordance with the engineering change notice (“ECN”) procedure as documented on the OpenCable web site (www.opencable.com). Engineering change request (“ECR”), engineering change order (“ECO”), and ECN information will be made available to Contributor via the OpenCable web site. ECR’s submitted by Contributor shall be considered Contributions.

4. REPRESENTATIONS AND WARRANTIES; DISCLAIMER.

4.1 Representations and Warranties of Contributor. Contributor represents and warrants that: (i) Contributor has performed all corporate actions, received all corporate authorizations, and otherwise has all power and authority, necessary to enter into this Agreement and to carry out its obligations hereunder; and (ii) Contributor will execute and deliver such instruments and take such other actions as may be reasonably necessary to perfect the rights of CableLabs under this Agreement, and otherwise take such other actions as may be reasonably necessary to facilitate the rights and licenses granted under this Agreement. For the avoidance of doubt this undertaking will include obtaining any necessary authorities, grants and permissions from the Affiliates of Contributor.

Except as otherwise disclosed in writing by Contributor at or before the time of making any Contribution, Contributor represents and warrants that: (i) Contributor owns or has obtained sufficient rights in and to its Contributions to grant the rights and licenses set forth in this Agreement on the terms and conditions of this Agreement; (ii) Contributor will not disclose to CableLabs, and the Contributions will not contain, any information or works of authorship known to Contributor to be confidential or proprietary to any other third party; and (iii) Contributor’s Legal Department and Contributor’s Contact identified above are not aware of any claim that the Contribution infringes on the intellectual property, contract or other proprietary rights of any third party.

4.2 Representations and Warranties of CableLabs. CableLabs represents, and warrants that it has performed all corporate actions, received all corporate authorizations, and otherwise has all power and authority, necessary to enter into this Agreement and to carry out its obligations hereunder. CableLabs further represents, and warrants that it has the full power and authority to enter into this Agreement, and carry out its obligations hereunder.

4.3 Disclaimer. EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT, THE CONTRIBUTIONS AND THE OPENCABLE SPECIFICATION ARE PROVIDED “AS IS” AND ALL REPRESENTATIONS AND WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, ARE HEREBY DISCLAIMED.

5. LIMITATION OF LIABILITY. EXCEPT IN THE CASE OF A BREACH OF THE OPENCABLE INFORMATION ACCESS AGREEMENT, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER OR TO ANY THIRD PARTY (INCLUDING PARTICIPANTS, OTHER CONTRIBUTORS, OR IMPLEMENTERS) 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 LOSSES OR CLAIMS, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, ARISING OUT OF THIS AGREEMENT.

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.

6.2 Termination by Contributor. Contributor may terminate this Agreement, with or without cause, by giving CableLabs thirty (30) days written notice of such termination.

6.3 Termination by Either Party for Breach. 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.

6.4 Survival. Notwithstanding any termination of this Agreement, the provisions of Section 2.2 of the OpenCable IPR Policy (Issued OpenCable Specifications) shall apply to all Contributions made by Contributor prior to such termination. And, the provisions of Section 3.2 (Availability of License to Essential Claims) shall apply to all patent applications filed by Contributor or its Affiliates, with respect to Essential Claims only, within one year and one day from the date of such termination. For the purposes of this Section 6.4 "Issued Specifications" as used in the definition of Essential Claim shall additionally include Draft Specifications in existence at the time of termination and those portions of future Draft Specifications that include Contributions made by Contributor. Sections 4, 5, 6, 7, 8, and 9 (except 9.10) shall also survive any termination of this Agreement. All licenses granted by Contributor shall remain in full force and effect for the duration of the intellectual property rights.

7. CONFIDENTIALITY. Contributor and CableLabs agree to maintain the confidentiality of all Draft OpenCable Specifications, any contributions made by other Contributors, and all information related thereto, in accordance with the OpenCable Information Access Agreement entered into by Contributor and CableLabs. Notwithstanding, Issued OpenCable Specifications may be made available to the public.

8. ENFORCEMENT OF RIGHTS. Subject to this Agreement, Contributor, at its sole expense, shall have the right to determine the appropriate course of action to enforce its intellectual property rights related to any Contributions, or otherwise abate the infringement thereof, to take (or refrain from taking) appropriate action to enforce such intellectual property rights, 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 intellectual property rights. CableLabs shall fully cooperate with Contributor in any action to enforce such intellectual property rights, including furnishing, subject to Contributor's payment of reasonable expenses, any evidence, documents and testimony as may be required in any such action.

9. GENERAL.

9.1 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.

9.2 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. 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.

9.3 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 Contributor terminates this Agreement under this sentence, then the survival of Section 2 shall not apply to the Essential Claims of Contributor's successor or Contributor's successor's Affiliates, unless such Essential Claims were owned or licensable by Contributor or its Affiliates prior to such merger, purchase, or transfer.

9.4 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.

9.5 Independent Contractors. The relationship of CableLabs and Contributor 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.

9.6 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.

9.7 Non-Exclusivity. This Agreement and the relationship between the Parties shall be non-exclusive. Nothing in this Agreement shall preclude CableLabs from entering into agreements with other Parties for the development of OpenCable Specifications, Contributions, or other subject matter, or from adopting and/or using the same. This Agreement does not, and CableLabs' acceptance of any Contributions does not, create any duty on the part of CableLabs to adopt, endorse, and/or use the Contributions provided by Contributor under this Agreement.

9.8 Reservation of Rights. Subject to the rights and licenses granted herein, all right, title, and interest in and to all Contributions shall remain with Contributor.

9.9 Arbitration; Governing Law. Any claim, controversy or dispute relating to this Agreement, 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 panel of three (3) neutral arbitrators shall conduct the arbitration under the then current rules of the American Arbitration Association. CableLabs shall select one arbitrator, Contributor shall select one arbitrator, and CableLabs and Contributor shall mutually agree upon the third arbitrator. In the event Contributor and CableLabs do not reach agreement within a reasonable amount of time, then the two selected arbitrators shall select the third arbitrator. 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.

9.10 Most Favored Status. In the event that CableLabs enters into an OpenCable Contribution Agreement with another Contributor and such other agreement has terms that are materially different from and more favorable to such other Contributor than the terms in this Agreement are to Contributor, Contributor shall have the option of amending this Agreement, at any time, to reflect such material modification, *provided, however, that* if such other OpenCable Contribution Agreement contains other material modifications from the terms of this Agreement, Contributor also agrees to be bound by

such other modifications. Within five (5) business days of entering into an agreement with a new Contributor, CableLabs shall post such new OpenCable Contribution Agreement on the website at www.opencable.com under the OpenCable Participant section, and once posted it shall be posted for at least ninety (90) days. CableLabs shall also maintain all prior OpenCable Contribution Agreements and make such agreements available to Contributor for inspection upon reasonable request within a reasonable amount of time from such request.

9.11 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, other Contributors, and implementers of the OpenCable Specifications ("**Third Parties**").

9.12 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.

9.13 Entire Agreement. This Agreement, the OpenCable IPR Policy, and the OpenCable Information Access Agreement executed by the Parties, 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.

Exhibit A

CableLabs® OpenCable INTELLECTUAL PROPERTY RIGHTS (IPR) POLICY

CableLabs and certain of its member companies have established the OpenCable Project to develop a family of specifications to define interoperable digital cable television devices, and an associated interoperable software / middleware application platform known as OCAP, as well as related test materials (collectively, the “**OpenCable Specification(s)**”).

By making Contributions to CableLabs, Contributor, by and on behalf of itself and its Affiliates, agrees that all intellectual property in such Contribution shall be licensed under the terms of this OpenCable IPR Policy on a reasonable and nondiscriminatory basis. Without prejudicing the right of Contributor to offer its intellectual property on fair, reasonable, and non-discriminatory terms, CableLabs strongly urges Contributors to make such licenses available royalty-free. This OpenCable IPR policy does not affect other CableLabs projects (e.g., DOCSIS, PacketCable, CableHome, VOD MetaData, etc.), which remain under royalty-free intellectual property arrangements. Pursuant to a separate written agreement, CableLabs reserves the right to establish royalty-free licensing terms for future OpenCable Specifications, or portions thereof, that Contributor may choose to join, or not join, at its discretion.

1. DEFINITIONS

Capitalized words used herein are defined in the OpenCable Contribution Agreement.

2. COPYRIGHT LICENSE

2.1 Draft OpenCable Specifications. Contributor grants to CableLabs, under any applicable IPRs (excluding patent, patent applications, or trademarks), now or hereafter owned or licensable, a world-wide, royalty-free, nontransferable, nonexclusive, perpetual, irrevocable, right and license to use, reproduce, make derivative works, and distribute or sublicense the Contribution, and such derivative works, to CableLabs members, other contributors, and Participants of the OpenCable Project, but only for the purpose of creating an OpenCable Specification.

2.2 Issued OpenCable Specifications. Contributor grants to CableLabs, under any applicable IPRs (excluding patent, patent applications, or trademarks), now or hereafter owned or licensable (without restriction or obligation to pay a royalty), a nonexclusive, nontransferable, worldwide, royalty-free, perpetual, irrevocable, sublicenseable right and license to (i) use, copy, distribute, and make derivative works of the Contribution, to the extent it is included in an Issued OpenCable Specification, and to implement such Contribution and derivative works thereof, and (ii) use, make, reproduce, sell, distribute, import, or transmit implementations of the Contribution and derivative works thereof, to the extent the same are included in an Issued OpenCable Specification. For the avoidance of doubt, no other express or implied license is granted under this Section 2.2, including no express or implied patent license.

3.0 AVAILABILITY OF PATENT LICENSE

3.1 Notice of Essential Claims. Within sixty (60) days after receipt of any Draft OpenCable Specification, Contributor shall submit to CableLabs (or its designee) in writing a list of the Essential Claims (the extent that such would be Essential Claims in the event the Draft OpenCable Specification matured to an Issued OpenCable Specification) in all patents and published patent applications owned or controlled by Contributor or any of its Affiliates for which Contributor will *not* (or has no right to) make licenses, or cause licenses to be made, available on a reasonable and non-discriminatory basis to any third party (such notice, an “**Essential Claim Notice**”). In addition, Contributor shall have sixty (60) days from the Effective Date to submit an Essential Claim Notice to CableLabs relating to any existing Issued or Draft Specifications in existence at the time of the Effective Date. A valid Essential Claim Notice provided by Contributor shall also serve as a valid Essential Claim Notice for any subsequent versions of

such Draft OpenCable Specification or Issued OpenCable Specification. In addition, Contributor shall, on a supplemental and ongoing basis, but no less than annually from the Effective Date, update Contributor's list of Essential Claims on the Essential Claim Notice, and submit such to CableLabs (or its designee) in writing. Contributor may not submit an Essential Claim Notice as to Essential Claims that are necessarily infringed as a result of implementing any Contribution made by Contributor, or portion thereof (an "**Invalid Essential Claim Notice**"). If such an Invalid Essential Claim Notice is received by CableLabs, it shall have no force or effect, and the applicable Essential Claims within such Invalid Essential Claim Notice shall be treated pursuant to Section 3.2. Any other valid Essential Claim Notice received by CableLabs in accordance with this Section 3.1 shall be effective as to the Essential Claims in the Essential Claim Notice thirty (30) days following receipt by CableLabs of such Essential Claim Notice.

3.2 Availability of License to Essential Claims. With respect to all Essential Claims of all patents or published patent applications owned or controlled by Contributor or any of its Affiliates which are *not* validly noticed to CableLabs (or its designee) by Contributor in accordance with the procedure set forth in Section 3.1 above, Contributor agrees to not assert enforcement rights on such Essential Claims, or to make licenses, or cause licenses to be made, available for such Essential Claims on reasonable and non-discriminatory terms and conditions to any third party that desires to implement or has implemented any Issued OpenCable Specification. Such license may be limited to products or services that comply with the relevant portion of the Issued OpenCable Specification.

3.3 Reciprocity. With respect to Third Parties, Contributor shall only be bound by this section 3 of the OpenCable IPR Policy to the extent Third Parties submit to an equivalent undertaking with respect to any Essential Claims such Third Parties may have or obtain and have not breached such undertakings.