



HDCP RESELLER ASSOCIATE AGREEMENT

This HDCP Reseller Associate Agreement (the “Agreement”) is effective as of latest date set out on the signature page hereof (the “Effective Date”) by and between Digital Content Protection, L.L.C., a Delaware limited liability company (“Licensor”) and the entity named on Exhibit B.

W I T N E S S E T H

WHEREAS, Intel Corporation (“Intel”) has developed a certain proprietary technology for high-bandwidth digital content protection for the purposes of enabling a protected, interoperable video connection between certain digital devices and digital display monitors to allow display of such content while inhibiting copying;

WHEREAS, Intel has authorized Licensor to grant certain rights relating to such technology, and to license certain patent claims, on behalf of, and as an authorized agent (solely with respect to licensing such claims) for, Intel, to HDCP (defined below) licensees;

WHEREAS, to preserve the integrity of HDCP, Licensed Components (defined below) and Licensed Source Components (defined below) may only be distributed to persons or entities who are authorized to purchase Licensed Components and Licensed Source Components;

WHEREAS, Reseller (defined below) wishes to receive from Licensor, and Licensor wishes to grant, such authorization to purchase and resell Licensed Components and Licensed Source Components;

NOW THEREFORE, in consideration of the covenants and agreements herein, Licensor and Reseller hereby agree as follows:

1. DEFINITIONS

- 1.1 “Adopter” shall mean any entity that has executed an Adopter Agreement with Licensor and delivered it to Licensor or its designee, and shall include any Affiliate of such entity.
- 1.2 “Adopter Agreement” shall mean any license agreement entered into by a Person with Licensor pursuant to which such Person is authorized to implement HDCP in Licensed Products or Licensed Components.
- 1.3 “Affiliate” means, unless specifically agreed otherwise in writing by Licensor and such Person, with respect to such Person, any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such

Person. "Control" means the possession of beneficial ownership of more than 50% of the stock or other similar interest entitled to vote for election of the Board of Directors or similar managing authority.

1.4 "Annual Fee" shall have the meaning given in Section 3.1

"Audiovisual Content" means audiovisual works (as defined in the United States Copyright Act as in effect on January 1, 1978), text and graphic images.

1.5 "Compliant" means, with respect to a product, that such product is in compliance with all applicable Compliance Rules and Robustness Rules.

1.6 "Compliance Rules" shall mean the requirements set out in the exhibit entitled "Compliance Rules" to each Adopter Agreement, as such exhibits may be revised by Licensor from time to time.

1.7 "Content Participant" means a Person that (a) distributes, or causes or permits the distribution or transmission of, Audiovisual Content owned or licensed by such Person in commercial quantities, or via mass distribution channels, such as broadcast, satellite or cable transmission, to the general public in a form that would, in the course of transmission up to and including the display of such Audiovisual Content, use a channel protected by HDCP and (b) has executed a Content Participant Agreement with Licensor. Licensor will identify Content Participants periodically. For the avoidance of doubt, and without limiting any term of this Agreement, "Content Participant (and Eligible Content Participant under Section 1.13) include a Person who has executed a Content Participant Agreement with Licensor before or after the date of this Agreement.

1.8 "Content Participant Agreement" means an "HDCP Content Participant Agreement" entered into by and between Licensor and an owner or licensor of Audiovisual Content which relates to the protection of such content by HDCP.

1.9 "Content Participant Non-Assertion Claims" means, with respect to Licensor, Founder, Key Generator, any Adopter, Content Participant or System Operator or any Affiliate of any of the foregoing, any claims of infringement or misappropriation that a Content Participant promises not to assert or maintain against such Person pursuant to such Content Participant's Content Participant Agreement.

1.10 "Device Key" means a cryptographic value provided to an Adopter by Licensor or its designee for use in a Licensed Product or Licensed Component.

1.11 "Device Key Set" means a set of Device Keys provided to an Adopter by Licensor or its designee for use in a Licensed Product or Licensed Component. Device Key Sets are required in order for Licensed Products to operate.

1.12 "Effective Date" shall have the meaning given in the preamble to this Agreement.

1.13 "Eligible Content Participant" means a Content Participant that (a) has not asserted or maintained, and whose Affiliates (as defined in said Content Participant's Content Participant Agreement) have not asserted or maintained, at any time after September 1, 1999 (including prior to the effective date of its Content Participant Agreement), any Content Participant Non-Assertion Claim against Licensor, Founder, Key Generator, any Adopter, Content Participant, System Operator or any Affiliate of the foregoing and (b) is deemed an "Eligible Content Participant" under its Content Participant Agreement.

1.14“Founder” means Intel Corporation.

1.15“HDCP” means that certain method for encryption, decryption, key exchange, authentication and renewability that is described with specificity in the HDCP Specification. For avoidance of doubt, HDCP may include the optional method for encryption, decryption, key exchange, authentication and renewability set forth in the HDCP Auxiliary Data Extensions.

1.16“HDCP Associate” means Reseller and any other Person that has executed an agreement (other than an Adopter Agreement) with Licensor relating to the resale, distribution or testing of Licensed Components and is designated an HDCP Associate by Licensor.

1.17“HDCP Associate Agreement” means this Agreement and any other agreement entered into between an HDCP Associate and Licensor and which is designated as an HDCP Associate Agreement by Licensor.

1.18“HDCP Auxiliary Data Extensions” means that certain optional alternative method for encryption and decryption that is described with specificity in Appendix C, “Extensions to Support Auxiliary Data”, of the HDCP Specification.

1.19“HDCP Content” means Audiovisual Content that has been encrypted using HDCP, including HDCP-encrypted content that has subsequently been decrypted. For avoidance of doubt, “HDCP Content” does not include content that has never been encrypted with HDCP.

1.20“HDCP Specification” means the specification entitled “HDCP Content Protection Specification, Release 2.X” (including the “Errata” thereto), as such specification may be amended from time to time.

1.21“Key Generator” means the generator of Device Keys, KSVs, and System Renewability Messages designated by Licensor.

1.21“KSV” or “Key Selection Vector” means the numerical values associated with a Device Key Set and distributed by Licensor or its designee to Adopters and used to support authentication of Licensed Products and Revocation.

1.22“Licensed Component” means a product, such as an integrated circuit, circuit board, or software module, that is designed to be used as part of a Licensed Product and that embodies a portion of the HDCP Specification, but that does not embody the entire HDCP Specification or does not completely satisfy the Compliance Rules and the Robustness Rules.

1.23“Keyed Licensed Component” means a Licensed Component having a Device Key incorporated therein.

1.24 “Licensed Product” means a product or combination of Licensed Source Components, including but not limited to a software application, hardware device or combination thereof, that (a) implements the HDCP Specification and complies with all requirements of the HDCP Specification not expressly identified as optional or informative and (b) is Compliant.

1.25“Licensed Source Component” means a Licensed Component that (a) is designed to be used solely in Source Device in combination with one or more other Licensed Source Components to form a Licensed Product and (b) complies with all provisions of the Compliance Rules applicable to Licensed Source Components and with Section 4 of the Robustness Rules.

1.26“Person” means any natural person, corporation, partnership, or other entity.

1.27“Presentation Device” shall have the meaning given in the Compliance Rules

1.28“Receiver ID” means a value that uniquely identifies the Presentation Device or Repeater Device and shall be used for the sole purpose of implementing the HDCP Specification Release 2.0

1.29“Repeater” or “Repeater Device” shall have the meaning given in the Compliance Rules.

1.30“Reseller” means the entity named on Exhibit B and includes its Affiliates.

1.31“Revocation” or “Revoked” shall have the meaning given in Section 0.

1.32“Revoke” means, with respect to a Key Selection Vector, to distribute information, as authorized or provided by Licensor, to Content Participants for purposes of their distributing such information with Audiovisual Content in order to cause such Key Selection Vector in Presentation Devices or Repeaters to be invalidated with respect to such content (generally, “Revocation” or “Revoked”). Reseller is advised that, although neither this Agreement nor the HDCP Specification imposes any obligation on a Licensed Product with respect to how such Licensed Product should respond to such invalidation of a KSV, the license agreements relating to other technologies implemented in a product containing an HDCP-protected connection may impose such requirements.

1.33“Robustness Rules” shall mean the requirements set out in the exhibit entitled “Robustness Rules” to each Adopter Agreement, as such exhibits may be revised by Licensor from time to time.

1.34“Source Device” shall have the meaning given in the Compliance Rules.

1.35“System Operator” means the provider of a satellite, cable or other conditional access service that transmits Audiovisual Content to the general public and that has executed a System Operator Agreement.

1.36“System Operator Agreement” means an “HDCP System Operator Agreement” entered into by and between Licensor and a System Operator.

1.37 “System Renewability Message” shall have the meaning given in the HDCP Specification.

2. AUTHORIZATION

- 2.1 **Authorization.** Reseller has submitted a written plan to Licensor outlining the processes and procedures Reseller will implement to meet the obligations set forth below in Section 2.2 and other obligations in this Agreement (Pre-Authorization Plan). The authorization is set forth below is contingent upon Licensor’s written acceptance of the Pre-Authorization Plan (Authorized Plan).

Subject to the terms and conditions of this Agreement, including specifically but not limited to Reseller’s representation that it shall maintain the processes and procedures set forth in the Authorized Plan, Licensor hereby authorizes Reseller, during the term of this Agreement, to (i) receive Licensed Components from HDCP Adopters or HDCP Associates; (ii) resell or

distribute such Licensed Components to HDCP Adopters or HDCP Associates, solely for the purpose of incorporating such Licensed Components into (a) other Licensed Components, for further distribution as set forth in (iii) or (b) Licensed Products; or (iii) reselling such Licensed Components to an HDCP Adopter or HDCP Associate. For the avoidance of doubt, the authorization set forth in this Section 2.1 applies only to Licensed Components that implement the HDCP Specification, Release 2.x (including the “Errata” thereto), as such specification may be amended from time to time.

2.2 DISTRIBUTION REQUIREMENTS FOR COMPONENTS.

2.2.1 **VERIFICATION:** The authorization set forth in 2.1 above, requires Reseller to verify that its customer is an HDCP Adopter having signed the HDCP 2.x Addendum or HDCP 2.x Associate prior to each distribution, sale or delivery of Licensed Components. . Verification by Reseller must be obtained in the form of a written documentation (“Confirmation”) confirming their status as an HDCP Adopter or HDCP Associate as reflected on the List of DCP Licensees maintained by the Licensor on the Licensor’s official website. The - Confirmation will be maintained by Reseller for three years after the termination of the Agreement.

2.2.2 MAINTENANCE OF RECORDS.

Reseller acknowledges and agrees that they are required to maintain records of the Confirmation(s) and of the distribution of Licensed Components. The records for distribution of Licensed Components will be detailed so as to track (in the detailed manner set forth below) who the Reseller sold the Licensed Component to, and such record will be sent to Licensor on a quarterly basis. Failure to maintain such records and failure to send the record for distribution of Licensed Components on a quarterly basis to Licensor will constitute a material breach of the Agreement.

2.2.3 RESELLER OBLIGATIONS.

Reseller terms of sale or distribution will require its customer maintain a written record of the further distribution or disposition of the Keyed Licensed Components received. Further, Reseller will be required to track the distribution of Keyed Licensed Components to each customer with a specific Receiver ID or with other similar means (provided other similar means produces same traceability as specific Receiver ID) to ease the determination of which customer was sold what. Reseller may rely upon the representations of Adopters upstream regarding Receiver ID associated with specific Keyed Licensed Components.

2.2.4 ADDITIONAL DISTRIBUTION RESTRICTIONS

Reseller will not distribute Licensed Components where Reseller has reason to believe any of the following:

2.2.4.1 The intended recipient is not in fact an HDCP Adopter having signed the HDCP 2.x Addendum or HDCP 2.x Associate;

2.2.4.2 The HDCP Adopter or HDCP Associate does not intend to incorporate the Licensed Component into another Licensed Component or Licensed Product; and

2.2.4.3 The HDCP Adopter or HDCP Associate intends to distribute, sell or provide such Licensed Components to any Person or entity other than an HDCP Adopter or HDCP Associate.

2.3 **Prohibition on Reverse Engineering.** Reseller shall under no circumstances reverse engineer, decompile, disassemble or otherwise determine the operation of HDCP or any Licensed Component.

2.4 **No Modification.** Reseller shall under no circumstances tamper with or otherwise modify any Licensed Component.

2.5 **Compliance with Laws, Export.** Reseller shall comply with all applicable rules and regulations of the United States and other countries and jurisdictions, including but not limited to those relating to the export or re-export of commodities, software and technical data insofar as they relate to the activities under this Agreement. Reseller acknowledges that commodities, software and technical data provided under this Agreement may be subject to restrictions under the export control laws and regulations of the United States and other countries and jurisdictions, as applicable, including but not limited to the U.S. Export Administration Act and the U.S. Export Administration Regulations, as may be amended from time to time, and shall obtain any approval required under such laws and regulations whenever it is necessary for such export or re-export.

2.6 **Covenant Not to Sue.** Reseller covenants and agrees not to assert any patent claim against Licensor, Founder, any HDCP Adopter, HDCP Associate or Content Participant for using, making, offering to sell, selling and importing those portions of Licensed Products or Licensed Components that implement HDCP.

3. FEES

3.1 **Annual Fee.** Reseller shall pay Licensor the annual fee of \$5,000 per year (the “Annual Fee”) upon the Effective Date and shall not become a Reseller without immediate payment. Upon each anniversary of the Effective Date (the “Annual Payment Date”), Reseller shall pay Licensor the Annual Fee. Reseller shall not be entitled to any refund of any Annual Fee for any reason, except as expressly provided in this Agreement. Failure to pay the Annual Fee shall constitute a material breach of this Agreement unless cured as set forth in Section 4.1.3.

3.2 **Taxes.** All fee payments shall be made free and clear without deduction for any and all present and future taxes imposed by any taxing authority. In the event that Reseller is prohibited by law from making payments without deduction of any kind, Reseller shall (i) deduct or withhold taxes from such payment ; (ii) remit the applicable taxes or withholding to the appropriate local taxing authority; (iii) pay to Licensor the remaining net amount after the taxes have been withheld; and (iv) promptly furnish Licensor with a copy of an official tax receipt or other appropriate evidence of any taxes imposed on payments made under this Agreement, including taxes on any additional amounts paid. In cases other than taxes referred to above, including but not limited to sales and use taxes, stamp taxes, value added taxes, property taxes and other taxes or duties imposed by any taxing authority on or with respect to this Agreement, the costs of such taxes or duties shall be borne by Reseller. In the event that such taxes or duties are legally imposed initially on Licensor or Licensor is later assessed by any taxing authority, then Licensor will be promptly reimbursed by Reseller for such taxes or duties plus any interest and penalties suffered by Licensor.

4. **TERM/TERMINATION**

4.1 Term. This Agreement shall be effective as of the Effective Date and shall remain in full force and effect until terminated in accordance with any of the following events:

4.1.1 Termination by Reseller. Reseller may terminate this Agreement at any time upon ninety (90) days notice to Licensor.

4.1.2 Termination by Licensor. Licensor may terminate this Agreement (a) for convenience at any time upon ninety (90) days notice to Reseller ; (b) at any time upon six (6) months notice to Reseller if Licensor determines, in its sole discretion, that it is not commercially reasonable to carry on the business of licensing HDCP or (c) upon notice to Reseller if the use of HDCP is enjoined, or Licensor or Founder determines, in its sole discretion, that it may be enjoined, due to an alleged infringement of a third-party intellectual property right.

4.1.3 Breach. In the event that either party (a) materially breaches any of its obligations hereunder, which breach is not cured, or not capable of cure, within thirty (30) days after notice is given to the breaching party specifying the breach; or (b) repeatedly breaches any of its obligations hereunder and fails to cure and cease committing such repeated breaches within thirty (30) days after being given notice specifying the breaches, then the party not in breach may, by giving notice thereof to the breaching party, terminate this Agreement, upon the expiration of a thirty (30)-day period beginning on the date of such notice of termination, or in

the event of a material breach that is not capable of cure within such thirty (30)-day period, upon such notice of termination. In the event that the Reseller has been notified by Licensor of a breach of its obligations arising under this Agreement and the need for a plan to address such breach(es) is requested (“Cure Plan”), such Cure Plan shall include a description of the specific changes that will correct the identified problem(s), and when and how those changes will be applied to ensure that such breach will not occur again. Notwithstanding the above, there shall be no Cure Plan instituted for a Reseller that has repeatedly breached their obligation to resell and distribute Licensed Components to an authorized recipient. For avoidance of doubt, misdistribution of Licensed Components will amount to a non-curable offence.

- 4.2 Effect of Termination.** Upon termination of this Agreement, all rights and authorizations granted to Reseller under Section 2 immediately shall terminate; provided, however, that Reseller may sell or distribute Licensed Components and Licensed Source Components, in accordance with Section 2, for ninety (90) days after such termination. In addition, Licensor shall notify all other Adopters that Reseller has been terminated and is no longer an authorized Reseller.
- 4.3 Survival.** The following sections shall survive termination of this Agreement: 1, 2.3, 2.4, 2.5.2.5, 3.2, 4.2, 5, 6, 7 and this Section 4.3.

5. DISCLAIMER & LIMITATION ON LIABILITY

- 5.1 Generally.** The terms of this Section 5 limit the ability of Reseller to recover damages from Licensor or Founder. The terms of this Section 5 are an essential part of the bargain, without which Licensor would not be willing to enter into this Agreement.
- 5.2 Disclaimer.** ALL INFORMATION, MATERIALS AND TECHNOLOGY, INCLUDING BUT NOT LIMITED TO HDCP, THE HDCP SPECIFICATION, DEVICE KEYS, DEVICE KEY SETS, KSVS AND SYSTEM RENEWABILITY MESSAGES, ARE PROVIDED “AS IS.” LICENSOR, FOUNDER, KEY GENERATOR AND THEIR RESPECTIVE AFFILIATES MAKE NO REPRESENTATIONS OR WARRANTIES, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EXPRESSLY DISCLAIM IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ANY EQUIVALENTS UNDER THE LAWS OF ANY JURISDICTION THAT MIGHT ARISE FROM ANY ACTIVITIES OR INFORMATION DISCLOSURES RELATING TO THIS AGREEMENT, ANY OTHER AGREEMENT OR ANY OTHER ACTIVITY OF LICENSOR OR FOUNDER. LICENSOR, FOUNDER, KEY GENERATOR AND THEIR RESPECTIVE AFFILIATES FURTHER DISCLAIM ANY WARRANTY THAT HDCP, DEVICE KEYS, DEVICE KEY SETS, KSVS, SYSTEM RENEWABILITY MESSAGES, THE HDCP SPECIFICATION, OR ANY IMPLEMENTATION OF THE HDCP SPECIFICATION, IN EACH CASE IN WHOLE OR IN PART, WILL BE FREE FROM INFRINGEMENT OF ANY INTELLECTUAL PROPERTY OR PROPRIETARY RIGHTS. WITHOUT LIMITING THE FOREGOING, LICENSOR, FOUNDER, KEY GENERATOR AND THEIR RESPECTIVE AFFILIATES DO NOT REPRESENT OR WARRANT THAT HDCP IS IMMUNE TO HACKING, CODE-BREAKING, PIRACY OR OTHER EFFORTS TO CIRCUMVENT HDCP.

5.3 Limitation of Liability. NONE OF LICENSOR, FOUNDER, KEY GENERATOR, AFFILIATES OF ANY OF THE FOREGOING, NOR ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, AGENTS, MEMBERS, REPRESENTATIVES, EQUIVALENT CORPORATE OFFICIALS, OR EMPLOYEES ACTING IN THEIR CAPACITIES AS SUCH (COLLECTIVELY, THE “AFFECTED PARTIES”) SHALL BE LIABLE TO RESELLER FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES ARISING OUT OF ANY CAUSE OF ACTION RELATING TO THIS AGREEMENT, OR BASED ON THE MAKING, USING, SELLING, OFFERING FOR SALE OR IMPORTING ANY PRODUCTS OF RESELLER THAT IMPLEMENT HDCP OR ANY PORTION OF THE HDCP SPECIFICATION, WHETHER UNDER THEORY OF CONTRACT, TORT, INDEMNITY, PRODUCT LIABILITY OR OTHERWISE. WITHOUT LIMITING THE FOREGOING, IN NO EVENT WILL THE AFFECTED PARTIES’ AGGREGATE LIABILITY TO RESELLER ARISING OUT OF ANY AND ALL CAUSES OF ACTION RELATING TO THIS AGREEMENT, OR BASED ON THE MAKING, USING, SELLING, OFFERING FOR SALE OR IMPORTING ANY PRODUCTS OF RESELLER THAT IMPLEMENT HDCP OR ANY PORTION OF THE HDCP SPECIFICATION, WHETHER UNDER THEORY OF CONTRACT, TORT, INDEMNITY, PRODUCT LIABILITY OR OTHERWISE, EXCEED THE LOWEST ADMINISTRATION FEE THAT ANY HDCP ADOPTER IS OBLIGATED TO PAY TO LICENSOR DURING ANY ONE YEAR PERIOD DURING THE TERM OF THIS AGREEMENT.

6. REMEDIES

- 6.1 Indemnification for Wrongful Acts of Reseller.** Reseller shall indemnify and hold harmless Licensor, Founder, Key Generator and their respective Affiliates, and each of their respective officers, members, representatives, agents, directors, equivalent corporate officials, and employees from and against any and all claims, actions, suits, proceedings or litigation, and any losses, deficiencies, damages, liabilities, costs and expenses, including but not limited to reasonable attorney’s fees and all related costs and expenses, to be paid or otherwise incurred in connection with the defense of any claim, action, suit, proceeding or litigation, that result from any breach of any covenant, agreement, representation or warranty herein by Reseller or negligent acts committed by Reseller.
- 6.2 Component Inspection.** Reseller acknowledges that Licensor may acquire components on the open market for examination. Reseller shall provide reasonable cooperation in affording Licensor a sample of any component distributed hereunder if requested.
- 6.3 Equitable Relief.** Due to the unique nature of certain provisions hereof and the lasting effect of and harm from a breach of such provisions, including but not limited to making available the means for widespread circumvention of HDCP and threatening the content protection of copyrighted works afforded by HDCP, if Reseller breaches its representations, covenants or obligations hereunder, the parties recognize and agree that money damages alone may not adequately compensate an injured Person, that injury to such Person may be irreparable, and that injunctive relief is an appropriate remedy to prevent further or threatened breaches of this Agreement.

- 6.4 Liquidated Damages.** The parties agree that it would be impossible to estimate the amount of damages in the event of certain breaches of this Agreement. In the event of a material breach by Reseller Reseller shall be liable to Licensor in an amount equal to its profits on the affected devices or software, and in no event more than eight million dollars (US \$ 8,000,000). For purposes of this Section 6.4, a series of substantially related events shall constitute a single material breach. Except for Section 2.1 and 2., a breach shall be “material” for purposes of this section 6.4 only if it has resulted in or would be likely to result in commercially significant harm to users of HDCP, including but not limited to HDCP Adopters and Content Participants, or constitute a threat to the integrity or security of HDCP.
- 6.5 Third-Party Beneficiary Rights.** Reseller’s compliance with the terms and conditions of this Agreement is essential to maintain the value and integrity of HDCP. As part of the consideration granted herein, Reseller agrees that each Eligible Content Participant shall be a third-party beneficiary of this Agreement and shall be entitled to bring a claim or action to enforce rights against Reseller in accordance with the procedures set out in Section 1 of the Exhibit A with respect to Reseller’s sale or distribution of components capable of receiving or transmitting Audiovisual Data that Content Participant has caused or permitted to be distributed or transmitted. Such rights shall be limited to seeking injunctive relief against the distribution, commercial use and sale of components in breach of this Agreement that affects the integrity of HDCP. Reasonable attorneys’ fees and costs shall be awarded to the prevailing party or parties in connection with any such third-party-beneficiary claim, provided, however, that no party shall be obligated to pay to the prevailing party or parties any such fees or costs that exceed, in the aggregate, one million dollars (US \$1,000,000) for such third-party-beneficiary claim.
- 6.6 Records Audit and Inspection.** Licensor shall have the right, at reasonable times and intervals, to have audited Reseller’s books, records and other necessary materials or processes to confirm and/or ascertain (i) whether sales of Licensed Components are made in compliance with Section 2 of this Agreement; and (ii) the propriety of any payment hereunder. Any such audit shall be undertaken at Licensor’s sole expense and shall be conducted during normal business hours. Reseller shall cooperate with Licensor to carry out any such audit. With respect to audits relating to payments, the auditor shall be a Certified Public Accountant from a widely-recognized accounting firm, and shall only disclose those matters that Licensor has the right to know under this Agreement. The results of any audit shall be deemed confidential.
- 7. MISCELLANEOUS**
- 7.1 Entire Agreement.** This Agreement and the exhibits hereto constitute the entire agreement between the parties with respect to the subject matter hereof and supersede all prior oral or written agreements, correspondence, conversations, negotiations and understandings relating to the same subject matter. Except as otherwise provided herein, this Agreement shall not be modified except by written agreement dated subsequent to the Effective Date and signed by both parties.
- 7.2 Assignment.** The rights granted under this Agreement to Reseller are personal to Reseller and shall not be assigned or otherwise transferred except: (a) with the written approval of Licensor; (b) to a corporation controlling, controlled by or under common

control with Reseller or (c) to the purchaser of a Reseller or the surviving entity in a merger, reorganization, or other business combination involving Reseller; provided notice of such assignment has been provided in advance to Licensor and the surviving or acquiring company has agreed in writing to be bound by the terms of this Agreement. Subject to the limitations set forth in this Agreement, this Agreement shall inure to the benefit of and be binding upon the parties, their successors and permitted assigns. Licensor may assign or transfer this Agreement to any Person that agrees to assume Licensor's obligations hereunder, and will provide Reseller with notice of such assignment or transfer.

7.3 Presumptions. In construing the terms of this Agreement, no presumption shall operate in either party's favor as a result of its counsel's role in drafting the terms or provisions hereof.

7.4 Governing Law. THIS AGREEMENT, AND ALL THIRD-PARTY BENEFICIARY CLAIMS BROUGHT HEREUNDER, SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO AGREEMENTS MADE AND TO BE PERFORMED ENTIRELY IN SUCH STATE.

7.5 Consent to Jurisdiction. IN CONNECTION WITH ANY LITIGATION BETWEEN THE PARTIES HERETO OR IN CONNECTION WITH ANY THIRD-PARTY BENEFICIARY CLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT, EACH PARTY IRREVOCABLY CONSENTS TO: (a) THE NON-EXCLUSIVE JURISDICTION AND VENUE IN THE FEDERAL AND STATE COURTS LOCATED IN THE COUNTY OF NEW YORK, NEW YORK, AND IN THE FEDERAL AND STATE COURTS LOCATED IN ANY COUNTY OF CALIFORNIA OR OREGON; AND (b) THE SERVICE OF PROCESS OF SUCH COURTS IN ANY MATTER RELATING TO THIS AGREEMENT BY PERSONAL DELIVERY OR BY MAILING OF PROCESS BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, AT THE ADDRESSES SPECIFIED IN THIS AGREEMENT, OR TO THE AGENT TO BE APPOINTED PURSUANT TO SECTION 7.5.2.

7.5.1 RESELLER WAIVES ANY OBJECTION TO THE JURISDICTION, PROCESS, AND VENUE OF ANY SUCH COURTS, AND TO THE EFFECTIVENESS, EXECUTION, AND ENFORCEMENT OF ANY ORDER OR JUDGMENT (INCLUDING, BUT NOT LIMITED TO, A DEFAULT JUDGMENT) OF SUCH COURTS PERTAINING TO THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY THE LAW OF THE PLACE WHERE ENFORCEMENT OR EXECUTION OF ANY SUCH ORDER OR JUDGMENT MAY BE SOUGHT AND BY THE LAW OF ANY PLACE WHOSE LAW MAY BE CLAIMED TO BE APPLICABLE REGARDING THE EFFECTIVENESS, ENFORCEMENT, OR EXECUTION OF SUCH ORDER OR JUDGMENT, INCLUDING PLACES OUTSIDE OF THE STATES OF NEW YORK, CALIFORNIA, OREGON AND THE UNITED STATES.

7.5.2 IF RESELLER DOES NOT HAVE A PLACE OF BUSINESS IN ANY OF THE STATES OF NEW YORK, CALIFORNIA OR OREGON, IT SHALL APPOINT AN AGENT IN ANY SUCH STATE FOR ACCEPTANCE OF SERVICE OF PROCESS PROVIDED FOR UNDER THIS AGREEMENT AND SHALL NOTIFY LICENSOR OF THE IDENTITY AND ADDRESS OF SUCH AGENT WITHIN THIRTY (30) DAYS AFTER THE EFFECTIVE DATE.

- 7.6 Notice.** Unless otherwise specified in this Agreement, all notices to be provided pursuant to this Agreement shall not be effective unless given in writing by means of a letter, facsimile or electronic mail, in each case to the party at the addresses set out on the signature page hereof. Any notice sent pursuant to this Section 7.6 shall be deemed delivered: (x) on the date personally delivered; (y) five (5) business days after deposit with the United States mail (postage prepaid); or (z) one (1) business day after delivery by electronic mail (provided that it is confirmed by United States Air Mail or letter posted two business days after the email delivery).
- 7.7 Severability; Waiver.** In the event that any part or parts of this Agreement is (are) judicially declared to be invalid, unenforceable, or void, the parties agree that such part or parts so held to be invalid, unenforceable, or void shall be reformed by the entity having jurisdiction thereover without further action by the parties hereto and only to the extent necessary to make such part or parts valid and enforceable. A waiver by either of the parties hereto of any of the covenants to be performed by the other party or any breach of this Agreement shall not be effective unless made in writing and signed by the waiving party and shall not be construed to be a waiver of any succeeding breach thereof or of any covenant herein contained.
- 7.8 Headings and Captions.** Section headings in this Agreement are for convenience only and shall not affect the interpretation of any provision of this Agreement.
- 7.9 Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument.

EXHIBIT A
PROCEDURES FOR THIRD PARTY BENEFICIARY CLAIMS

1. Procedures for Third-Party Beneficiary Claims

- 2.6 Prior to initiating any third-party beneficiary claim under this Agreement by an Eligible Content Participant (a “Beneficiary Claim”) against Reseller, such Content Participant (a “Third-Party Beneficiary”) shall provide Licensor with notice and consultation reasonable under the circumstances regarding a proposed Beneficiary Claim; provided that such consultation with Licensor shall not affect such Third-Party Beneficiary’s discretion in initiating such a Beneficiary Claim. Such Third-Party Beneficiary shall further provide Licensor with notice of actual filing of a Beneficiary Claim and, upon Licensor’s request, any copies of principal pleadings to be filed in such Third-Party Beneficiary’s initiation or pursuit of such Beneficiary Claim. Licensor shall cooperate reasonably with such Third-Party Beneficiary in providing appropriate and necessary information in connection with the Beneficiary Claim to the extent that such cooperation is consistent with the preservation of the integrity and security of HDCP and to the extent such cooperation does not involve release of information provided to Licensor by a Content Participant, Adopter or HDCP Associate that such Content Participant, Adopter or HDCP Associate has designated to Licensor to be its confidential and proprietary information. Documents provided to Licensor under these third-party-beneficiary procedures shall not include any documents filed or to be filed under seal in connection with such Beneficiary Claim.
- 2.7 Licensor shall provide all Content Participants with prompt notice of Licensor’s receipt of any notice of a Beneficiary Claim against Reseller (a “Claim Notice”). Within thirty (30) days of the date of receipt of a Claim Notice, all Eligible Content Participants shall elect whether to join such Beneficiary Claim, and the failure of any Eligible Content Participant to provide notice to Licensor of such election and to move to join such Beneficiary Claim within such thirty (30) days shall be deemed a waiver of such Content Participant’s third-party-beneficiary right under this Agreement with respect to all Beneficiary Claims against Reseller arising out of the alleged breach by Reseller raised in such Beneficiary Claim asserted by the Third-Party Beneficiary. The Third-Party Beneficiary initiating a Beneficiary Claim shall support, and Reseller shall not object to, any motion to so join by such Third-Party Beneficiaries electing to join such Beneficiary Claim within such thirty (30)-day period. Any judgment entered upon such Beneficiary Claim shall be binding on all Content Participants that failed to join such Beneficiary Claim after receipt of such notice as if they had joined such Beneficiary Claim. No Content Participant’s failure to notify or consult with Licensor, nor a Content Participant’s failure to provide to Licensor copies of any pleadings, nor Licensor’s failure to give notice to any Content Participant pursuant to

these third-party-beneficiary procedures, shall be a defense against any Beneficiary Claim or grounds for a request to delay the granting of any preliminary relief requested. Neither Reseller nor any Content Participant shall involve Founder as a party in any Beneficiary Claim. The foregoing sentence shall not apply to or preclude Founder's involvement or participation as a witness or in a similar capacity.

- 2.8 Third-Party Beneficiaries shall have no right to, and Reseller agrees that it will not, enter into any settlement that: (a) amends any material term of this Agreement or any Content Participant Agreement; (b) has a material effect on the integrity or security of HDCP or the operation of HDCP with respect to protecting Audiovisual Content from any unauthorized output, transmission, interception and copying, or the rights of Content Participants with respect to HDCP; or (c) affects any of Licensor's or Founder's rights in and to HDCP or any intellectual property right embodied therein, unless, in the case of this clause (c), Licensor shall have provided prior written consent thereto.
- 2.9 Nothing contained in these third-party-beneficiary procedures is intended to limit remedies or relief available pursuant to statutory or other claims that a Third-Party Beneficiary may have under separate legal authority.