

CMLA Content Participant Agreement

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Version: v1.1-060722

CMLA
CONTENT PARTICIPANT AGREEMENT

This Content Participant Agreement (the "Agreement") is effective as of the date of the last signature below (the "Effective Date") by and between Content Management License Administrator, LLC, a Delaware limited liability company ("CMLA" or "CMLA, LLC"), the Founders, designating CMLA as an attorney in fact, and the entity which is named immediately below (the "Content Participant"):

Name of Content Participant:
Location of Principal offices:
State (U.S.) or Country of Incorporation:

RECITALS :

WHEREAS, a group of companies identified below as the Founders desire to promote the use and interoperability of OMA DRM Specification 2.0 implementations;

WHEREAS, the Founders have therefore developed a certain CMLA Technical Specification (as defined below), for use with OMA DRM Specification 2.0 (and its approved successors), together with a public key infrastructure, key generation, management and licensing/compliance framework for the purpose of furthering these goals and protecting certain digital content from unauthorized interception, transmission and copying, and the CMLA has developed or obtained the CMLA IP (as defined below) for the purpose of better protecting its interests in connection with the CMLA Technical Specification;

WHEREAS, the Founders have licensed certain rights pertaining to the CMLA Technical Specification to CMLA and authorized CMLA to further license those certain rights in the CMLA Technical Specification and administer such licenses and whereas the Founders and CMLA hereby license certain necessary patent claims, if any, directly to Content Participant, through this Agreement;

WHEREAS, Content Participant wishes to obtain a license to use the CMLA Technical Specification to protect its digital content and to obtain certain other rights, including but not limited to certain rights to seek revocation of Device Certificates or Rights Issuer Certificates (defined below) and to exercise Third Party Beneficiary Rights as may be granted to Content Participant;

WHEREAS, the parties agree to comply with all obligations set out herein;

NOW, THEREFORE, in consideration of the foregoing promises and the covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency which are hereby acknowledged, the parties hereto hereby agree as follows:

1 DEFINITIONS

In addition to terms defined elsewhere in this Agreement, the following terms shall have the following meanings:

- 1.1 “Affiliate” means, with respect to any person or entity, any other person or entity directly or indirectly controlling or controlled by or under direct or indirect common control with such person or entity. “Control” as used in this definition means the possession of beneficial ownership of more than fifty percent (50%) of the stock or other similar interest entitled to vote for the election of the Board of Directors or similar managing authority.
- 1.2 “Authorized Reseller” means an entity that has executed a CMLA Authorized Reseller Agreement with CMLA.
- 1.3 “Authorized Reseller Agreement” means an agreement in the form set forth in Exhibit F between CMLA and Authorized Reseller.
- 1.4 “Certificate Revocation List” means a data object providing revocation status information for Device Certificates or Rights Issuer Certificates used by CMLA.
- 1.5 “Client Adopter” means any entity and its Participating Affiliates, (including a Founder), that has executed a Client Adopter Agreement with CMLA provided that Client Adopter or its Affiliates that wish to participate as Content Participants or CMLA Service Providers may only do so pursuant to an appropriate CMLA Technology License Agreement.
- 1.6 “Client Adopter Agreement” means any CMLA Technology License Agreement and associated Fee Exhibit entered into by CMLA, Founders and a Client Adopter for the use of CMLA Technical Specification in a Participating Product Implementation, Licensed Products and/or Licensed Components for the protection of Digital Content in the form attached hereto as Exhibit D, and any other CMLA Technology License Agreement that includes licensing and covenant provisions which are not materially different.
- 1.7 “CMLA IP” means the proprietary technology owned and licensed by CMLA pursuant to a CMLA Technology License Agreement, and as described with specificity in the CMLA Technical Specification.
- 1.8 “CMLA Technology License Agreement” means any of: a Service Provider Agreement with/without Developer Addendum, Content Participant Agreement, Client Adopter Agreement with/without Developer Addendum, and an Authorized Reseller Agreement and associated Compliance and Robustness Rules and other exhibits thereto.
- 1.9 “CMLA Technology Licensee” means a party to which the CMLA Technical Specification is licensed pursuant to a CMLA Technology License Agreement.
- 1.10 “CMLA Technical Specification” means the specification available under a CMLA Technology License Agreement from CMLA entitled CMLA Technical Specification, and updates, if any, approved during the term of this Agreement.
- 1.11 “Compliance Rules” means the technical requirements set out in Exhibits A of the Client Adopter Agreement and the Service Provider Agreement attached hereto, which are applicable to a Participating Rights Issuer Implementation, a Participating Product Implementation, Licensed Products and Licensed Services.

- 1.12 "Compliant" means, as applicable,(i) for a Client Adopter, that which (a) implements the mandatory portions of the CMLA Technical Specification; (b) complies with the Compliance Rules set forth in Exhibit A to the Client Adopter Agreement; and (c) complies with the Robustness Rules set forth in Exhibit B to the Client Adopter Agreement; (ii) for a Service Provider, that which (a) implements the mandatory portions of the CMLA Technology Specification; (b) complies with the Compliance Rules set forth in Exhibit A to the Service Provider Agreement; and (c) complies with the Robustness Rules, set forth in Exhibit B to the Service Provider Agreement.
- 1.13 "Confidential Information" means any and all information relating to the CMLA Technical Specification, or CMLA's or any Founder's business practices relating to the CMLA Technical Specification, (a) which is made available to Content Participant directly by CMLA or its designees or representatives, Founders, or by any Fellow Content Participant, Service Provider or Client Adopter prior hereto or during the term of this Agreement, including, without limitation, specifications, software, hardware, firmware, documentation, designs, flow charts, technical data, outlines, blueprints, notes, drawings, prototypes, templates, systems, manuals, know-how, processes and methods of operation, trade secrets, business plans, strategies, concepts, research, data bases, client or customer lists, financial data, other data or information that relates to CMLA's or a Founder's past, present or future research, development or business activities, and any other sensitive material belonging to CMLA or any Founder, and/or (b) which is marked "confidential" when disclosed in written form or indicated as "confidential" when disclosed orally, and confirmed in writing within thirty days to be confidential.
- 1.14 "Content Participant" means an entity and its Affiliates that has executed this Content Participant Agreement with CMLA.
- 1.15 "Content Participant Agreement" means (i) this Agreement, and/or (ii) each other Agreement in substantially the same form in all material respects of this Agreement (including the exhibits hereto), as executed by the CMLA, the Founders and any Fellow Content Participant.
- 1.16 "Contributor" means an entity that has executed a Founding Member Contribution Agreement or Contribution Agreement with CMLA
- 1.17 "Developer Addendum" means a development addendum to the Client Adopter Agreement and/or Service Provider Agreement entered into by CMLA, Founders and a CMLA Technology Licensee.
- 1.18 "Device Certificate" means a digitally signed certificate issued by CMLA for a public key corresponding to a Device Private Key, as specified by the OMA DRM Specifications and defined in the CMLA Technical Specification.
- 1.19 "Device CRL" means the Certificate Revocation List for Device Certificates issued by CMLA.
- 1.20 "Device Private Key" means a cryptographic value used by a Licensed Product or Licensed Component for decryption and signing operations, as specified by the OMA DRM Specifications and defined in the CMLA Technical Specification.

- 1.21 "Digital Content" means materials commercially distributed in digital form including, but not limited to, games, software offerings, sound recordings or audiovisual works, which may be reproduced, distributed, transmitted or performed with the authorization of the Content Participant or other entity or individual owning or having the right to license the rights therein.
- 1.22 "Eligible Content Participant" means a Content Participant that: (1) either (i) caused or permitted actual distribution or transmission of a minimum of five million United States Dollars of its Digital Content via Participating Product Implementation(s) or Participating Rights Issuer Implementation(s) in the preceding calendar year or (ii) caused or permitted actual distribution or transmission of its Digital Content via Participating Product Implementation(s) or Participating Rights Issuer Implementation(s) via at least fifteen (15) wireless carriers and in at least fifteen (15) countries in the preceding calendar year; and (2) is not in breach of any material term or condition of its Content Participant Agreement, which breach has not been cured, or is not capable of cure, within thirty (30) days of Content Participant's receipt of notice thereof by CMLA.
- 1.23 "Fellow Content Participant" means any entity (other than that the Content Provider) that has executed a Content Participant Agreement.
- 1.24 "Founders" means Intel Corporation, a Delaware company, whose principal offices are at 2200 Mission College Blvd., Santa Clara, CA 95052, Matsushita Electric Industrial Co., Ltd., a Japanese corporation having its principal place of business at 1006 Kadoma, Kadoma, Osaka 571-8501 Japan, Nokia Corporation, a Finnish company, whose principal offices are at Keilalahdentie 4, FIN-02150 Espoo, Finland; and, Samsung Electronics Co., Ltd., a Korean corporation having its principal place of business at 416 Maetan-3 Dong, Yeongtong-Gu, Suwon-City, Kyungki-Do, Korea.
- 1.25 "Highly Confidential Information" means (i) Device Private Keys and Client Adopter Transport Keys (regardless of whether or not they are marked "Highly Confidential"), and (ii) other information that is marked "Highly Confidential Information" when disclosed, pursuant to the Change Control provisions in Client Adopter and Service Provider Agreements.
- 1.26 "Licensed Component" means those portions of a component, such as an integrated circuit, circuit board, or software module that (i) are manufactured and distributed under a CMLA Technology License Agreement, (ii) are designed solely to be assembled into a Licensed Product and which is assembled into a Licensed Product and (iii) embody a portion of the CMLA Technical Specification, but which by itself may not be Compliant.
- 1.27 "Licensed Product" means those portions of a device or hardware or software product manufactured or distributed under license from CMLA that implement the mandatory portions of the CMLA Technical Specification and that are designed solely to be integrated into a Participating Product Implementation and which are integrated into a Participating Product Implementation.
- 1.28 "Licensed Service Element" means those portions of a component such as a software module, that are (i) manufactured, and distributed under a CMLA Technology License Agreement (ii) are designed solely to be integrated and which is integrated into a Licensed Service, and (iii) embody a portion of the CMLA Technical Specification, but which by itself may not be Compliant.

- 1.29 “Licensed Service” means those portions of a service performed or distributed under license from CMLA that implement the mandatory portions of the CMLA Technical Specification and that are designed solely to be integrated into a Participating Rights Issuer Implementation and which are integrated into a Participating Rights Issuer Implementation.
- 1.30 “Necessary Claims” means those claims of patents or patent applications, under which, CMLA, any Founder or any CMLA Technology Licensee, or an Affiliate owns, controls or otherwise has the right, at any time during the term of this Agreement, to grant licenses within the bounds of the scope of use set forth in Section 2.2 of this Agreement that are necessarily infringed by those portions of Licensed Products, Licensed Components, Licensed Service or Licensed Service Element which implement the mandatory portions of CMLA Technical Specification. Notwithstanding anything else in this Agreement, "Necessary Claims" shall not include (1) any claims relating to aspects of any technology, codec, standard or product not disclosed with particularity in the CMLA Technical Specification even though such technology, codec, standard or product may be mentioned in the CMLA Technical Specification or required by the Compliance or Robustness Rules; (2) claims relating to implementation of the OMA DRM Specification version 1.0, 2.0 and subsequent versions, if any, (even though such OMA DRM Specifications versions 1.0, 2.0 and subsequent versions, if any, may be mentioned or required by the CMLA Technical Specification), (3) claims relating to a standard or standards developed, administered, or offered, by an industry group consisting of two or more legal entities or promulgated by official standardization agencies or bodies; (4) other copy protection, compression, encoding or decoding ability or tamper resistance technology (even though such technology, standard or product may otherwise be mentioned or required by the CMLA Technical Specification); (5) claims which could be practiced in an implementation of a Licensed Product, Licensed Component, Licensed Service or Licensed Service Element in compliance with the CMLA Technical Specification where an alternative implementation exists that would not infringe such claim(s) (even if in the same patent as Necessary Claims); (6) claims that read solely on any implementations of any portion of the CMLA Technical Specification that are not within the bounds of the scope of use set forth in Section 2.2 or the equivalent section of the relevant CMLA Technology License Agreement(s); (7) claims related to data embedding, content formats and content downloading and delivery (other than as described with particularity in the CMLA Technical Specification); (8) claims which, if licensed, would require a payment of royalties or other consideration by the licensor to unaffiliated third parties; (9) claims relating to watermarking or waterscrambling technology, semiconductor and semiconductor manufacturing technology, compiler technology, programming languages and object-oriented technology, operating system, middleware and database technology, networking, intranet, extranet, Internet technology, telecommunications network technology (for example any technology relating to equipment, handsets, signal transmission) access control system technology, card access management technology, electronic payment technology, conditional access for television technology, television e-commerce access technology, broadcast stream access technology; (10) claims related to key management technology for use in encryption or signature applications, encryption technology or electronic signature technology, except as may be necessary or required for the use, development, manufacturing, implementation, sale (offer for sale), license and distribution of CMLA keys, self-generated CMLA keys, any aspect of CMLA technology, including, but not limited to key management software for use in encryption or signature applications licensed to CMLA by third parties, the CMLA Technical Specification, Licensed Products, Licensed Services, Licensed Components or Licensed Service; or

(11) claims related to applications, application programming interfaces and user interfaces, including the technology used to generate, display or interact with a use.

- 1.31 "OMA DRM Specifications" means Open Mobile Alliance DRM Specifications V2.0, DRM Architecture V2.0, OMA DRM Requirements V2.0, DRM Content Format V2.0, and/or OMA Rights Expression Language V2.0, each as amended from time to time, and all follow on versions of the same as approved by OMA, excluding the backward compatibility functions required by OMA DRM Specification V2.0 and defined in the OMA DRM version 1.0 specification.
- 1.32 "Participating Affiliate" means an Affiliate of Service Provider or Client Adopter, for which Service Provider or Client Adopter agrees to assume obligations contained in the Service Provider Agreement or Client Adopter Agreement; which is identified by Service Provider or Client Adopter; and, which is engaged in the performance and distribution of a Participating Rights Issuer Implementation or Participating Product Implementation. Participating Affiliates shall be identified by the Service Provider or Client Adopter. Participating Affiliates receiving Rights Issuer Private Keys or Highly Confidential Information shall sign a separate Highly Confidential Non-Disclosure Agreement.
- 1.33 "Participating Product Implementation" means those portions of a product that implement the OMA DRM Specifications, are Compliant and incorporate a Licensed Product.
- 1.34 "Participating Rights Issuer Implementation" means those portions of a Rights Issuer facility that implement the OMA DRM Specifications, are Compliant and incorporate a Licensed Service.
- 1.35 "Party" or "Parties" means the party or parties to this Agreement.
- 1.36 "Rights Issuer" has the same meaning as defined in the OMA DRM Specification.
- 1.37 "Rights Issuer Certificate" is a digital certificate issued by CMLA for a public key corresponding to a Rights Issuer Private Key, as specified in the OMA DRM Specifications.
- 1.38 "Rights Issuer Private Key" is a cryptographic value used by the Rights Issuer to create digital signatures, as defined by the technical specifications contained in the OMA DRM Specification.
- 1.39 "Rights Object" has the same meaning as defined in the OMA DRM Specifications.
- 1.40 "Robustness Rules" means the requirements set out in Exhibit B of the Client Adopter and Service Provider Agreements, attached hereto, as such exhibit may be amended by CMLA from time to time in accordance with the terms of this Agreement.
- 1.41 "Service Provider" means an entity and its Affiliates that has entered into a Service Provider Agreement with CMLA and Founders.
- 1.42 "Service Provider Agreement" or "CMLA Service Provider Agreement" means any CMLA Technology License Agreement (including its Compliance Rules and Robustness Rules) and associated Fee Exhibit entered into by CMLA, Founders and a Service

Provider and its Participating Affiliates, if applicable, in the form attached hereto as Exhibit E, and any other CMLA Technology License Agreement that includes licensing and covenant provisions which are not materially different than those embodied in Exhibit E executed by a Service Provider.

- 1.43 “Third Party Beneficiary” means (in relation to the rights granted under the Client Adopter and Service Provider Agreements, as applicable) any Eligible Content Participant.
- 1.44 “Third Party Beneficiary Claim” means a claim brought by an Eligible Content Provider as a Third Party Beneficiary under the relevant terms of the Service Provider Agreement and the Client Adopter Agreement.

2. LICENSES

2.1

- (a) Necessary Claims Patent License. Subject to the terms and conditions of this Agreement, including but not limited to payment of all fees required hereunder, and the limitations set forth in Sections 2.2, 2.3 and 2.4 and provided that such licenses (and/or sublicenses) granted in Section 2.1 shall not extend to Content Participant if Content Participant is in violation of Section 2.5, each Founder (or its Affiliate which has the right to sublicense the Necessary Claims) grants to Content Participant and Content Participant accepts from each Founder (or such Affiliate) and a nonexclusive, nontransferable, nonsublicensable, revocable worldwide license under the Necessary Claims of such Founders or to use CMLA Technical Specification or to cause CMLA Technical Specification to be used to protect Digital Content in connection with the distribution, reproduction and transmission of such Digital Content in and by Participating Product Implementations and/or Participating Rights Issuer Implementations. For the avoidance of doubt, the above license shall only cover Content Participant in its role as a Content Participant and shall not be interpreted or construed to grant the Content Participant or any other any right to make, have made, use, offer for sale, sell, import, or otherwise distribute any implementation of the CMLA Technical Specification. Under no circumstances should anything in this Agreement be construed as granting to Content Participant or any other, by implication, estoppel, or otherwise, any license in or to any CMLA Technical Specification other than the license expressly granted in this Agreement.
- (b) CMLA IP License. Subject to the terms and conditions of this Agreement, including but not limited to payment of all fees required hereunder, and the limitations set forth in Sections 2.2, 2.3 and 2.4 and provided that such license granted in this Section 2.2 shall not extend to a Content Participant if Content Participant is in violation of Section 2.5 CMLA grants to Content Participant and Content Participant accepts from CMLA a nonexclusive, nontransferable, nonsublicensable, revocable worldwide license under CMLA LLC’s patent or patent applications to use the CMLA Technical Specification or to cause the CMLA Technical Specification to be used through distribution systems operated by CMLA Service Providers to protect Digital Content in connection with the distribution, reproduction and transmission of such Digital Content in and by Participating Product Implementations and/or Participating Rights Issuer Implementations. For the avoidance of doubt, the above license shall only cover Content Participant in its role as a Content Participant and shall not be

interpreted or construed to grant the Content Participant or any other any right to make, have made, use, offer for sale, sell, import, or otherwise distribute any implementation of the CMLA Technical Specification. Under no circumstances should anything in this Agreement be construed as granting to Content Participant or any other, by implication, estoppel, or otherwise, any license in or to any CMLA Technical Specification other than the license expressly granted in this Agreement.

- (c) Copyright License. Subject to the terms and conditions of this Agreement and subject to Content Participant's compliance with all of the terms and conditions of this Agreement including, but not limited to, payment of all fees required hereunder, and subject to the limitations set forth in Section 2.2, 2.3 and 2.4, CMLA grants to Content Participant, and Content Participant accepts, a nonexclusive, nontransferable, nonsublicensable, revocable, worldwide license under those copyrights embodied in the CMLA Technical Specification and disclosed by CMLA to Content Participant during the course of performance of this Agreement to reproduce and distribute the CMLA Technical Specification and sample code included in the CMLA Technical Specification, if any, internally as necessary to protect its Digital Content in connection with the distribution, reproduction and transmission of such Digital Content in and by Participating Product Implementations and/or Participating Rights Issuer Implementations. For the avoidance of doubt, the above license shall only cover Content Participant in its role as a Content Participant and shall not be interpreted or construed to grant the Content Participant or any other any right to make, have made, use, offer for sale, sell, import, or otherwise distribute any implementation of the CMLA Technical Specification. Under no circumstances should anything in this Agreement be construed as granting to Content Participant or any other, by implication, estoppel, or otherwise, any license in or to any CMLA Technical Specification other than the license expressly granted in this Agreement.
- (d) Trade Secret License. Subject to the terms and conditions of this Agreement and subject to Content Participant's compliance with all of the terms and conditions of this Agreement including, but not limited to, payment of all fees required hereunder, and subject to the limitations set forth in Section 2.2, 2.3 and 2.4,, CMLA grants to Content Participant, and Content Participant accepts, a nonexclusive, nontransferable, nontransferable, nonsublicensable, revocable, worldwide license under those trade secrets embodied in the CMLA Technical Specification and disclosed to Content Participant during the course of performance of this Agreement to use or to cause the CMLA Technical Specification to be used to protect Content Participant's Digital Content in connection with the reproduction, distribution and transmission of such Digital Content in and by Participating Product Implementations and/or Participating Rights Issuer Implementations. For the avoidance of doubt, the above license shall only cover Content Participant in its role as a Content Participant and shall not be interpreted or construed to grant the Content Participant or any other any right to make, have made, use, offer for sale, sell, import, or otherwise distribute any implementation of the CMLA Technical Specification. Under no circumstances should anything in this Agreement be construed as granting to Content Participant or any other, by implication, estoppel, or otherwise, any license in or to any CMLA Technical Specification other than the license expressly granted in this Agreement.
- (e) The licenses granted in this Section 2.1 shall not extend to Content Participant if Content Participant or its Affiliates are in violation of Section 2.5, below. CMLA and

Founders may terminate this Agreement immediately if Content Participant asserts against any CMLA Technology Licensee any portion of its Necessary Claims.

- 2.2 Scope of Use. The licenses under Section 2.1 shall extend only for the use by, or as a requirement for use by Content Participant of the CMLA Technical Specification for the protection of Content Participant's Digital Content.
- 2.3 Exclusions. Notwithstanding anything else in this Agreement, patents, patent applications, copyrights and trade secrets which subsist in anything that is excluded from the definition of Necessary Claims or in other rights not expressly granted herein the following are not licensed pursuant to the licenses granted under Section 2.1.
- 2.4 Proper Use. Content Participant, if applicable, shall not be use entitled to receive Highly Confidential Information or use or caused to be used Highly Confidential Information or the CMLA Technical Specification provided under this Agreement or under another CMLA Technology License Agreement, nor produce or cause to be produced or sell or cause to be sold a service or portions thereof, devices or portions thereof, or software under color of this Agreement, where such services, devices or software are designed to circumvent the requirements or effectiveness of the CMLA Technical Specification or Participating Product Implementation, Participating Rights Issuer Implementation, Licensed Services, Licensed Service Elements, Licensed Products or Licensed Components.
- 2.5 Reciprocal Non-Assertion Covenant.
- (a) Content Participants, to the extent Content Participant has not granted a direct license in its role as Founder (whether such license has been granted directly or through its Affiliate that has a right to sublicense), on behalf of itself and its Affiliates, promises not to assert or maintain against Client Adopters, Service Providers, Fellow Content Participants and Affiliates thereof or any vendor, distributor, purchaser, customer or other person in the chain of distribution (for those parties) of Licensed Services Licensed Service Element, Licensed Products or Licensed Components, and Content Participant accepts Client Adopters,' Service Providers, Fellow Content Participants' and their Affiliates promise, in their respective CMLA Technology License Agreements, not to assert or maintain against it any claim of infringement under Service Provider's, Client Adopters', Content Participants' (and their respective Affiliates') Necessary Claims or their trade secrets or copyrights in the CMLA Technical Specification in connection with the use, evaluation, testing, development, design, have designed, have developed, make or have made for the sole account of Fellow Content Participant, Client Adopter, Service Provider or any Participating Affiliate of any of the foregoing, reproduction, distribution, display, performance, marketing, sale, offer for sale and import or other transfer of Licensed Services, Licensed Service Elements, Licensed Products and Licensed Components.
- (b) Content Participant on behalf of itself and its Affiliates promises not to assert or maintain against Founders or CMLA and Affiliates thereof any claim of infringement under Content Participant's or its Affiliates patents, patent applications, trade secrets or copyrights necessary or required for, and solely to the extent that Founders or CMLA and their Affiliates use the same for the administration and operation of the CMLA, LLC, including but not limited to a key generation facility and the provision/sale of keys, certificates, the OCSP responder, and any other services

necessary or required for the operation of a key generation facility, the administration of the CMLA Technology License Agreements and the distribution and licensing of the CMLA Technical Specification or drafts thereof.

- (c) Provided that (1) each such promise (as referred to in (a) above) only applies to those portions of such Licensed Service, Licensed Service Element, Licensed Products or Licensed Components which are required for compliance with the CMLA Technical Specification and which cannot be implemented without infringing (but for this covenant) the Necessary Claims and/or the trade secrets or copyrights in the CMLA Technical Specification, and further provided that (2) the benefit of such promise does not extend to any person or entity which is asserting its Necessary Claims, trade secrets or copyrights against the promissory, Founders, CMLA, Service Provider, Client Adopter, Fellow Client Adopter, Content Participant or any Affiliates thereof where the promissory party is not in breach of its obligations with respect to the reciprocal non assertion under its CMLA Technology License Agreement.

This Section 2.5 applies whether another entity has become a Client Adopter, Service Provider or Fellow Content Participant (or an Affiliate of any of the foregoing) before or after Content Participant signs this Agreement. For purposes of this Section 2.5, Necessary Claims shall include only those Necessary Claims that relate to the versions of the CMLA Technical Specification adopted and in effect in accordance with Section 3 during the term of this Agreement.

- (d) Notwithstanding the foregoing in this Section 2.5(a) patents, patent applications, copyrights and trade secrets which subsist in anything that is excluded from the definition of Necessary Claims are not covered by the promise not-to-assert under Section 2.5 (a).

2.6 Warranties.

- (a) Content Participant represents and warrants that it has the authority to bind its Affiliates to the terms of the non-assertion covenant set forth in Section 2.5, above.
- (b) Where Content Participant controls the rights necessary to do so, Content Participant agrees to authorize Service Providers to distribute Digital Content in a manner so as to allow Service Provider adherence to the Compliance Rules set forth in Exhibit A, Part 2, Section 1.2 of the Service Provider Agreement.
- (c) CMLA represents and warrants, as of the Effective Date, its agent, (Corporate Trust Center, 1209 Orange Street, Wilmington, DE 19801, attention CMLA, LLC), has not received written notice of any claim, threatened or pending, from any third party, that the CMLA IP infringes any third party's intellectual property rights.
- (d) CMLA represents and warrants that it has full right, power and authority to enter into and perform this Agreement and that it has received a license from the Founders and Contributors authorizing CMLA to grant the copyright and trade secret licenses to Content Participant set forth herein and that such license from Founders and Contributors shall remain in effect during the term of this Agreement.
- (e) In the event CMLA receives written notice that CMLA IP technology allegedly infringes third party patents, CMLA will evaluate the claim and consider commercially reasonable alternatives such as, but not limited to: (1) evaluate the

claim; (2) obtain a license from such third party to grant sublicenses for the benefits of all CMLA Technology Licensees; (3) modify, if possible, the CMLA Technical Specification, pursuant to Section 3, below; or (4) develop a work around for the CMLA IP technology. If no commercially reasonable alternative exists, CMLA has the right to terminate this Agreement pursuant to Section 7, below. CMLA agrees to provide prompt written notice to CMLA Technology Licensees in the event an infringement lawsuit is filed against CMLA related to CMLA IP. Content Participant agrees to provide written notice to CMLA in the event an infringement lawsuit is filed against Content Participant related to CMLA IP.

(f) CMLA represents that, as of the date of this Agreement, the rights and obligations of Client Adopters and Service Provider with respect to the CMLA Technical Specification are those set forth in the CMLA Client Adopter Agreement, the CMLA Service Provider Agreement and the Developer Addenda thereto, the CMLA Technical Specification itself, the CMLA Content Participant Agreement and the Authorized Reseller Agreement.

(g) Content Participant represents and warrants that it has the full right and power to enter into and perform according to the terms of this Agreement that the person signing this Agreement is empowered to act on behalf of and to legally bind this Content Participant.

3. ADDITIONAL RIGHTS GRANTED TO CONTENT PARTICIPANT

3.1 Content Participant User Group. Without limiting the provisions of Section 3.13 and 3.14, Content Participant shall have the right at all times during the term of this Agreement to participate in a user group consisting solely of Content Participants who choose to become members of such group (the "Content Participant User Group"). Content Participant shall notify CMLA in writing whether or not Content Participant will be a member of the Content Participant User Group. Content Participant may, by written notice to CMLA, change its status as a member or non-member of the Content Participant User Group which change in status shall be immediate. The members of the Content Participant User Group shall be entitled to establish the internal rules governing the operation of the Content Participant User Group. Upon request of the Founders or the Content Participant User Group, CMLA will use good faith efforts to have the Founders meet with, and take into account the views expressed by the Content Participant User Group with respect to (a) the Compliance Rules or Robustness Rules as of the Effective Date and any future technical or other amendments thereto, and (b) such other matters relating to CMLA Technical Specification as CMLA and the members of the Content Participant User Group may agree to discuss, provided however, that this group will not address issues related to the OMA DRM Specification that are not specifically related to the CMLA Technical Specification.

3.2 Three (3) selected representatives of the Content Participants, one of which will be a motion picture studio and one of which will be a music label, three (3) selected representatives of the Client Adopters (none of which may be a Founder), and three (3) elected representatives of the CMLA Service Providers, respectively selected by each group (or, in the case of CMLA Service Providers, by the Service Provider User Group), shall be appointed by CMLA to serve on the CMLA Advisory Board ("CAB") together with the Founders, which shall consist of a maximum of thirteen (13) members in total. For clarification, no participating entity (including signatory and all Affiliates) may

participate on CAB in more than one category. CAB will be managed by such thirteen members and such management shall include, but not be limited to, compliance with the procedures in Exhibit C. The CAB shall meet at least once per quarter, or at such times as the CAB may otherwise agree. Unless otherwise expressly stated in this Agreement, no decision of the CAB shall be valid unless taken by a Qualified Majority. In this Agreement, a “Qualified Majority” of the CAB means, in respect of any decision, that such decision has been approved, in writing, by (i) at least one (1) Client Adopter, one (1) Service Provider and one (1) Content Participant and, (ii) at least two-thirds of the voting members of the CAB. Founders shall not be entitled to vote in CAB decisions. Unless otherwise expressly stated in this Agreement, no decision of the CAB shall be valid unless taken by Qualified Majority. CMLA Technology Licensees shall be entitled to receive reasonable advance notice of meetings of CAB, shall be entitled to attend meetings of the CAB, and shall be afforded reasonable opportunity to have its views heard at meetings of the CAB.

- 3.3 The CAB shall use Exhibit E to submit CAB Change Requests to CMLA. CMLA shall consider such requests in good faith.
- 3.4 The CMLA Technical Specification; the Compliance Rules or Robustness Rules may only be amended in accordance with this Section 3.
- 3.5 Changes Consequent on Changes to OMA DRM Specifications. Within thirty (30) days of the release of any new or amended OMA DRM Specifications (including the release of a new version or release or significant change request to an existing OMA DRM Specification) (each, a “New OMA DRM Specification”), the CAB shall evaluate the changes (if any) required to update the CMLA Technical Specification, or any Compliance Rules or Robustness Rules, subject to Sections 3.6.2, 3.10, 3.12 and 3.14, below, to take account of such New OMA DRM Specification. The CAB will decide whether to recommend the foregoing be updated, by a Qualified Majority. In connection with such updates:
- (i) after consulting with other members of the CAB, each member of the CAB shall be entitled to request changes to the Compliance Rules or Robustness Rules, pursuant to the factors set forth below in Section 3.6.2, (but not the OMA DRM Specification) or CMLA Technical Specification for the sole purpose of updating them to enable implementation of (or otherwise take account of) the New OMA DRM Specification.
 - (ii) the CAB will work to define such updates and to address issues of backward compatibility.
- 3.6 Changes to Improve Commercial Viability, Integrity, Security, or Performance or Correct Errors or Omissions. The following provisions of this Section 3.6 shall apply for the sole purpose of proposing changes or updates to the CMLA Technical Specification and/or Compliance Rules or Robustness Rules, subject to Section 3.14, below:
- 3.6.1 If Service Provider, Client Adopter, Content Participant or any member or members of the CAB proposes a change to the CMLA Technical Specification, Compliance Rules or Robustness Rules, CAB will assess whether the proposed change is an “Improving Change”, namely a change which, in the reasonably opinion of a Qualified Majority of CAB would be likely to clarify and/or improve the commercial viability, integrity, security or performance of the

CMLA Technical Specification, correct errors or omissions to the CMLA Technical Specification, Compliance Rules, Robustness Rules and/or clarify the CMLA Technical Specification, Compliance Rules or Robustness Rules. If the proposed change is not an Improving Change, CAB shall promptly inform the entity that made the proposal of that fact, and the CMLA shall then be under no further obligation with respect to the proposal. If the proposed change is an Improving Change, the CAB shall promptly submit a change request to CMLA and the procedure in Section 3.11 and 3.12 will apply.

3.6.2 Changes to Compliance Rules and Robustness Rules. Except as CMLA can, by the preponderance of evidence, demonstrate is necessary to provide for protection of Content Participants' Digital Content, CMLA shall not make any revisions to the Service Provider Compliance Rules or Robustness Rules that would (i) materially increase the cost or complexity of Participating Rights Issuer Implementations or Participating Product Implementation, or (ii) amend the Client Adopter Compliance Rules or Content Participant Agreement to require Content Participants or Service Providers to include mandatory "move" or "copy" permissions in a Rights Object with respect to Digital Content, or otherwise amend the Compliance Rules to permit Participating Product Implementation to "move" or "copy" Digital Content other than as set forth in the Rights Object, unless such change(s) may be required by a new OMA DRM Specification. CMLA agrees to apply the procedures set forth in Section 3.14 of the Content Participant Agreement when considering any change to the Compliance or Robustness Rules.

3.7 Timing of Compliance with Changes to Compliance Rules, Robustness Rules and the CMLA Technical Specification. Content Participant shall be required to comply with all amendments to the Compliance Rules, Robustness Rules, or to the CMLA Technical Specification that do not require material modifications to service, product design or manufacturing processes within six (6) months after the effective date of the amendment or such longer period specified by CMLA. When proposing a change or amendment the CAB will also provide input or a recommendation related to timescales for complying with such proposed change or amendment. Content Participant shall be required to comply with all other amendments to the Compliance Rules, Robustness Rules, or to the CMLA Specifications, as applicable, within eighteen (18) months after the effective date of the amendment or such longer period specified by CMLA. Other CMLA Technology Licensees shall be required to comply with changes as more fully set forth below:

3.7.1 Client Adopter products that are manufactured shall be required to comply with all applicable amendments to the Compliance Rules, Robustness Rules or to the CMLA Technical Specification that do not require material modifications to the implementation or design of the Participating Product Implementations, Licensed Products and/or Licensed Components within six (6) months after the effective date of the amendment or such longer period specified by CMLA. When proposing a change or amendment the CAB will also provide input or a recommendation related to timescales for complying with such proposed change or amendment. Client Adopter Participating Product Implementations, Licensed Products and/or Licensed Components that are manufactured shall be required to comply with all other applicable amendments to the Compliance Rules, Robustness Rules or to the CMLA Technical Specification within eighteen (18) months after the effective date of the amendment or such longer period specified

by CMLA. For the avoidance of doubt, changes or amendments shall not affect any products manufactured by Client Adopter before the end of the time lines defined above.

- 3.7.2 Service Provider shall be required to comply with all applicable amendments to the Compliance Rules, Robustness Rules or to the CMLA Technical Specification that do not require material modifications to the implementation or design of a Participating Rights Issuer Implementation, Licensed Service or Licensed Service Element within six (6) months after the effective date of the amendment or such longer period specified by CMLA. When proposing a change or amendment the CAB will also provide input or a recommendation related to timescales for complying with such proposed change or amendment. Service Provider shall be required to comply with all other applicable amendments to the Compliance Rules, Robustness Rules or to the CMLA Technical Specification within eighteen (18) months after the effective date of the amendment or such longer period specified by CMLA.
- 3.8 Additions and other Changes to Table X2 and Y2 of the Compliance Rules. CMLA will accept additions and other changes to Table X2 and Y2 of the Compliance Rules; provided that (1) the addition of new proprietary technology (and its associated mappings) will only be accepted from the technology supplier or with the consent of the technology supplier, (2) changes to an existing proprietary technology (and its associated mapping) will only be accepted from the technology supplier or with the consent of the technology supplier; and (3) the addition of other entries (e.g., non-proprietary technologies, quality parameters for CD burning, etc.) will be accepted from any proponent. All such additions and changes will be designated as a new entry in Table X2 or Table Y2 and will be effected by CMLA when CMLA receives payment of an Administration Fee. CMLA will include for reference, a comment field and a contact field for each technology on Table X2 and Y2. Once accepted, the comment field and the contact field are the only fields that can be appended. For clarification, additions and changes pursuant to this Section 3.8 are not subject to the change management provisions of this Section 3 or Section 3.14 of the Content Participant Agreement. For the avoidance of doubt, changes to Table X1 and Y1 are subject to the change management provisions of this Section 3 or Section 3.14.
- 3.9 Changes to the Annual Administration Fees. Changes to the Annual Administration Fees shall be permitted only as set out in Sections 4.1.
- 3.10 Changes to the CMLA Technical Specification. CMLA may make such changes to the CMLA Technical Specification as it (acting reasonably) deems necessary or appropriate until version 1.0 of the given CMLA Technical Specification is released. After version 1.0 of the CMLA Technical Specification has been released, CMLA shall make no material changes to the CMLA Technical Specification (including any changes that would expand the CMLA Technical Specification to require the inclusion of new technical features not included in version 1.0 of the CMLA Technical Specification or make Licensed Service or Licensed Products manufactured prior to such changes incompatible with the new version of the CMLA Technical Specification) except pursuant to a proposal or request made as envisaged by Sections 3.5 or 3.6 . Without limiting the foregoing, the following changes shall not be considered “material” for the purpose of this Section 3.10: (i) mapping or porting the CMLA Specifications to different technologies, as permitted in this Agreement provided that each such technology

properly implements the OMA DRM Specifications (ii) correction of any errors or omissions in the CMLA Technical Specification, and (iii) making changes that would clarify, but not materially amend, alter or expand the CMLA Technical Specification. Founders or CMLA shall not make any revisions to the Compliance Rules or Robustness Rules that would materially increase the cost or complexity of implementations of Licensed Products or Licensed Service unless such change may be required by a new OMA DRM Specification.

3.11 Notice of Changes to Compliance Rules, Robustness Rules and CMLA Technical Specification. Without limiting the foregoing, CMLA shall provide CMLA Technology Licensees with at least thirty (30) days' notice of any changes to the Compliance Rules, Robustness Rules or to the CMLA Technical Specification. The effective date of such changes shall be specified in the notices provided to Content Participant.

3.12 Upon receipt of a change request pursuant to this Section 3 or upon a change to be initiated by CMLA pursuant to this Section 3, CMLA will post details of the same to a CMLA Technology Licensee website for CMLA Technology Licensee review. All comments made by CMLA Technology Licensee(s) in respect of any such change request will be considered promptly and in good faith by CAB. The CAB shall post its recommendation and reason for recommendation to the CMLA Technology Licensee website within 60 days of posting the change request to the website. CMLA will post to the CMLA Technology Licensee website notice of a change.

3.12.1 CMLA shall consider in good faith implementing each Improving Change unless in the reasonable opinion of CMLA, such change would:

- (1) materially amend, alter or expand the CMLA Technical Specification after it has been released in version 1.0;
- (2) impose additional substantial obligations on Founders or CMLA Technology Licensees or on the operation of a Licensed Product or Licensed Service;
- (3) necessarily result in a patent right (which was not a "Necessary Claim" before such change) becoming a Necessary Claim by such change; or
- (4) amend or augment the OMA DRM Specifications in a manner not specifically related to the CMLA Technical Specification; or

If an Improving Change or any CAB recommendation would do any of the things listed in Section 3.12.1 (1) through (4), CMLA will cooperate with the entity proposing the change to seek alternatives to the proposed change, but shall have the right ultimately to reject any and all such proposed changes in its good faith.

3.13 Material Changes in Protection or Rights. In addition to the procedures set forth above in this Section 3, CMLA may make changes to the Client Adopter Agreement, Service Provider Agreement and associated Compliance Rules and Robustness Rules and the CMLA Technical Specification (collectively, the "Operative Protection Agreements"), or issue or execute such other documents with respect to CMLA Technical Specification, only in accordance with the following provisions:

- (a) CMLA shall use reasonable efforts to notify Content Participants of a proposed change under consideration by CMLA and at a minimum will provide reasonable advance written notice but in no event less than thirty (30) days before the proposed change is to occur to Content Participant of (1) any change to the Compliance Rules, Robustness Rules or the following sections of the Client Adopter Agreement and Service Provider Agreements: Sections 1 (Definitions); 2 (Licenses); 3 (Additional Rights); 5 (Confidentiality); 8 (Remedies); 9 (Revocation); and with respect to Sections 10.6 (Governing Law), 10.7 (Jurisdiction), and 10.9 (Agent), to the extent that CMLA proposes to (a) change the states, the laws of which will govern the Agreement in subsection 10.6, (b) change the states in which jurisdiction is consented to in subsection 10.7, or (c) allow the appointment of an agent for service of process outside the United States in subsection 10.8; (2) the proposed issuance or execution by CMLA of any other document that would affect the integrity, security or commercial viability of CMLA Technical Specification, the security of Digital Content protected using the CMLA Technical Specification, or the rights of Content Participant with respect to CMLA Technical Specification; and (3) any material change to version 1.0 or higher of the CMLA Technical Specification affecting Digital Content, provided that any change that affects the integrity or security of CMLA Technical Specification or the security of Digital Content protected using the CMLA Technical Specification, or that affects adherence to Compliance Rules or Robustness Rules in existence prior to the proposed change, shall be deemed “material” for this purpose. CMLA shall, during the second and fourth calendar quarters of each year, make available to Content Participant any changes to the Client Adopter or Service Provider Agreements or CMLA Technical Specification not otherwise noticed pursuant to this Section 3.13.
- (b) For so long as Content Participant is an Eligible Content Participant, it shall have the right to file a written objection to (1) any material and adverse change to the Compliance Rules, Robustness Rules, Encoding Rules or the following sections of the Client Adopter Agreement or Service Provider: Sections 1 (Definitions); 2 (Licenses); 3 (Additional Rights); 5 (Confidentiality); 8 (Remedies); 9 (Expiration); and with respect to Sections 10.6 (Governing Law), 10.7 (Jurisdiction), and 10.9 (Agent), to the extent that CMLA proposes to (a) change the states, the laws of which will govern the Agreement in subsection 10.6, (b) change the states in which jurisdiction is consented to in subsection 10.7, or (c) allow the appointment of an agent for service of process outside the United States in subsection 10.9; or (2) any material and adverse change to the CMLA Technical Specification affecting Digital Content; or (3) the proposed issuance or execution of any other document by CMLA, if, in the view of such Content Participant, such change, issuance or execution would have a material and adverse effect on the integrity, security or commercial viability of CMLA Technical Specification, the security of Digital Content protected using the CMLA Technical Specification, or the rights of Content Participant with respect to CMLA Technical Specification (each, a “CMLA Proposed Adverse Action”), including any changes that are notified to Content Participant pursuant to the semi-annual notifications referenced in the next to last sentence of subsection (a), above. Any such objection shall set forth with specificity the alleged material and adverse effects on the integrity or security of CMLA Technical Specification or the rights of Content Participant with respect to CMLA Technical Specification, and shall be delivered to CMLA no later than thirty (30) days after the date of service of notice by CMLA pursuant to Section 3.13 (a) at the address specified in the notice provisions of this Agreement. In the event CMLA has served

such notice to Content Participant by mail, three (3) days shall be added to the prescribed period for filing an objection. CMLA agrees to consider any such objection in good faith. If CMLA rejects such objection, it shall provide prompt written notice thereof to Content Participant that filed a written objection explaining the reasons for such rejection, including the benefits that would be afforded by the CMLA Proposed Adverse Action. Absent receipt by CMLA of a written objection from one or more Fellow Content Participants pursuant to this Section 3.13(b), CMLA may take the action described in the notice delivered pursuant to Section 3.13 (a).

- (c) If Content Participant is an Eligible Content Participant, and a sufficient number of Eligible Content Participants (including Content Participant) object to a CMLA Proposed Adverse Action pursuant to Section 3.13 (b), then Content Participant and Fellow Content Participants that filed objections (the “Arbitrating Content Participants”) shall have the right within thirty (30) days from service of CMLA’s rejection of such objection pursuant to Section 3.13(b), to initiate an arbitration in accordance with the provisions of this Section 3.13 (c), provided that that such arbitration shall be initiated only if there is a sufficient number of Eligible Content Participants joining in the initiation action. For purposes of this Section 3.13 a “sufficient number of Eligible Content Participants” shall be at least two-thirds of the total number of entities that are Eligible Content Participants. Any such arbitration shall proceed according to the following:
- (i) In such arbitration, the Arbitrating Content Participants shall have the burden of demonstrating, based on the preponderance of evidence, (a) that the Arbitrating Content Participant is an Eligible Content Participant; (a) that there are a sufficient number of Eligible Content Participant joining in the initiation action; and, (c) that the CMLA Proposed Adverse Action is material and adverse to the Arbitrating Content Participants. Changes which only insignificantly diminish the integrity or security of the CMLA Technical Specification, or the rights of Content Participants with respect to CMLA Technical Specification shall not be deemed material or adverse. Notwithstanding the above, the arbitrator may, in his or her discretion take into consideration the cumulative effect of multiple related changes that are both “insignificant” and “adverse” when considered in isolation, provided that in any such consideration the arbitrator shall (1) afford countervailing weight to any changes, whether related or not, that have had or are intended to have beneficial effect on the integrity or security of the CMLA Technical Specification, or the rights of Content Participants with respect to the CMLA Technical Specification (“Beneficial Changes”); and (2) consider only the cumulative effect of changes, whether (x) related “insignificant” and “adverse” changes, or (y) Beneficial Changes, made by CMLA and/or Founders over the preceding two year period.
- (ii) If the Arbitrating Content Participants have carried the burden set forth in Section 3.13 (c)(i), then CMLA may not take the CMLA Proposed Adverse Action unless CMLA demonstrates, based on clear and convincing evidence, that the CMLA Proposed Adverse Action provides a material legal benefit in the form of avoidance of a reasonably perceived significant potential legal liability to CMLA, Founders, Client Adopters or Service Providers which cannot practicably be achieved except by taking the CMLA Proposed Adverse Action.

- (iii) The Arbitrating Content Participants, on the one hand, and CMLA, on the other shall share equally the costs of arbitration set forth in Section 3.13 (c)(iv)(g). The arbitrator shall award the prevailing party or parties all of its or their costs and expenses, other than attorneys' fees and expenses. In addition, if the arbitrator finds that either CMLA or the Arbitrating Content Participants has or have advanced its or their position in bad faith or frivolously, it shall order such party or parties to reimburse the other party or parties for its or their reasonable attorneys' fees and expenses.
- (iv) The arbitration specified in this Section 3.13 (c) shall be conducted in accordance with the following provisions:
- (a) There shall be a sole arbitrator who shall be selected by the American Arbitration Association from its National Panel of Commercial Arbitrators. The arbitrator shall have a minimum of fifteen (15) years knowledge or experience in the telecommunications, computer or software industries.
 - (b) The arbitration shall be conducted in New York, New York, in accordance with the International Arbitration Rules of the American Arbitration Association. The arbitration shall be conducted in English.
 - (c) The arbitrator shall be directed to complete the arbitration within sixty (60) days but may otherwise conduct the arbitration in such manner as it shall deem appropriate, including the imposition of time limits that it considers reasonable for each phase of the proceeding, but with due regard for the need to act, and make a final determination, in an expeditious manner
 - (d) The arbitrator shall permit and facilitate such limited discovery as he or she shall determine is reasonably necessary, taking into account the needs of the parties and the desirability of making discovery as expeditious and cost-effective as possible.
 - (e) The parties and the arbitrator shall treat the arbitration proceedings, any related discovery, documents and other evidence submitted to, and the decision of, the arbitrator as Confidential Information. In addition, and as necessary, the arbitrator may issue orders to protect the confidentiality of proprietary information, trade secrets and other sensitive information disclosed in discovery or otherwise during the arbitration.
 - (f) The arbitrator is empowered solely to determine whether the parties have carried their respective burdens, as provided in Section 3.14 (c)(i) and (ii). Any such determination by the arbitrator shall be final and binding on the parties, except that whether the arbitrator exceeded his or her authority in determining the remedy, or otherwise, as specifically described in this Section 3.14, shall be fully reviewable by a court of competent jurisdiction. The Arbitrator shall be obliged to reduce the decision to writing and provide reasons supporting the decision. Judgment upon any award shall be entered in a court of competent jurisdiction.
 - (g) The arbitrator shall be compensated at his or her hourly rate, determined at the time of appointment, for all time spent in connection with the arbitration, and shall be reimbursed for reasonable travel and other expenses. The arbitrator shall determine all costs of the arbitration, including his or her fees and expenses, the costs of expert advice and other assistance engaged by the arbitrator, the cost of a transcript and the costs of meeting and hearing facilities.

(d) If (i) no arbitration has been initiated with respect to the CMLA Proposed Adverse Action pursuant to Section 3.13 (c); (ii) the arbitrator determines that the Arbitrating Content Participants have not carried the burden set forth in Section 3.13 (c)(i); or (iii) notwithstanding the arbitrator's determination that the Arbitrating Content Participants have carried such burden, the arbitrator further determines that CMLA has carried its burden set forth in Section 3.13 (c)(ii), then CMLA may take the CMLA Proposed Adverse Action, and such action may be effective, according to its terms, thirty (30) days after service of CMLA's rejection pursuant to Section 3.13 (b) or such final determination of the arbitrator, whichever is later. If the arbitrator determines (x) that the Arbitrating Content Participants have carried the burden set forth in Section 3.13 (c)(i) and (y) that the CMLA has not carried its burden set forth in 3.13 (c)(ii), then the CMLA Proposed Adverse Action shall not be taken, provided that in the event that the inability to take the CMLA Proposed Adverse Action exposes CMLA or Founders to significant potential legal liabilities such as in the form of claims (including direct, contributory, and/or inducement) of infringement of intellectual property, or inducement of infringement of intellectual property, which cannot practicably be avoided except by taking the CMLA Proposed Adverse Action, CMLA may elect to terminate this Agreement and any Client Adopter Agreements or Service Provider Agreements and the Founders may elect to terminate all licenses to Necessary Claims. In the event that the inability to take the CMLA Proposed Adverse Action exposes one or more, but not all of the Founders to potential legal liabilities which cannot practicably be avoided except by taking the CMLA Proposed Adverse Action, such Founder(s) may, elect to convert any licenses to Necessary Claims to a reciprocal covenant not to assert Necessary Claims, provided that the Arbitrating Content Participant(s) indemnify such Founder(s) against any claims, actions, liabilities, losses or damages, including reasonable attorneys fees, for inducement to infringe a third party's intellectual property rights arising from the inability to take the CMLA Proposed Adverse Action.

3.14 The following procedures shall apply with respect to changes to the Compliance Rules and Robustness Rules:

(a) CMLA shall use the following standard in determining whether to make a change covered by this Section 3.14: such a change shall be warranted if the technology provides protection for Digital Content that is at least as secure as CMLA Technical Specification, taking into account (1) technological factors, (2) licensing requirements (or, for non-licensed technologies, contractual commitments of other kinds), and (3) enforcement procedures and rules. In relation to a decision as to whether a technology proposed to be included in the CMLA Technical Specification or Compliance or Robustness Rules or whether a Participating Product Implementation, Participating Rights Issuer Implementation, Licensed Product or License Service meets the standard just stated, CMLA shall consider the following factors:

- (i) Does the secure transmission system ensure that Digital Content carried on the system protected by such technology is authorized to be carried on this secure transmission system? Authorization shall be in reference to the copyright holder or a distributor of the Digital Content authorized by the copyright holder to distribute the Digital Content.
- (ii) Can it be assured that Digital Content carried on the secure transmission system will not be copied onto an insecure storage system?

- (iii) Does the secure transmission system refrain from imposing restrictions as to how specified types of Digital Content or business models could be treated by the content owner?
 - (iv) Is the basic cryptography and other technical means of protection used by the system at an acceptable level?
 - (v) Are the legal terms and conditions no less protective of Digital Content than those provided in CMLA Technology Licenses, including legal terms and conditions sufficient to provide assurance that licensees will abide by the proper rules and provisions for adequate enforcement measures to ensure that licensees that do not abide by the rules can be properly dealt with?
 - (b) CMLA shall provide reasonable advance written notice but in no event less than thirty (30) days before the proposed change is to occur to Content Participant of any change covered by this Section 3.14 Eligible Content Participant shall have the right to object and to arbitration pursuant to Section 3.13, above.
- 3.15 Additional Rights for Eligible Content Participants. If Content Participant is an Eligible Content Participant and is in material compliance with this Agreement, Content Participant, in addition to the rights set forth above in Section 3.14, shall be entitled to the additional rights set out in Sections 3.15, 3.16, 3.17, and 3.18. For purposes of this Section 3.15 of this Agreement, Content Participant shall be deemed in material compliance with this Agreement if Content Participant at the time Content Participant exercises such additional rights, has not received written notice from CMLA that Content Participant is in material breach of this Agreement.
- 3.16 Right to Seek Revocation. For so long as Content Participant is an Eligible Content Participant, it shall have the right to seek revocation of Device Certificates of Licensed Products or Participating Product Implementations or revocation of Rights Issuer Certificates of Licensed Services or Participating Rights Issuer Implementations, implementing the CMLA Technical Specification pursuant to the terms of Section 5, below and the applicable sections in the Client Adopter and Service Provider Agreements.
- 3.17 Content Participant Third Party-Beneficiary Rights. For so long as Content Participant is an Eligible Content Participant, it shall be a Third Party Beneficiary under law to each Client Adopter and Service Provider Agreement, subject to the terms and conditions of the applicable CMLA Technology License Agreement. Without limiting the generality of the preceding statement, each Content Participant that is an Eligible Content Participant shall be entitled to bring claims or actions to enforce rights against a Client Adopter or Service Provider (each such claim or action, together with any third-party-beneficiary claim brought by any other Content Participant Beneficiary, a "Content Participant Beneficiary Claim"), in accordance with Section 10.2, as more fully set forth below and in the Client Adopter and Service Provider Agreements:
 - (A) For Client Adopter:
 - (1) Each Eligible Content Participant shall be a Third Party Beneficiary of the Client Adopter Agreement and shall be entitled to bring a Third Party Beneficiary Claim to enforce certain rights against Client Adopter and its Participating Affiliate(s) in accordance with the procedures set out in Section 8.3 and 8.5 of the Client Adopter Agreement, and subject to the provisions of Section 10.6, 10.7 and 10.8 of the Client Adopter Agreement, with respect to Client Adopter or its

Participating Affiliate(s) use and implementation of the CMLA Technical Specification, so long as Content Participant is an Eligible Content Participant with respect to any Participating Product Implementation, Licensed Product or Licensed Component that receives, transmits or plays data in a format protected by CMLA Technical Specification in Participating Product Implementations.

- (2) For an Eligible Content Participant, Third Party Beneficiary Claims will be limited to seeking injunctive relief against:
 - (i) the performance, commercial use and sale of Client Adopter's or its Participating Affiliate's Participating Product Implementation (or product that would be a Participating Product Implementation but for the fact that such product is not Compliant) that are in material breach of the Compliance Rules or Robustness Rules and provided that the Eligible Content Participant has Digital Content available for such Participating Product Implementation (or such product that would be a Participating Product Implementation but for the fact that such product is not Compliant), and any product that is subject to an injunction pursuant to this provision to be hereafter referred to as "Enjoined Product"; and
 - (ii) against disclosure of Highly Confidential Information in breach of this Agreement, where such breach materially and adversely affects the integrity of the CMLA Technical Specification or the security of Digital Content owned or controlled by Content Participant.
 - (iii) The prevailing party in any action brought under Sections 8.5 or 8.6 of the Client Adopter Agreement, shall additionally be entitled to an award of its reasonable attorneys fees incurred in relation to the Third Party Beneficiary Claim in an amount to be fixed either pursuant to stipulation by the parties to a given case or the court provided that (a) the prevailing party if it is an Eligible Content Participant, establishes by clear and convincing evidence that the Client Adopter has materially breached or engaged in a pattern or practice of breaching the Compliance Rules or Robustness Rules or disclosing Highly Confidential Information; (b) the court in its discretion may elect to make no award of attorneys fees in any given case, and in any event, shall be limited to an award of no more than US\$1,000,000 (one million U.S. dollars); and (c) no award of attorneys fees shall be available against any Founder unless such Founder is in a role of CMLA Technology Licensee
- (3) An Eligible Third Party Beneficiary may seek, and a court may, in its discretion, grant the following additional remedies in relation to any Enjoined Product:
 - (i) The court may authorize Service Providers to refuse service to Client Adopter's or its Participating Affiliate's product or class of product using DeviceDetails by requiring the Service Provider or its Participating Affiliates to deny service to a Participating Product Implementation that is subject to an already-issued injunction under section 8.5.1(i) of the Client Adopter Agreement, based on a determination that the DeviceDetails identify the particular Enjoined Product. For purposes of this Section, "DeviceDetails" means an extension defined in the OMA DRM Specifications for the Rights

Object Acquisition Protocol (“ROAP” Protocol, as defined in the OMA DRM 2.0 Specifications). DeviceDetails Extension, when used, requires the software or device to respond to the Rights Issuer with the appropriate information (manufacturer, model, & version number) during the ROAP Protocol.

- (ii) In the event the court finds the DeviceDetails are not correctly provided in response to the ROAP protocol requests by the Client Adopter product or class of products which are the subject of the injunction, the court may further join CMLA, as a party to the action (and CMLA hereby waives any objections it might otherwise have to any such joinder), for the purpose of ordering CMLA to use its technical capabilities to revoke those device certificates identified by Client Adopter, as corresponding to the Client Adopter product or class of products which are the subject of the injunction, by providing such Device Certificate revocation lists to Service Providers.

- (iii) In the unusual case, where the Device Certificate information is not available, or is false, misleading or unreliable, and the Client Adopter does not produce Device Certificate information, the court may join CMLA for the purpose of ordering CMLA to use its technical capabilities to revoke all Device Certificates issued to the Client Adopter or its Participating Affiliate sufficient to assure inclusion of the class of products subject to the injunction (including, if necessary revocation of all Device Certificates issued to the Client Adopter or its Participating Affiliate), by providing such device certificate revocation lists to Service Providers.

- (iv) For the avoidance of doubt, the remedies authorized pursuant to third party beneficiary rights as described in sections (i) through (iii) above are intended to be, and should be, whenever feasible, strictly limited to the specific Participating Product Implementation subject to the injunction issued pursuant to 8.5.1(i), of the Client Adopter Agreement and may be extended to a class of products or the entirety of Device Certificates of a Client Adopter only when such far-reaching relief is determined by the court to be both necessary and justified, after having considered all relevant interests and circumstances and consequences of the actions requested from the court.

- (4) For avoidance of doubt, the parties intend that the remedies described above shall apply only to the Enjoined Product or Enjoined Products, shall not to any Participating Product Implementation made and/or sold by the Client Adopter that is not an Enjoined Product, and shall not apply to any product made and/or sold by the Client Adopter where such product does not contain any CMLA Technology whether initially or in updated form where CMLA Technology has been removed (whether in a Licensed Component, Licensed Product, or otherwise).

Device Certificate information that may be required to be provided to accomplish 3.17(A)(3) shall be considered confidential to the Client Adopter and may be disclosed to only the court, external counsels for parties to the court proceeding, and to the third party license administrator of CMLA that will implement the Device Certificate revocation. Such confidential information may, accordingly, also be subject to appropriate court-ordered means to preserve such

confidentiality. However, nothing in this paragraph limits the right of CMLA to include the certificate information in the Device Certificate Revocation Lists.

- (B) For Service Provider:
- (1) Eligible Content Participant shall be a Third Party Beneficiary of the Service Provider Agreement and shall be entitled to bring a Third Party Beneficiary Claim to enforce certain rights against Service Provider or its Participating Affiliates in accordance with the procedures set out in Sections 8.3 and 8.5 of the Service Provider Agreement, and subject to the provisions of Section 10.6, 10.7 and 10.8, with respect to Service Provider or its Participating Affiliates' use and implementation of the CMLA Technical Specification, so long as Content Participant is an Eligible Content Participant with respect to such Participating Rights Issuer Implementation, Licensed Service or Licensed Service Element that receives, transmits or plays data in a format protected by CMLA Technical Specification in Participating Rights Issuer Implementations, Licensed Service or Licensed Service Elements.
 - (2) For an Eligible Content Participant fulfilling the above criteria, Third Party Claims will be limited to seeking injunctive relief against:
 - (i) the performance, commercial use and sale of Service Provider's or its Participating Affiliates' Participating Rights Issuer Implementation, Licensed Service or Licensed Service Element that are in material breach of the Compliance Rules or Robustness Rules; and
 - (ii) against disclosure of Highly Confidential Information or Rights Issuer Private Keys, in breach of this Agreement, where such breach materially and adversely affects the integrity of the CMLA Technical Specification or the security of Digital Content owned or controlled by Content Participant.
 - (3) The prevailing party in any action brought under Sections 8.5 or 8.6 of the Service Provider Agreement shall additionally be entitled to an award of its reasonable attorneys fees incurred in relation to the Third Party Beneficiary Claim in an amount to be fixed either pursuant to stipulation by the parties to a given case or the court provided that (a) the prevailing party if it is an Eligible Content Participant, establishes by clear and convincing evidence that the Service Provider or its Participating Affiliates has materially breached or engaged in a pattern or practice of breaching the Service Provider Compliance Rules or Robustness Rules or disclosing Highly Confidential Information or Rights Issuer Private Keys; (b) the court in its discretion may elect to make no award of attorneys fees in any given case, and in any event, shall be limited to an award of no more than US\$1,000,000 (one million U.S. dollars); and (c) no award of attorneys fees shall be available against any Founder, unless such Founder is in a role of a CMLA Technology Licensee
 - (4) An Eligible Third Party Beneficiary may seek, and a court may, in its discretion, grant the following additional remedies in relation to any Participating Product Implementation subject to an injunction issued pursuant to Section 8.5.1(i) or the Client Adopter Agreement :

- (i) The court may authorize Service Providers and its Participating Affiliates to refuse service to Client Adopter product or class of product using DeviceDetails by requiring the Service Provider and its Participating Affiliates to deny service to a Participating Product Implementation that is subject to an already-issued injunction under section 8.5.1(i) of Client Adopter Agreement, based on a determination that the DeviceDetails identify the particular Participating Product Implementation as one subject to the injunction. For purposes of this Section, “DeviceDetails” means an extension defined in the OMA DRM Specifications for the ROAP protocol. DeviceDetails extension, when used, requires the software or device to respond to the Rights Issuer with the appropriate information (manufacturer, model, & version number) during the ROAP Protocol. (Service Provider waives any objections it might otherwise have to any such joinder.)
 - (ii) For the avoidance of doubt, the remedies authorized pursuant to third party beneficiary rights as described in sections (A) above is intended to be, and should be, whenever feasible, strictly limited to the specific Participating Product Implementation subject to the injunction issued pursuant to 8.5.1(i) of the Client Adopter Agreement, and may be extended to a class of products or the entirety of Device Certificates of a Client Adopter only when such far-reaching relief is determined by the court to be both necessary and justified, after having considered all relevant interests and circumstances and consequences of the actions requested from the court.
 - (iii) For clarification, the court may authorize the revocation of Rights Issuer Certificates corresponding to the Participating Rights Issuer Implementation, Licensed Service or Licensed Service Element subject to an injunction as more fully set forth above in Section 3.6 (B) (1).
- (C) Nothing in this Section 3.17 limits a Content Participant’s ability to contract directly with CMLA Technology Licensees to develop and implement denial of service and customer filtering regimes not covered by this Agreement.
- 3.18 Enforcement Actions. For so long as Content Participant is an Eligible Content Participant, (i) it shall have the right to communicate with CMLA pursuant to appropriate confidentiality and/or joint defense agreements, with respect to the status of enforcement actions that are brought by CMLA to enforce a Client Adopter's or Service Provider’s compliance with its Client Adopter or Service Provider Agreement and that may reasonably implicate Eligible Content Participant’s Digital Content and (ii) CMLA shall use commercially reasonable efforts to respond to inquiries from Content Participant with respect to such enforcement actions.

4.0 FEES

- 4.1 Administration Fees. Within thirty (30) days of the Effective Date, Content Participant shall pay CMLA Administration fees as set forth in the Fee Schedule attached as Exhibit A. Content Participant shall not be entitled to any refund thereof for any reason. Upon each anniversary of the Effective Date, (the “Annual Payment Date”), Content Participant shall pay CMLA the Annual Administration Fee for the following year which fee shall be

used to offset the costs associated with the CMLA's administration of the CMLA Technical Specification and CMLA Technology License Agreements. CMLA may, upon at least thirty (30) days notice to Content Participant, modify or change the Annual Administration Fee payable for the period beginning on the next Annual Payment Date, provided that any increase in such fees shall not exceed an amount commensurate with CMLA's costs. Without limiting the foregoing, where costs per Fellow Content Participant decrease, CMLA shall use commercially reasonable good faith efforts to reduce the Annual Administration Fee.

- 4.2 Gross Payments. Any fees paid by Content Participant hereunder will be paid without deduction or withholding for or on account of any present or future tax, assessment, or governmental charge imposed or levied, unless in each case the withholding or deduction of such tax, assessment or governmental charge is required by law. In the event such withholding or deduction is so required, Content Participant shall include with its payment written notification of such withholding and shall forward to CMLA in a timely manner evidence of such withholding adequate to permit CMLA and/or the Founders to claim relevant tax credits under applicable treaties. Content Participant assumes full responsibility for remitting such withholding to the proper authority.

5.0 REVOCATION OF RIGHTS ISSUER CERTIFICATES AND DEVICE CERTIFICATES

5.1 Generally

5.1 Revocation of Device Certificates: The OMA DRM Specifications call for the Rights Issuers to check the revocation status of the Device Certificates prior to issuing Rights Objects. Once a Device Certificate is revoked, the revocation status would be indicated in the Device CRLs distributed by CMLA to Rights Issuers. These Device CRLs enable the Rights Issuers to identify revoked devices and stop issuing Rights Objects to such revoked devices.

5.2 Revocation of Rights Issuer Certificates: The OMA DRM Specifications include the means by which Rights Issuer Certificate status can be communicated to Participating Product Implementations or Licensed Products during the Rights Object Acquisition Protocol (ROAP). The OMA DRM Specifications also require the devices to check the revocation status of the Rights Issuer prior to accepting any Rights Objects from that Rights Issuer. Once a Rights Issuer Certificate is revoked, the revocation status will be indicated in the OCSP responses provided by the OCSP responders run by CMLA. The Rights Issuer, during the course of ROAP transactions, will convey this OCSP Response to the Participating Product Implementation or Licensed Product. The effect of revocation is that ROAP transactions with devices will fail and hence disable the Rights Issuer from issuing any new Rights Objects. If CMLA determines that circumstances warranting revocation of a Rights Issuer Certificate exist, all Rights Issuer services incorporating the corresponding Rights Issuer Private Key shall be affected.

5.2 Content Participant Request for Revocation

5.2.1 For so long as Content Participant is an Eligible Content Participant, it shall have the right, to seek revocation of Device or Rights Issuer Certificates of Participating Product Implementations, Participating Rights Issuer

Implementations, Licensed Products or Licensed Services which implement CMLA Technical Specification by providing proof in a sworn affidavit (the "Affidavit") setting forth the facts alleging that one of the following criteria (the "Revocation Criteria") are met:

- (A) The Revocation Criteria for Device Certificate revocation:
 - (1) a Device Private Key corresponding to that Device Certificate has been cloned such that the same Device Private Key is found in more than one device.
 - (2) a Device Private Key corresponding to that Device Certificate has been made public, lost, stolen, intercepted or otherwise misdirected or disclosed.

- (B) The Revocation Criteria for Rights Issuer Certificate revocation:
 - (1) a Rights Issuer Private Key corresponding to that Rights Issuer Certificate has been cloned such that the same Rights Issuer Private Key is found in a Participating Rights Issue Implementation or Licensed Service offered by more than one entity (the Service Provider and each of its Participating Affiliates each being considered a separate "entity" for these purposes) (except that this Section shall not apply in respect of any cloning which is expressly permitted by any relevant CMLA Technology License Agreement);
 - (2) a Rights Issuer Private Key corresponding to that Rights Issuer Certificate has been made public, lost, stolen, intercepted or otherwise misdirected or disclosed.

CMLA may revoke a Device Certificate or a Rights Issuer Certificate (i) on its own initiative when it determines, based on the facts presented to it that one or more of the applicable Revocation Criteria are met; (ii) based on an Affidavit when it determines, based on the facts presented to it that one or more of the applicable Revocation Criteria are met, or (iii) directed to do so by law, court order or by a competent governmental security agency or other competent government authority having the power to require revocation of a Device Certificate or Rights Issuer Certificate; or pursuant to the arbitration procedures set forth in Section 9.5(d) and (e) of the CMLA Client Adopter or Service Provider Agreements. CMLA shall not revoke a Device Certificate or Rights Issuer Certificate except as expressly stated in this Section.

Consultation with Affected Client Adopter or Service Provider. In the event CMLA receives a request to revoke a Device Certificate or Rights Issuer Certificate based on an Affidavit from an Eligible Content Participant, Client Adopter (not being the affected Client Adopter) or Service Provider, as set out in Section 5.2.1, CMLA shall promptly provide the affected Client Adopter or affected Service Provider with a copy of such Affidavit and request its consent to revoke the applicable Device Certificate or Rights Issuer Certificate. (As used in this Agreement "Affidavit" or "sworn affidavit" shall mean, in the case of countries where a sworn affidavit is unknown or unacknowledged, the official

comparable legal document of such country, in which at least the identity of the person giving the statement is confirmed and verified by local officials.) The affected Client Adopter or affected Service Provider shall respond to CMLA's request within fifteen (15) days of receipt of the notice in accordance with the notice procedures of this Agreement, indicating whether or not it consents to the proposed revocation, and shall not unreasonably withhold such consent. In the event the affected Client Adopter or affected Service Provider provides notice that it does not consent to revocation, it shall provide reasons why the Affidavit did not provide facts that would satisfy the Revocation Criteria and shall supply any additional facts in its own sworn affidavit, within an additional fifteen (15) days, that establish why the Revocation Criteria have not been met. CMLA shall thereafter promptly submit to arbitration, upon obtaining an assurance (including as to the payment of the costs of the arbitration) from the party seeking the revocation in accordance with the procedures set forth in Section 5.2.4.

- 5.2.2 If the affected Client Adopter or Affected Service Provider consents, CMLA shall take steps to revoke the applicable Device Certificate or Rights Issuer Certificate by promptly delivering or causing to be delivered to all Content Participants relevant revocation information.
- 5.2.3 If (A) CMLA determines that neither of the applicable Revocation Criteria are met; or (B) the affected Client Adopter or Affected Service Provider (x) objects to CMLA's request to revoke the Device Certificate or Rights Issuer Certificate within fifteen (15) days of receipt of the Affidavit supplied under Section 9.5(c) of the Client Adopter or Service Provider Agreement or (y) does not respond to CMLA's request to revoke the Device Certificate or Rights Issuer Certificate within fifteen (15) days, the matter shall be submitted to arbitration by CMLA upon obtaining an assurance (including as to the payment of the costs of the arbitration) from the party seeking the revocation, unless the entity that initiated a proposal for revocation withdraws such request for revocation. At such arbitration the party or parties seeking revocation shall bear the burden of proof to demonstrate by a preponderance of the evidence that the applicable Revocation Criteria have been met. Any CMLA Technology Licensee that can demonstrate to CMLA by the preponderance of evidence that it may (or any of its Affiliates may) be adversely affected by a proposed revocation, that CMLA Technology Licensee may participate in such arbitration and provide evidence and information as an interested party either in support of the affected Client Adopter in support of another CMLA Technology Licensee.
- 5.2.4 Any arbitration pursuant to this section 5.2 shall be conducted in accordance with the following procedures:
- (a) There shall be a sole arbitrator who shall be selected by the American Arbitration Association from its National Panel of Commercial Arbitrators. The arbitrator shall have a minimum of fifteen (15) years knowledge or experience in the telecommunications, computer or software industries.
 - (b) The arbitration shall be conducted in New York, N.Y., in accordance with the International Arbitration Rules of the American Arbitration Association. The arbitration shall be conducted in English.
 - (c) The arbitrator shall be directed to complete the arbitration within sixty (60) days but may otherwise conduct the arbitration in such manner as it shall

- deem appropriate, including the imposition of time limits that it considers reasonable for each phase of the proceeding, but with due regard for the need to act, and make a final determination, in an expeditious manner
- (d) The arbitrator shall permit and facilitate such limited discovery as he or she shall determine is reasonably necessary, taking into account the needs of the parties and the desirability of making discovery as expeditious and cost-effective as possible.
 - (e) The parties and the arbitrator shall treat the arbitration proceedings, any related discovery, documents and other evidence submitted to, and the decision of, the arbitrator as confidential information and shall not disclose it to any third parties nor use such confidential information for any purpose other than the arbitration proceedings, provided that CMLA may disclose the fact of a revocation of a Device Certificate. In addition, and as necessary, the arbitrator may issue orders to protect the confidentiality of proprietary information, trade secrets and other sensitive information disclosed in discovery or otherwise during the arbitration.
 - (f) The arbitrator is empowered solely to determine whether either of the Revocation Criteria have been met. Any such determination shall be final and binding on the parties, except that whether the arbitrator exceeded his or her authority in determining the remedy, or otherwise, shall be fully reviewable by a court of competent jurisdiction. Judgment upon any award shall be entered in a court of competent jurisdiction.
 - (g) The arbitrator shall be compensated at his or her hourly rate, determined at the time of appointment, for all time spent in connection with the arbitration, and shall be reimbursed for reasonable travel and other expenses. The arbitrator shall determine all costs of the arbitration, including his or her fees and expenses, the costs of expert advice and other assistance engaged by the arbitrator, the cost of a transcript and the costs of meeting and hearing facilities. The arbitrator shall assess the losing party or parties the costs of the arbitration set forth in this subsection (g), provided that "Party or Parties" for the purposes of this sentence shall not include CMLA, unless CMLA sought the revocation on its own initiative, and shall include the CMLA Technology Licensee(s) seeking the revocation and the Client Adopter or Service Provider whose certificate is the subject of the revocation request.

6.0 CONFIDENTIALITY/EXPORT

- 6.1 Permitted Use. Content Participant shall not disclose Confidential Information to any third party except as specifically authorized under this Agreement and shall use Confidential Information (and tangible embodiments thereof) only in accordance with the terms of this Agreement, and shall not use such information or any mentally-retained recollections thereof to circumvent or copy the methods disclosed in Confidential Information or to circumvent any obligations under this Agreement.
- 6.2 Confidential Information. Content Participant shall maintain the confidentiality of Confidential Information in the following manner:
 - 6.2.1 Content Participant shall employ procedures for safeguarding Confidential Information at least as rigorous as Content Participant would employ for its own Confidential Information, but no less than a reasonable degree of care.

- 6.2.2 Content Participant may disclose Confidential Information to (1) full-time employees and (2) individuals retained as independent contractors who have a reasonable need to know such Confidential Information for the purposes of this Agreement and who are subject to a non-disclosure agreement or obligation sufficient to protect the Confidential Information in accordance with the terms of this Agreement; (3) other CMLA Technology Licensees; (4) Content Participant's attorneys, auditors or other agents who have a reasonable need to know the Confidential Information and who owe Content Participant a duty of confidentiality sufficient to prevent the disclosure of such Confidential Information.
- 6.3 Copies of Confidential Information. Content Participant shall not make any copies of any document containing Confidential Information except when reasonably required for their internal use. .
- 6.4 Notification of Unauthorized Use or Disclosure. Content Participant shall notify CMLA in writing promptly upon discovery of any unauthorized use or disclosure of Confidential Information, and shall cooperate with CMLA in every reasonable way to regain possession of such information and to prevent its further unauthorized use or disclosure.
- 6.5 Disclosure of Content Participant Status. CMLA shall have the right to disclose to third parties the fact that Content Participant has obtained a license from CMLA under this Agreement. CMLA shall, upon request, and subject to CMLA's obligations to CMLA Technology Licensees, provide to Content Participant a list of Content Participants, provided that unless and until Content Participant notifies CMLA to the contrary in writing, CMLA shall keep in confidence the fact that Content Participant has obtained a license to the CMLA Technical Specification until such time that Content Participant has publicly announced its plans related to CMLA Technical Specification.
- 6.6 Disclosure Required By Law. If Content Participant is required by law, regulation or order of a court or other authority of competent jurisdiction to disclose Confidential Information Content Participant shall (1) take all reasonable steps to notify CMLA prior to disclosure or (2) where notice to CMLA prior to disclosure is not reasonably possible, Content Participant shall take reasonable steps to challenge or restrict the scope of such required disclosure and notify CMLA as soon as possible thereafter. In either case Content Participant shall take reasonable steps to seek to maintain the confidentiality of the information required to be disclosed and to cooperate with CMLA in any effort undertaken by CMLA to challenge the scope of such required disclosure.
- 6.7 Confidentiality Exceptions. The Confidentiality restrictions shall not apply to Confidential Information which Content Participant can demonstrate (1) is or has been developed by Content Participant's employees without having access to any Confidential Information (including translations, derivations or abstractions of such information) and without breach of this Agreement; (2) is or has been disclosed to Content Participant, without obligation of confidentiality, by a third party who has developed such information without any direct or indirect access to (including retained mental impressions/recollections) any Confidential Information and without any breach of any such third party's obligations to CMLA, Founders, Client Adopters, Service Providers, Content Participants, or a Fellow Content Participant; (3) at the time of its disclosure by CMLA to Content Participant was already in its possession without obligation of confidence; (4) was disclosed by CMLA to another party without obligation of

confidentiality; or (5) is in the public domain, other than as a result of breach of any obligation of confidentiality.

- 6.8 Confidentiality Period. The confidentiality obligations, related to Confidential Information, set forth in Section 6.2 shall be in effect during the term of this Agreement and shall continue thereafter until three (3) years after termination of this Agreement.
- 6.9 Export. Content Participant shall comply with all applicable laws and regulations of the United States, European Union, Japan, Korea and other countries and jurisdictions relating to the export or re-export of commodities, software, and technical data insofar as they relate to activities under this Agreement shall obtain any approval required under such rules and regulations whenever it is necessary for such export or re-export. Content Participant agrees and understands that commodities, software and technical data provided under this Agreement may be subject to restrictions under the export control laws of the United States, Japan and other countries and jurisdictions, as applicable, including but not limited to the US Export Administration Act, and the US Export Administration Regulations Council Regulation (EC) No. 1334/2000, and the Japanese Foreign Exchange and Foreign Trade Law, and the Korean Foreign Trade Act and shall obtain any approval required under such laws and regulations whenever it is necessary for such export or re-export.
- 6.12 Treatment. Subject to the exceptions provided in Section 6.7, above, any materials marked "Confidential" shall be deemed Confidential Information under this Agreement.

7.0 TERM/TERMINATION

- 7.1 Term. In general and subject to the termination provisions in Section 7.2, below, this Agreement shall have an initial term of ten (10) years from the Effective Date and may be renewed by mutual consent of parties. In the event CMLA continues to offer licenses to CMLA Technical Specification upon the expiration of this Agreement, CMLA will do so under fair, reasonable and non-discriminatory terms.
- 7.2 Termination. This Agreement shall commence upon the Effective Date and shall continue until terminated in accordance with any of the following events:
- 7.2.1 Termination by Content Participant. Content Participant shall have the right to terminate this Agreement at any time on or after the first anniversary of the Effective Date upon ninety (90) days prior written notice to CMLA.
- 7.2.2 Breach. CMLA may terminate this Agreement and Founders may terminate any license to Necessary Claims for any material breach by Content Participant, and Content Participant may terminate this Agreement for any material breach by CMLA or Founders, by providing timely written notice to the other parties. If the breach is not fully cured within thirty (30) days of receiving such notice the Agreement may be terminated.
- 7.2.3 Necessary Claim. CMLA and/or Founders may terminate the license(s) granted to Content Participant immediately if Content Participant asserts against any CMLA Technology Licensee a Necessary Claim.

7.2.4 Effect of Termination. Except upon termination for a material breach, upon termination or expiration of this Agreement, Content Participant shall proceed in an orderly manner and within a commercially reasonable timeframe to cease use of the CMLA Technical Specification, and licenses to Necessary Claims from the Founders shall terminate. Within thirty (30) days after termination or expiration of this Agreement, Content Participant shall, at the direction of CMLA, either: (i) return all Confidential Information to CMLA; or (ii) destroy all such information in its possession, retaining no copies thereof, and certify such destruction in writing to CMLA, signed by a senior official of the Content Participant. Upon termination for material breach, Content Participant shall immediately cease use of the CMLA Technical Specification and licenses to Necessary Claims from the Founders shall terminate immediately.

7.2.5 Avoidance of Legal Liability.

- (i) CMLA may terminate this Agreement; or
- (ii) CMLA may terminate the license to CMLA IP, after reviewing alternatives set forth in Section 2.7, in the event CMLA provides a license to an alternative technology; or
- (iii) a Founder or its Affiliate may terminate any licenses granted hereunder to Necessary Claims (and if it does so, that Founder or its Affiliate shall automatically be subject to a reciprocal covenant not to assert such Necessary Claims, as more fully set forth in Section 2.5).

in the event CMLA (acting reasonably) determines it is necessary to do so to avoid potential legal liability for CMLA, Founders, or substantially all of the CMLA Technology Licensees, by providing thirty (30) days written notice to Service Provider.

7.3 Survival. The Reciprocal Non Assertion Covenant and those sections which by their own terms survive termination or expiration of this Agreement shall continue in full force after termination or expiration of this Agreement until by their own terms they are fulfilled.

8. DISCLAIMER AND LIMITATION OF LIABILITY

8.1 THE TERMS OF THIS SECTION 8 LIMIT THE ABILITY OF CONTENT PARTICIPANT TO RECOVER ANY DAMAGES FROM CMLA OR THE FOUNDERS IN EXCESS OF FEES ACTUALLY PAID TO CMLA BY CONTENT PARTICIPANT. SUCH TERMS ARE AN ESSENTIAL PART OF THE BARGAIN, WITHOUT WHICH CMLA WOULD NOT BE WILLING TO ENTER INTO THIS AGREEMENT AND CMLA AND THE FOUNDERS WOULD NOT BE WILLING TO LICENSE THEIR NECESSARY CLAIMS.

8.2 Disclaimer. ALL INFORMATION, CMLA TECHNICAL SPECIFICATION AND OTHER MATERIALS ARE PROVIDED "AS IS." EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SECTION 2.7(c), TO THE MAXIMUM EXTENT PERMITTED BY LAW CMLA AND THE FOUNDERS AND THEIR AFFILIATES MAKE NO REPRESENTATIONS OR WARRANTIES, EXPRESS, IMPLIED,

STATUTORY OR OTHERWISE, EXCEPT AS EXPRESSLY SET FORTH IN SECTION 8.2, 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, CLIENT ADOPTER AGREEMENT, SERVICE PROVIDER AGREEMENT, DEVELOPER ADDENDA THERETO, AUTHORIZED RESELLER AGREEMENT OR ANY OTHER ACTIVITY OF CMLA, THE FOUNDERS, OR THEIR AFFILIATES. WITHOUT LIMITING THE FOREGOING, NEITHER CMLA, FOUNDERS, NOR THEIR AFFILIATES REPRESENT OR WARRANT THAT THE CMLA TECHNICAL SPECIFICATION IS IMMUNE TO HACKING, CODE BREAKING, PIRACY OR OTHER EFFORTS TO CIRCUMVENT SUCH SYSTEM. CMLA, FOUNDERS AND THEIR AFFILIATES FURTHER DISCLAIM ANY WARRANTY THAT ANY IMPLEMENTATION OF THE SPECIFICATION, IN WHOLE OR IN PART, WILL BE FREE FROM INFRINGEMENT OF ANY THIRD PARTY'S INTELLECTUAL PROPERTY OR PROPRIETARY RIGHTS.

8.3 Limitation of Liability. TO THE MAXIMUM EXTENT PERMITTED BY LAW NEITHER CMLA NOR THE FOUNDERS, ACTING AS FOUNDERS, OR THEIR AFFILIATES NOR ANY OF THEIR DIRECTORS, OFFICERS, EQUIVALENT CORPORATE OFFICIALS, MEMBERS, EMPLOYEES, AGENTS OR REPRESENTATIVES ACTING IN THEIR CAPACITIES AS SUCH (COLLECTIVELY, THE "AFFECTED PARTIES") OR AFFILIATES SHALL BE LIABLE TO CONTENT PARTICIPANT OR ITS AFFILIATES FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES ARISING OUT OF ANY CAUSE OF ACTION RELATING TO THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, REVOCATION OF DEVICE CERTIFICATES OR RIGHTS ISSUER CERTIFICATES, OR BASED ON ANY PERSON'S USE OF, OR MAKING, USING, SELLING OR IMPORTING ANY PRODUCTS OR SERVICES THAT IMPLEMENT, THE CMLA TECHNICAL SPECIFICATION WHETHER UNDER THEORY OF CONTRACT, TORT, INDEMNITY, INTELLECTUAL PROPERTY INFRINGEMENT (DIRECT, CONTRIBUTORY OR OTHERWISE), PRODUCT LIABILITY OR OTHERWISE. WITH RESPECT TO DIRECT DAMAGES, AND TO THE EXTENT THAT ANY COURT OF COMPETENT JURISDICTION RENDERS JUDGMENT AGAINST ANY OF THE AFFECTED PARTIES NOTWITHSTANDING THE LIMITATION SET FORTH IN THIS SECTION 8, ABOVE, THE AFFECTED PARTIES' AGGREGATE LIABILITY TO CONTENT PARTICIPANT OR ITS AFFILIATES IN CONNECTION WITH THIS AGREEMENT SHALL IN NO EVENT EXCEED THE FEES PAID TO CMLA BY CONTENT PARTICIPANT UNDER THIS AGREEMENT.

8.4 TO THE MAXIMUM EXTENT PERMITTED BY LAW NEITHER CONTENT PARTICIPANT ITS DIRECTORS, OFFICERS, AGENTS, MEMBERS, REPRESENTATIVES, EQUIVALENT CORPORATE OFFICIALS, OR EMPLOYEES ACTING IN THEIR CAPACITIES AS SUCH (COLLECTIVELY THE "CONTENT PARTICIPANT AFFECTED PARTIES") SHALL BE LIABLE TO CMLA, FOUNDERS, OR THEIR AFFILIATES OR TO ANY OTHER CLIENT ADOPTER OR SERVICE PROVIDER, CONTENT PARTICIPANT FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES ARISING OUT OF ANY

CAUSE OF ACTION RELATING TO THIS AGREEMENT, WHETHER UNDER THEORY OF CONTRACT, TORT, INDEMNITY, INTELLECTUAL PROPERTY INFRINGEMENT (DIRECT, CONTRIBUTORY OR OTHERWISE) PRODUCT LIABILITY OR OTHERWISE.

9. REMEDIES

9.1 Equitable Relief. Content Participant agrees that if it breaches its obligations under Sections 2, 4, or 6 of this Agreement, money damages may be inadequate to compensate an injured party due to the unique nature of certain provisions of this Agreement and the lasting effect and harm from any breach of such provisions including making available the means for and/or providing an incentive for widespread circumvention of the CMLA Technical Specification and unauthorized copying of copyrighted content intended to be protected using the CMLA Technical Specification. Content Participant further agrees that, as provided by law, injunctive relief is an appropriate remedy to prevent or limit the adverse consequences of actual or threatened material breaches of the Agreement.

9.2 Third Party-Beneficiary Rights

9.2.1 Prior to initiating or instituting any Content Participant Third Party Beneficiary Claim against a Client Adopter or Service Provider, as the case may be (each, a "Defendant") and as more fully set forth in Section 3.17 of this Agreement, a Content Participant Beneficiary ("Third Party Beneficiary") must be an Eligible Content Participant and shall, as a condition to its right to assert a claim hereunder, provide CMLA written notice of its intent to pursue such a claim. Such Eligible Content Participant shall further provide CMLA with notice of actual filing of a Third Party Beneficiary Claim and shall, upon CMLA's request, provide any copies of material documents to be filed in such Third Party Beneficiary's initiation, institution or pursuit of such Third Party Beneficiary Claim. CMLA shall cooperate reasonably with such Third Party Beneficiary in providing appropriate and necessary information in connection with the Third Party Beneficiary Claim to the extent that such cooperation is consistent with the protection of the integrity and security of CMLA Technical Specification and to the extent such cooperation does not otherwise interfere with CMLA's obligations to the other CMLA Technology Licensees. Third Party Beneficiaries shall not be obligated to provide copies of documents filed or to be filed under seal. Documents provided to CMLA under the procedures set out here in shall not include any documents filed or to be filed under seal in connection with such Third Party Beneficiary Claim.

9.2.2 CMLA shall provide timely notice to all Content Participants, CMLA Service Providers and Client Adopters of receipt of any notice of a Third-Party Beneficiary Claim against a defendant ("Defendant"). Within 30 days of the date of mailing of such notice, each Content Participant, shall elect whether to join the Third Party Beneficiary Claim and provide notice of intent to join such Third Party Beneficiary Claim to CMLA. The failure by a particular Content Participant, to provide notice to CMLA and to move to join such Third Party Beneficiary Claim within the allotted thirty (30) day period shall be deemed a waiver of such Content Participant's right to be a Third Party Beneficiary under its Content Participant Agreement, with respect to all claims it may have against Defendant arising out of the alleged breach asserted pursuant to the notified

Third Party Beneficiary Claim. The Third Party Beneficiary instituting or initiating a Third Party Beneficiary Claim shall support, and Defendant shall not object to, any motion by another Eligible Content Participant to so join provided it is instituted within the thirty (30) day period following mailing of notice by CMLA of a Third Party Beneficiary Claim. Judgment entered upon such Third Party Beneficiary Claims shall be binding on all Content Participants, who received notice from CMLA as if they had joined such Third Party Beneficiary Claim. Neither a Content Participant, CMLA Service Provider and/or Client Adopter's failure to notify and consult with CMLA, nor CMLA's failure to give notice to any Content Participant, CMLA Service Provider or Client Adopter in accordance with these Third Party Beneficiary Claim procedures shall be a defense to any Third Party Beneficiary Claim or grounds for a request to delay the granting of preliminary relief requested.

9.2.3 Third Party Beneficiaries shall have no right to, and Content Participant agrees that it will not, enter into any settlement that: (i) amends any material term of any CMLA Technology License Agreement or exhibits; (ii) has an adverse effect on the integrity and/or security of CMLA Technical Specification; or (iii) adversely affects or lowers the value of any of CMLA's or the Founders' rights in and to the CMLA Technical Specification or any intellectual property right related to it (embodied therein), unless CMLA and the Founders shall have provided prior written consent thereto.

9.3 No Limitations of Remedies. Content Participant's exercise of its Third Party Beneficiary rights under this section shall not constitute an election against any statutory or other non-contractual remedy against a CMLA Technology Licensee which may be available to Content Participant for the same act that gave rise to the Third Party Beneficiary Claim.

10. MISCELLANEOUS

10.1 Ownership. Confidential and/or Highly Confidential Information, copyrighted and patented information, and media containing any of the preceding as provided by CMLA to Content Participant hereunder shall remain the property of CMLA, the Founders or their suppliers. Except as expressly provided herein, this Agreement does not give Content Participant any license or other right to any information provided under this Agreement.

10.2 Entire Agreement. Except as rights under this Agreement are affected/determined by the terms of Client Adopter or Service Provider Agreements, this Agreement, the exhibits hereto and the CMLA Technical Specifications constitute the entire agreement between the Parties with respect to the subject matter hereof and supersede all prior oral or written agreements. This Agreement may not be modified except by written agreement dated subsequent to the date of this Agreement and signed by all Parties.

10.3 Assignment. The rights and licenses granted hereunder are personal to Content Participant, and Content Participant may not assign or transfer this Agreement, or any of its rights or obligations hereunder, except (a) with the written approval of CMLA, and with respect to Necessary Claims, written approval of the Founders (which shall not unreasonably be withheld), (b) to a corporation controlling, controlled by or under common control with Content Participant (as set forth in the definition of "Affiliates") or

(c) to the purchaser of all or substantially all of the outstanding capital stock or assets and obligations of Content Participant or to the surviving entity in a merger, reorganization, or other business combination involving Content Participant and where notice of such assignment has been provided in advance to CMLA and where the surviving or acquiring company agrees in writing to be bound by the terms of this Agreement. Subject to the limitations set forth in this Agreement, this Agreement will inure to the benefit of, and be binding upon, the Parties, their successors and permitted assigns. CMLA and Founders may assign or transfer this Agreement to any Person that agrees to assume CMLA's obligations hereunder, and CMLA shall provide Content Participant with written notice thereof.

- 10.4 Currency. All fees shall be paid to CMLA or to its order in United States dollars by wire transfer or such other means as CMLA may reasonably specify.
- 10.5 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.
- 10.6 Governing Law. THIS AGREEMENT, AND ALL THIRD PARTY BENEFICIARY CLAIMS BROUGHT PURSUANT TO IT, 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. WITHOUT REGARD TO THAT STATE'S CONFLICT OF LAWS PRINCIPLES. IN ANY DISPUTE, ACTION OR CLAIM ARISING OUT OF OR IN RELATION TO THIS AGREEMENT, THE PARTY ASSERTING A DISPUTE, ACTION OR CLAIM MAY AT ITS OPTION ARBITRATE SUCH DISPUTE, ACTION OR CLAIM. THE RULES GOVERNING ARBITRATION SHALL BE THOSE SIMILAR TO THE ARBITRATION RULES SET FORTH IN SECTION 5.2.4, ABOVE.

The rights and obligations of the Parties shall not be governed by the provisions of the U.N. Convention on Contracts for the International Sale of Goods, 1980; rather, the parties' rights and obligations shall be governed by the domestic law of the state of New York, U.S.A., including without limitation its version of the Uniform commercial Code.

- 10.7 CONSENT TO JURISDICTION. SUBJECT TO SECTIONS 3.13 AND 5.2, IN CONNECTION WITH ANY LITIGATION ARISING OUT OF OR IN RELATION TO THIS AGREEMENT BETWEEN THE PARTIES HERETO OR ANY THIRD PARTY BENEFICIARY CLAIM MUST BE BROUGHT EXCLUSIVELY IN THE FEDERAL OR STATE COURTS LOCATED IN THE COUNTY OF NEW YORK, STATE OF NEW YORK TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN CONNECTION WITH SUCH LITIGATION, EACH PARTY HERETO IRREVOCABLY CONSENTS TO: (i) THE EXCLUSIVE JURISDICTION AND VENUE IN THE FEDERAL AND STATE COURTS LOCATED IN THE COUNTY OF NEW YORK IN THE STATE OF NEW YORK; (ii) EACH PARTY IRREVOCABLY WAIVES ANY CLAIMS THAT SUCH LITIGATION BROUGHT IN SAID COURTS HAS BEEN BROUGHT IN AN INCONVENIENT FORUM; AND (iii) IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OF SAID COURTS BY ANY METHOD AS PROVIDED BY NEW YORK LAW AND IN ADDITION BY PERSONAL DELIVERY BY OVERNIGHT MAIL OR INTERNATIONAL COURIER, WHICH REQUIRES SIGNING ON RECEIPT, POSTAGE PREPAID, TO THE

PARTIES AT THE ADDRESS SPECIFIED IN THIS AGREEMENT OR TO THE AGENT TO BE APPOINTED PURSUANT TO SECTION 10.9 BELOW.

- 10.8 Waiver of Jury Trial. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH PARTY HERETO HEREBY, KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY IN ANY LITIGATION OF ANY CLAIM WHICH IS BASED HEREON, OR ARISES OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY TRANSACTIONS RELATING HERETO, WHETHER IN CONTRACT, IN TORT OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY THIRD PARTY BENEFICIARY CLAIM, EACH PARTY ACKNOWLEDGES THAT THE WAIVERS IN SECTION 10.7 AND IN THIS SECTION 10.8 ARE A MATERIAL INDUCEMENT FOR THE OTHER PARTIES TO ENTER INTO THIS AGREEMENT, THE WAIVERS IN SECTION 10.7 AND THIS SECTION 10.8 ARE IRREVOCABLE, MEANING THAT THEY MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THESE WAIVERS SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, SUPPLEMENTS AND REPLACEMENTS TO OR OF THIS AGREEMENT. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO WAIVER OF A JURY TRIAL AND TO TRIAL BY THE COURT.
- 10.9 CONTENT PARTICIPANT SHALL APPOINT AN AGENT IN THE UNITED STATES FOR ACCEPTANCE OF SERVICE OF PROCESS PROVIDED FOR UNDER THIS AGREEMENT AND SHALL NOTIFY CMLA OF THE IDENTITY AND ADDRESS OF SUCH AGENT WITHIN NINETY (90) DAYS AFTER THE EFFECTIVE DATE.
- 10.10 Notice. Any notice required to be given under this Agreement shall be in writing (which, for these purposes includes facsimile but excludes email) and shall be by overnight mail or international courier, which requires signing on receipt, postage prepaid (or, for notices given by facsimile, shall only be considered given if the sender has received a successful fax transmission report recording the correct number of pages), to the parties at the address or facsimile number specified in this Agreement. Such notices shall be deemed served when received by addressee or, if delivery is not accomplished by reason of some fault of the addressee, when tendered for delivery. Any Party shall give written notice of a change of address or facsimile number and, after notice of such change has been received, any notice or request shall thereafter be given to such party at such changed address or facsimile number.
- 10.10 Severability; Waiver. Should any part of this Agreement judicially be declared to be invalid, unenforceable, or void, the Parties agree that the part or parts of this Agreement so held to be invalid, unenforceable, or void shall be reformed by the entity having jurisdiction thereof 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 any of the Parties hereto of any of the covenants to be performed by the other Party or any breach thereof 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.
- 10.11 Language. The parties agree and acknowledge that the official language of CMLA is English and all business transactions shall be conducted in English. The parties further agree and acknowledge that this English language version of the Agreement is the only

valid version of the Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

This Agreement may be executed in multiple counterparts:

CMLA:	Content Participant:
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

The Founders sign below for purpose of agreeing to all Sections of this Agreement except for Sections 3.1, 3.15, 3.16, 3.17, 3.18, 5 and 9.

CMLA, LLC as attorney-in-fact for Founders:

By: _____
Name: _____
Title: _____

Addresses and facsimile for notices

CMLA LLC:	Content Participant:
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225 B Cochrane Circle
Morgan Hill, CA 95037

Intel Corporation:
Office of General Counsel
2200 Mission College Blvd
Santa Clara, CA USA 95052
Facsimile: 01-408-765-1859
Copy to Jeffrey Lawrence,
Director of Content Policy,
facsimile number 01-503-264-9564

Matsushita Electric Industrial Co., Ltd:
General Manager
Corporate Legal Affairs Division
Matsushita Electric Industrial Co.,Ltd
1006 Kaoma, Osaka 571-8501 JAPAN
(tel) +81-6-6908-5836
(fax) +81-6-6906-3760

Nokia Corporation:
Technology Platforms Legal Department
Attn. Vice President, Legal
P.O.Box 100, FI-00045 NOKIA GROUP
Keilalahdentie 4, 02150 Espoo, Finland
tel. +358-7180 08000
fax. +358-7180 38677

Samsung Electronics Co., Ltd:
EUISUK CHUNG (Vice President)
Samsung Electronics IT Center 24th floor
Maetan 3 Dong Youngtong-Gu
Suwon Kyounggi Korea (ROK)
Telephone : 82-31-279-6400
Fax : 82-31-279-6501

Exhibit A

CMLA Content Participant Fee Schedule

1. GENERAL

- All Fees are in US Dollars
- All Fees are non-refundable

2. ADMINISTRATIVE FEES

2.1 Annual Administrative Fees

- Annual Administrative Fees are payable annually as set forth below and in advance.
Content Participant Annual Administrative Fee \$20,000
- The full Administrative Fee is due upon execution of the particular CMLA agreement. The subsequent Annual Administrative Fee is due upon the anniversary date of the execution date of the CMLA agreement (invoice will be sent 90 days prior to anniversary date).

3. USAGE FEES

3.1 Processing Fees

Processing Fees are per incident fees specific to activities performed by CMLA at the explicit request of CMLA Technology Licensees.

- CMLA Approved Output Submission Fees
 - Tables X1 or Y1 \$ 3,000
 - Tables X2 or Y2 \$ 1,000

3.2 Late Fees

Delinquent fees shall be subject to a late fee of one and one-half percent (1.5%) per month of the delinquent fees.

EXHIBIT B

CMLA Advisory Board Request for Amendment

The signatory/signatories below, each members of the CMLA Advisory Board, hereby request that the following amendment(s) be made to the

- Content Participant Agreement
- Client Adopter Agreement
- Service Provider Agreement
- CMLA Technical Specification
- Other (specify) _____:

Description of Action:

(List section(s) to be amended and provide text of amendments. Attach an explanation of the benefits)

The signatory/signatories certify that they have consulted with the members of the CMLA Client Adopter, Service Provider and Content Participant User Groups and have submitted the proposed amendment to CMLA pursuant to the process established by CMLA for notification of change requests in Section 3 of the CMLA Technology License Agreements and the change requested is approved by a “Qualified Majority” as required:

- Yes No. (if no please provide reason)

The following CMLA User groups oppose the change requested:

- Service Provider User Group
- Client Adopter User Group
- Content Participants User Group

(Please Specify reasons for opposition)

Below is a checklist to be used by CAB as a guide; not all of the boxes must necessarily be completed and additional considerations may be added.

- The change requested does not have a material adverse effect on content protection provided by the CMLA Technical Specification.
- The change requested does not impose additional substantial burdens on Client Adopters, Service Provider or on the operation of licensed products as more fully set forth in Section 3.
- The change request is an Improving Change, as defined. Please specify reasons why change request is an Improving Change.

- Requests relating to OMA DRM Specification updates.
- Recommended timescales for compliance with proposed recommendation.

For CAB

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

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

EXHIBIT C

CMLA Advisory Board Recommended Procedures

1. Background

CMLA and the CMLA Technology Licensees may establish a CMLA Advisory Board (CAB) which consists of elected representatives of Content Participant, Service Provider and Client Adopter User Groups in addition to the Founders of CMLA

2. Proposed Principles for Building the CAB

CMLA and CMLA Technology Licensees wish to reduce or eliminate complex voting mechanisms and issues involving for majorities. For this reason the following recommended procedures are provided as one idea to avoid voting for nominating representatives, as long this is not requested by the companies CMLA Technology Licensees within in a User Group, and to include CMLA Technology Licenses, which join the CMLA ecosystem at a later point of time, as well. Especially with regard to an ongoing process of signing a Content Participant, Client Adopter or Service Provider Agreement, the CAB should be a workable council independently of how many companies are already entered the CMLA.

The proposed principles are:

- All CMLA Technology Licensees (except Authorized Resellers and those CMLA Technology Licensees electing only to exercise the Developer Addendum) are eligible to participate in a User Group and are entitled to act as representatives in the CAB.
- CMLA Technology Licensees (except Authorized Resellers and those CMLA Technology Licensees electing only to exercise the Developer Addendum) may participate in a User Group and represent that User Group on the CAB category according to their agreement. A CMLA Technology Licensee (except Authorized Resellers and those CMLA Technology Licensees electing only to exercise the Developer Addendum) having entered into one or more CMLA Technology License Agreements, must select/announce a CAB User Group category in which it would like to participate. In no event, may a CMLA Technology Licensee participate on the CAB as a representative in more than one User Group CAB category.
- Participation in only one User Group category, does not however, preclude a CMLA Technology Licensee from providing input to other User Groups and CAB participant representatives, as it deems appropriate.
- The CAB will make a reasonable effort to permit participation of all CMLA Technology Licensees and Founders at CAB meetings; including providing forty-five (45) days notice of meetings.
- The CAB representatives for each User Group may rotate and the CAB should decide on a reasonable rotation schedule.
- As long as no other mechanisms are agreed within each CAB category / the User Group, of each CAB category the representatives are determined according to the order in which each User Group participant became a CMLA Technology Licensee. The first two (2) CMLA Technology Licensees in each CAB User Group category will become the user group CAB representatives for that User Group by default.
- Absent the a User Group adopting an alternative procedure, each half year the CMLA Technology Licensees participating in each User Group will rotate to permit new CMLA Technology Licensees in each CAB User Group category to participate on the CAB. Such a

process shall continue until all CMLA Technology Licensees in a User Group wishing to participate as representative will have an opportunity to do so, at which point the process will restart.

- Any CMLA Technology Licensee may decline to participate in as a CAB category as representative for its selected User Group.
- CMLA Technology Licensees, as representatives in each CAB User Group category, may change any of these procedures by a simple majority vote of all of the then current CMLA Technology Licensees in that User Group a particular category.
- CMLA will provide information to each new signatory about current CAB representatives for each User Group to enable the CMLA Technology Licensee to contact the representatives and to be included in work of the selected User Group.
- As long as no other mechanisms are decided in the User Groups the principle of a simple majority will be used to come to decisions on open issues. Based on these decisions the representatives will act in the CAB.

EXHIBIT D

Client Adopter Agreement included here by this reference.

EXHIBIT E

Service Provider Agreement included here by this reference.

EXHIBIT F

Authorized Reseller Agreement included here by this reference.