

**AACS Online  
Service Provider Agreement**

This AACS Online Service Provider Agreement (“Agreement”) is effective as of \_\_\_\_\_ (the “Effective Date”), by and between Advanced Access Content System Licensing Administrator LLC, a Delaware limited liability company (“AACS LA”), the “Licensors” as defined below, and the AACS Online Service Provider (“Service Provider”) named below:

Name of Service Provider

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Description of Service Provider’s Business

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Name of Main Contact Person

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Main Contact person’s:  
phone no.

address,

fax no.,

email address

Alternate Contact person’s  
phone no.

address,

fax no.,

email address

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Location of Service Provider’s principal offices

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State or Country of Incorporation

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Year of Incorporation

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## WITNESSETH:

WHEREAS, a group of companies identified below as the Licensors has developed certain technology and methods for data encryption, encryption key management, encryption system renewability, and forensic tracing, for the purpose of controlling copying and preventing unauthorized distribution of copyrighted content, which methods are described in the Specifications (as defined below) entitled *Advanced Access Content System (AACCS) Specifications*;

WHEREAS, the Licensors have licensed or assigned aspects of the AACCS Technology (as defined below)<sup>1</sup> and Specifications to AACCS LA and authorized AACCS LA to further license the AACCS Technology and administer such licenses, and whereas the Licensors shall license certain patent claims directly to Service Provider on an enabling basis through this Agreement;

WHEREAS, Service Provider has agreed to comply with all obligations set out herein;

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

### 1. DEFINITIONS.

Capitalized terms shall have the meanings set forth in this Section 1 or elsewhere in this Agreement. For the avoidance of doubt, to the extent there is any conflict between the definitions of capitalized terms herein and the same capitalized terms in other Approved Licenses, the definitions set forth herein shall control.

- 1.1. "AACCS Content" shall mean Digital Entertainment Content that is encrypted in a manner compliant with the Specifications and AACCS Approved Licenses.
- 1.2. "AACCS Default Managed Copy Authorization Service" means the AACCS Online Service operated by or on behalf of AACCS LA and used in lieu of or in addition to an AACCS Online Service operated by or on behalf of a Content Participant pursuant to this Agreement.
- 1.3. "AACCS Keys" means, collectively, AACCS Public Keys, Device Keys, Device Key Sets, MKBs, Media Keys, Sequence Keys, MCS Private Keys, certificates, and all other cryptographic values referenced in the Specifications, other than Evaluation Keys, that are made available only by, or at the direction of and under license by, AACCS LA. For clarification, Title Keys are not part of the definition of AACCS Keys. Note, however, there are requirements in this Agreement and the Compliance and Robustness Rules that apply to the use and protection of Title Keys.

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- 1.4. “AACS Online Enabled Content” has the meaning set forth in Chapter 5 of the AACS Introduction and Common Cryptographic Elements Book.
- 1.5. “AACS Online Service” or “AACS Online Services” means those portions of the Online Transaction functions (including but not limited to Managed Copy authorization functions, AACS Network Download Content, AACS Enabled Content or AACS Streamed Content, each as defined in the Specifications, and including, for the avoidance of doubt, content that is commonly known as BD live content when such BD live content is protected by AACS Technology) of a product or service, which portions are made or performed under license from AACS LA and the Licensors and used in a production (as opposed to an evaluation) environment under an Approved License designated by AACS LA as an AACS Online Service Provider Agreement expressly authorizing use of an AACS Online Service in a production environment and that: (i) embody and comply with all requirements of all applicable Specifications related to a Fellow Service Provider and (ii) meet all applicable Compliance Rules under such AACS Online Service Provider Agreement. For purposes of the Non-Assertion Covenant and Defensive Suspension provisions in the Approved Licenses, AACS Online Service shall include AACS Online Service Components.
- 1.6. “AACS Online Service Component” means a portion of an AACS Online Service in software or hardware which (i) is manufactured, developed and offered or sold under license from AACS LA and the Licensors, (ii) is designed solely to be and is assembled into a AACS Online Service or is sold or otherwise distributed to a Fellow Service Provider; (iii) embodies a portion, but not all, of the requirements of one or more Specifications and/or which, by virtue of the fact that it is not an AACS Online Service, does not by itself completely satisfy all of the Compliance Rules; (iv) cannot by itself, or with the mere addition of AACS Keys, decrypt any Digital Entertainment Content protected using AACS Technology or authorize a Managed Copy; and (v) does not contain AACS Keys (other than AACS Public Keys) unless Service Provider upon distribution to a third party, as permitted herein, employs commercially reasonable business practices to verify receipt by a customer authorized under Sections 2.3.1 and 2.3.4 hereof and promptly reports to AACS LA any failure of a AACS Online Service Component to be received by such customer following shipment.
- 1.7. “AACS Public Keys” means cryptographic values used to verify signatures of items signed by AACS LA as described in the Specifications.
- 1.8. “AACS Technology” means the technology and methods developed by Licensors and described in the Specifications, including, without limitation, the technology and methods, for authentication, encryption, decryption, encryption key management, encryption system renewability, forensic tracing and Online Transactions, and the AACS Keys and the Evaluation Keys.
- 1.9. “Adopter” means an entity that has executed an Adopter Agreement that remains in effect, and shall include its Affiliates.

- 1.10. “Adopter Agreement” means any Approved License entered into by AACSLA, Licensors and a party designated as “Adopter” that is called an Adopter Agreement by AACSLA.
- 1.11. “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” means the possession of beneficial ownership of more than fifty percent (50%) of the stock or other similar interest entitled to vote for election of the Board of Directors or similar managing authority.
- 1.12. “Approved License” means an Adopter Agreement, Content Participant Agreement, Content Provider Agreement, Reseller Agreement, AACSLA Online Service Provider Agreement or other license agreement for use of the Specifications and/or AACSLA Technology, approved by the Licensors.
- 1.13. “Book” shall mean version 0.952 or higher of a volume of the Advanced Access Control System Specifications with respect to which AACSLA has given public notice on its website that such version of a given Book is licensable under Approved Licenses. Each of the following volumes shall be considered a “Book” hereunder:

“AACSLA Introduction and Common Cryptographic Elements Book,”

“AACSLA Prepared Video Book,”

“AACSLA Pre-recorded Video Book,”

“AACSLA Recordable Video Book,”

“AACSLA Blu-ray Disc Prepared Video Book,”

“AACSLA Blu-ray Disc Pre-recorded Book,”

“AACSLA Blu-ray Disc Recordable Book,”

“AACSLA HD DVD and DVD Prepared Video Book,”

“AACSLA HD DVD and DVD Pre-recorded Book,”

“AACSLA HD DVD and DVD Recordable Book,”

“AACSLA CPRM 4C Media Verification Book,”

“AACSLA Signed CSS Book,”

and any future volume that extends the applications of the “AACSLA Introduction and Common Cryptographic Elements,” “AACSLA Pre-recorded Video Book,” and/or “AACSLA Recordable Video Book” to

additional Removable Storage Media to which content is cryptographically bound using AACS Technology so that such content can be accessed by compliant products upon insertion of such media in such products, as any such Book may be amended from time to time.

- 1.14. “Compliance Rules” means, with respect to services developed and offered under this Agreement, the requirements set out in Exhibit D and, with respect to products manufactured under another Approved License, the requirements of such agreement entitled “Compliance Rules,” in each case (including with respect to this Agreement) Compliance Rules include the Robustness Rules contained therein or set forth in a separate Exhibit, and as may be amended from time to time in accordance with the terms of the applicable Approved License.
- 1.15. “Confidential Information” means any and all information relating to this Agreement and/or the AACS Technology and/or the Specifications that is marked “confidential” when disclosed in written form or indicated as confidential or proprietary to the discloser when disclosed orally, and confirmed by the discloser in writing within thirty days to be Confidential Information, provided, however, that Evaluation Keys shall be treated as “Confidential Information” regardless of whether or not they are marked “confidential.”
- 1.16. “Content Participant” means an entity that has executed a Content Participant Agreement that remains in effect, and shall include its Affiliates.
- 1.17. “Content Participant Agreement” means any Approved License entered into by AACS LA, Licensors and a party designated as a Content Participant that is called a Content Participant Agreement by AACS LA.
- 1.18. “Content Protection Requirements” shall mean, with respect to an AACS Online Service, the applicable content protection requirements of AACS set forth in the Agreement, Specifications and Compliance Rules, including but not limited to the content protection technologies, Watermark Requirements, output protections, output restrictions, recording protections, recording limitations, protections and limitations on copying (including but not limited to Managed Copy and Move) and the triggering of analog protection systems.
- 1.19. “Content Provider” means an entity that has executed a Content Provider Agreement that remains in effect, and shall include its Affiliates.
- 1.20. “Content Provider Agreement” means any Approved License entered into by AACS LA, Licensors and a provider of Digital Entertainment Content that is called a Content Provider Agreement by AACS LA.
- 1.21. “CRL” or “Content Revocation List” means the content revocation list as defined in the Specifications.

- 1.22. “Device Key” means a cryptographic value used to decrypt portions of a Media Key Block in order to calculate a Media Key, as defined by the technical specifications contained in “AACCS Introduction and Common Cryptographic Elements,” published by AACCS LA.
- 1.23. “Device Key Set” means Device Keys which are provided to Adopter by AACCS LA or its designee for use in a specific device or set of devices.
- 1.24. “Digital Entertainment Content” means audiovisual works and/or sound recordings as defined in 17 U.S.C. § 101, games, ebooks or software and related information or material intended for enjoyment by end-users that may include by way of example and not of limitation, graphics, liner notes, and interviews with or statements by artists, which is: (a) not created by a user of a particular Licensed Product (or, if originally created by a user of a particular Licensed Product, protected by AACCS Technology by or under the direction of a Content Participant or Content Provider as copyright holder or licensee of the copyright in the user-created material); and (b) offered for transmission, delivery or distribution, either generally or on demand, to subscribers, purchasers, licensees, or the public at large, or otherwise for commercial purposes, not uniquely to an individual or a small, private group.
- 1.25. “Evaluation AACCS Online Service” means those portions of the Online Transaction functions (including but not limited to Managed Copy authorization functions) of a product or service, which portions implement parts of the Specifications and are made or performed under license from AACCS LA and the Licensors for testing, evaluation or development purposes or which is transferred or sold to an Adopter, Fellow Service Provider, Content Participant or Content Provider consistent with the terms of an Approved License.
- 1.26. “Evaluation Election Date” means the date upon which AACCS LA confirms Service Provider’s election on Exhibit A to become an evaluation licensee pursuant to Section 2.2.
- 1.27. “Evaluation Keys” means such facsimile versions of AACCS Keys as are supplied by, or at the direction of and under license by, AACCS LA to allow a Fellow Service Provider to develop an Evaluation AACCS Online Service according to the Specifications and to allow a Fellow Service Provider, Adopter, Content Participant or Content Provider to develop, evaluate and test an Evaluation AACCS Online Service according to the Specifications.
- 1.28. “Evaluation Licensed Component” has the meaning set forth in the Adopter Agreement.
- 1.29. “Evaluation Licensed Content Product” means those portions of digital data in a pre-recorded or downloadable content product protected by or that implement AACCS Technology, whether or not embodied in a physical medium, that implement one or more Specifications under license from AACCS LA and the

Licensors for testing, evaluation or development purposes and that may incorporate Evaluation Keys. For the avoidance of doubt, to the extent such data files are arranged or placed on a physical medium in a manner described with particularity by the mandatory parts of the Specifications, "Evaluation Licensed Content Product" includes such arrangement or placement, but excludes the physical medium.

- 1.30. "Evaluation Licensed Product" has the meaning set forth in the Adopter Agreement.
- 1.31. "Executing Entity" means the entity named on Page 1 of this Agreement on the line under "Name of Service Provider."
- 1.32. "Expire" or "Revoke" means steps set forth in the Specifications by which AACS Keys may be invalidated, rendering them unable to be used to authorize or process Managed Copy Transactions or to encrypt, decrypt, record or playback Digital Entertainment Content protected by AACS Technology (including, where the context requires, "Expiration" or "Expired.")
- 1.33. "Fellow Service Provider" means any entity (including Service Provider), which has executed an AACS Online Service Provider Agreement that remains in effect with AACS LA and Licensors in order to use and implement any Specification and the AACS Technology licensed pursuant to such AACS Online Service Provider Agreement and shall include its Affiliates.
- 1.34. "Founders" means The Walt Disney Company, International Business Machines Corporation, Intel Corporation, Panasonic Corporation, Microsoft Corporation, Toshiba Corporation, Sony Corporation, and Warner Bros. Technical Operations, Inc.
- 1.35. "Highly Confidential Information" means information relating to this Agreement and/or the AACS Technology and/or the Specifications, which information is marked "Highly Confidential Information" when disclosed in written form or indicated as "Highly Confidential" when disclosed orally and confirmed by any Licensors or AACS LA in writing within thirty days to be "Highly Confidential," provided, however, that AACS Keys, including specifically MCS Private Keys, shall be treated as "Highly Confidential Information" regardless of whether or not they are marked "Highly Confidential."
- 1.36. "Licensed Component" has the meaning set forth in the Adopter Agreement.
- 1.37. "Licensed Content Producer" has the meaning set forth in the Adopter Agreement.
- 1.38. "Licensed Content Product" has the meaning set forth in the Adopter Agreement

- 1.39. “Licensed Product” has the meaning set forth in the Adopter Agreement.
- 1.40. “Licensed Production/Test Tool” has the meaning set forth in the Adopter Agreement.
- 1.41. “Licensors” means Intel GF Inc., International Business Machines Corporation, Panasonic Intellectual Property Corporation of America, Microsoft Corporation, SCA IPLA Holdings, Inc. (“Sony”), Toshiba America Information Systems, Inc., Disney Technology Operations and Licensing, and Warner Bros. Entertainment Inc.
- 1.42. “Managed Copy” means a copy of Decrypted AACS Content, as defined in the Adopter Agreement Compliance Rules, when protected by a Managed Copy Output Technology that is authorized through an Online Transaction in accordance with the applicable Approved Licenses, Compliance Rules and Chapter 5 of the AACS Pre-recorded Video Book and Chapter 5 of the AACS Prepared Video Book in conjunction with applicable format specific books of the Specifications
- 1.43. “Managed Copy Machine” has the meaning set forth in the Specifications.
- 1.44. “Managed Copy Output Technology” or “MCOT” means a copying method set forth on Table C-1 or C-2 when such copying method is used to make a Managed Copy, as such Tables may be updated by AACS LA from time to time.
- 1.45. “Managed Copy Transaction Database” means the recording and retention of each Managed Copy transaction for use by Content Participants or Content Providers.
- 1.46. “Managed Copy Service Private Key” or “MCS Private Key” has the meaning set forth in the Specifications.
- 1.47. “Media Key” means a cryptographic value calculated by processing a Media Key Block using Device Keys, or that is delivered to a Licensed Content Producer, along with the corresponding Media Key Block.
- 1.48. “Media Key Block” or “MKB” means the encrypted block of keys which is provided for use with AACS Technology and defined by the Specifications.
- 1.49. “Necessary Claims” means those claims of patents or patent applications as may issue that are necessarily infringed by Licensed Products, Robust Inactive Products, Licensed Components, Licensed Production/Test Tools, or AACS Online Services which implement a Specification. A claim in a patent (or patent application) is “necessarily infringed” if (i) the claim reads on the Specification and (ii) there are no alternatives for implementing the applicable portion(s) of the Specification that do not infringe such claim or any other claim of such patent (or such patent application as may issue). “Necessary Claims” shall not include any



claims: (1) that read solely on any implementations of any portion of the Specification that are not within the bounds of the scope of use set forth in Section 2.4; (2) which, if licensed, would require a payment by the licensor to third parties that are not Affiliates of the licensor; (3) that relate to semiconductors and semiconductor manufacturing technology; or (4) that relate to aspects of any technology, standard or product that is not itself disclosed with particularity in the Specification (even though such technology, standard or product may otherwise be mentioned or required by the Specification), including claims: (i) that relate to aspects of any technology, codec, standard or product, including compression, encoding or decoding ability, tamper resistance, or other copy protection technologies; (ii) that relate to any technology that may be necessary to develop, design, manufacture, sell or use any product or portion thereof that complies with the Specification (examples of such technologies include, without limitation, optical disk technology -- including materials and materials-based methods that enable high data storage densities and/or distinguish genuine optical disks from counterfeit optical disks, relying, at least in part, on a determination of the material composition of such optical media); (iii) that relate to commercially available applications, application programming interfaces and user interfaces, including the technology used to generate or display such user interfaces or interact with a user through such interfaces, programming languages, compiler technology, object-oriented technology, basic operating system technology, middleware technology, database technology, networking, intranet, extranet, web services and Internet technology; (iv) that relate to content formats; and (v) that relate to watermarking and data embedding technology.

- 1.50. “Online Transaction” shall mean a transaction requiring interaction of a Licensed Product with a Fellow Service Provider, as such interaction is described in Chapter 5 of the AACS Introduction and Common Cryptographic Elements Book. These transactions include AACS Network Download Content, AACS Managed Copy, AACS Online Enabled Content, AACS Streamed Content and other online transactions as may be added from time to time.
- 1.51. “Party” or “Parties” means a party or parties to this Agreement.
- 1.52. “PVAS Certificate” has the meaning set forth in the Specifications.
- 1.53. “Prepared Video Serial Number” or “PVSN” has the meaning set forth in the Specifications.
- 1.54. “Pre-recorded Media Serial Number” or “PMSN” has the meaning set forth in the Specifications.
- 1.55. “Prepared Video Token” or “PVT” has the meaning as set forth in the Specifications.

- 1.56. “Production Election Date” means the date upon which AACSLA confirms Service Provider’s election on Exhibit A, to become a production licensee pursuant to Section 2.3.
- 1.57. “Relatively Necessary Claim” means any claim of a patent or of a patent application that would be a Necessary Claim but for the existence of at least one implementation (of the relevant part of the Specification) that does not infringe such claim but which is commercially unreasonable in that such implementation or implementations would have a commercially significant adverse effect on performance, manufacturability, or manufacturing cost, although the price charged by the implementer for such alternative implementation shall not be considered.
- 1.58. “Removable Storage Media” means optical or other media that are designed primarily for transporting digital files between devices and that are removed in the ordinary course of consumer usage (*e.g.*, flash memory cards), and does not include other storage media that are generally considered to be fixed in ordinary consumer usage (*e.g.*, PC/laptop hard disk drives which are not meant to be removed when PC/laptop is running).
- 1.59. “Robustness Rules” means the requirements designated as such as set forth in Exhibit E hereto, as may be amended by AACSLA from time to time.
- 1.60. “Sequence Keys” has the meaning set forth in the Specifications.
- 1.61. “Specification” or “Specifications” means one or more Book, all of which constitute the “Advanced Access Content System Specifications.”
- 1.62. “Table C-1” means Table C-1 to Exhibit E of the Adopter Agreement as maintained on the AACSLA website [www.aacsla.com](http://www.aacsla.com), as such table may be amended from time to time.
- 1.63. “Table C-2” means Table C-2 to Exhibit E of the Adopter Agreement as maintained on the AACSLA website [www.aacsla.com](http://www.aacsla.com), as such table may be amended from time to time.

## 2. LICENSES GRANTED

- 2.1. Generally. Service Provider may enter into the evaluation licenses set forth in Section 2.2, the production licenses set forth in Section 2.3, or both. Service Provider shall elect either or both of the licenses by their selection on Exhibit A upon execution of this Agreement, and by payment of the appropriate fees per Exhibit B. Service Provider electing one license upon execution may enter a second by submitting a revised Exhibit A, and by payment of the appropriate fees per Exhibit B. Service Provider’s license rights under this Agreement are expressly limited to those set forth in Section 2.2 and/or Section 2.3 as elected, as limited by Section 2.4. To the extent that a provision of this Agreement is

applicable to Service Provider licensed only under Section 2.2 or Section 2.3, such applicability is specifically indicated in the relevant provision.

2.2. Evaluation Licenses. Upon execution of this Agreement, and an election by Service Provider to become an evaluation licensee on Exhibit A:

2.2.1. Evaluation Patent Licenses. Each Licensor grants, and shall cause its Affiliates (if any) that have the right to license any Necessary Claims to grant, to Service Provider a nonexclusive, nontransferable, nonsublicensable, revocable, worldwide license under its or their respective Necessary Claims to use the Specifications and the Evaluation Keys to make and have made (including have designed and have developed by third parties under contract with Service Provider for the sole account of Service Provider for use in providing AACS Online Services to its customers under this Agreement) and use Evaluation AACS Online Services for the sole purpose of designing, developing, evaluating and testing, such Evaluation AACS Online Services, provided that Service Provider may not use such Evaluation AACS Online Service in a production environment under this Agreement.

2.2.2. Defensive Suspension. If Executing Entity or any of its Affiliates (whether identified pursuant to Section 10.12.1 or not) (i) initiates or becomes an adverse party to a legal action against a Licensor (or its Affiliate(s)) for patent infringement involving an Evaluation Licensed Component, Evaluation Licensed Product, Licensed Component, Robust Inactive Product, Licensed Product, Licensed Production/Test Tool, Evaluation AACS Online Service, or AACS Online Service based on a Necessary Claim or a Relatively Necessary Claim of Executing Entity or its Affiliate or (ii) breaches Section 2.6.5, such Licensor alone or with some or all of its Affiliates, at Licensor's option, may suspend its or their licenses under this Section 2.2 with respect to Executing Entity and its Affiliates, provided that if such cause of action relates to a Relatively Necessary Claim, such Licensor and its Affiliates must first indicate in writing their willingness to license their Relatively Necessary Claims to Executing Entity and its Affiliates under reasonable and non-discriminatory license terms for any Evaluation Licensed Component, Evaluation Licensed Product, Licensed Component, Robust Inactive Product, Licensed Product, or Licensed Production/Test Tool, distributed by such Executing Entity or its Affiliates at or prior to the time of the legal action.

2.2.3 Evaluation Trade Secret and Copyright License. AACS LA grants to Service Provider a nonexclusive, nontransferable, nonsublicensable, revocable, worldwide license under those trade secrets and copyrights embodied in the Specifications and Evaluation Keys, to use, reproduce, modify, display, perform and distribute them internally (or to a subcontractor pursuant to Section 2.2.5) for the sole purpose of designing,

developing, evaluating and testing (including having designed, developed, evaluated or tested by third parties under contract with Service Provider for the sole account of Service Provider in providing AACS Online Services to its customers under this Agreement).

2.2.4 Defensive Suspension. If Executing Entity or any of its Affiliates (whether identified pursuant to Section 10.12.1 or not) (i) initiates or becomes an adverse party to a legal action against AACS LA for infringement of Necessary Claims, Relatively Necessary Claims, copyrights or trade secrets of Executing Entity or its Affiliate with respect to the Specifications or (ii) breaches Section 2.6.5, AACS LA, at AACS LA's option, may suspend the foregoing license with respect to Executing Entity and its Affiliates.

2.2.5 Have Made Activities. Pursuant to the licenses set forth in Sections 2.2, Service Provider may provide a subcontractor with AACS Technology or Specifications only under terms of a separate agreement, setting forth the terms of this Section 2.2 as it applies to subcontractors, the applicable confidentiality obligations and other terms relating to subcontractor use, such as but not limited to Section 2.4 and Section 2.5, for the subcontractor's design, development and testing of Evaluation Licensed Components, Evaluation Licensed Products, Licensed Production/Test Tools or Evaluation AACS Online Services solely for the account of Service Provider in providing AACS Online Services to its customers under this Agreement; provided, that Service Provider and such contractor also have a binding agreement that provides for the assignment to Service Provider of all Necessary Claims and Relatively Necessary Claims to inventions arising in the course of such design, development and testing. In the event a Service Provider subcontractor receives Highly Confidential Information (including a Licensed Production/Test Tool containing any of those AACS Keys listed on Exhibit D), such receipt shall be pursuant to Section 5.3.2. The have made licenses under Sections 2.2, above (i) shall only apply to Evaluation Licensed Products, Evaluation Licensed Components, Licensed Production/Test Tools and Evaluation AACS Online Services provided to Service Provider by a subcontractor for which the designs were created for Service Provider after execution of this Agreement and an election by Service Provider to become an evaluation licensee on Exhibit A; and (ii) shall not apply to any products or components in the form manufactured or marketed by said subcontractor or any methods used by said subcontractor prior to execution of this Agreement and an election by Service Provider to become a production licensee on Exhibit A. If such subcontractor directly or indirectly initiates or becomes party to a legal action against a Licensor (or its Affiliate(s)) for patent infringement involving (x) an Evaluation Licensed Component, Evaluation Licensed Product, Licensed Component, Licensed Production/Test Tool, Robust Inactive Product or Licensed Product or Evaluation AACS Online Service based on a Necessary Claim

or Relatively Necessary Claim of such subcontractor or (y) any of the activities described in Section 2.6.5, such Licensor alone or with some or all of its Affiliates, at Licensor's option, may suspend Service Provider's have made licenses with respect to such subcontractor. If such subcontractor initiates or becomes an adverse party to a legal action against AACS LA for infringement of copyrights or trade secrets of such subcontractor with respect to the Specifications, or patent infringement involving a Necessary Claim or Relatively Necessary Claim of such subcontractor, AACS LA, at its option, may suspend Service Provider's have made licenses from AACS LA with respect to such subcontractor.

- 2.2.6 Distribution Limitations. Except as set forth herein, Service Provider may not sell, transfer, distribute or otherwise dispose of Evaluation Licensed Components or Evaluation Licensed Products or Evaluation AACS Online Services to any third party (without prejudice to the rights set forth in Section 2.2.3 or except as otherwise approved by AACS LA), without making an election on Exhibit A to obtain a production license as set forth in Section 2.3, below. Service Provider may not, under this Agreement, sell, transfer, distribute or otherwise dispose of Service Provider Licensed Production/Test Tools to any third party (without prejudice to the rights set forth in Section 2.2.3).
- 2.2.7 Each Licensor grants, and shall cause its Affiliates (if any) that have the right to license any Necessary Claims to grant, to Service Provider a nonexclusive, nontransferable, nonsublicensable, revocable, worldwide license under its or their respective Necessary Claims to transfer Evaluation AACS Online Services to a Fellow Service Provider, Adopter, Content Participant or Content Provider solely for purposes of evaluation or testing. AACS LA grants to Service Provider a nonexclusive, nontransferable, nonsublicensable, revocable, worldwide license under those trade secrets and copyrights embodied in the Specifications and Evaluation Keys to Service Provider a nonexclusive, nontransferable, nonsublicensable, revocable, worldwide license under its or their respective Necessary Claims to transfer Evaluation AACS Online Services to a Fellow Service Provider, Adopter, Content Participant or Content Provider solely for purposes of evaluation or testing.
- 2.3 Production Licenses. Upon execution of this Agreement, and an election by Service Provider to become a production licensee on Exhibit A:
- 2.3.1 Production Patent Licenses. Each Licensor grants, and shall cause its Affiliates, if any, that have the right to license any Necessary Claims to grant, to Service Provider a nonexclusive, nontransferable, nonsublicensable, revocable worldwide license under its or their respective Necessary Claims to use the Specifications and AACS Keys to make, have made (under contract with Service Provider pursuant to Service Provider's design; solely for the account of Service Provider in

providing AACS Online Services to its customers under this Agreement and subject to Sections 5.2.2 and 5.3.2), use, offer to sell, sell and import AACS Online Services or AACS Online Service Components, provided however that AACS Online Service Components shall not be offered for sale, sold, distributed or otherwise transferred other than (i) in a manner consistent with Section 2.3.6; (ii) to Fellow Service Providers, for testing or incorporation into an AACS Online Service; or (iii) to an Adopter, Content Participant or Content Provider for testing.

- 2.3.2 Defensive Suspension. If Executing Entity or its Affiliate: (i) initiates or becomes an adverse party to a legal action against a Licensor (or its Affiliate(s)) for patent infringement involving an Evaluation Licensed Component, Evaluation Licensed Product, Licensed Component, Licensed Production/Test Tools, Robust Inactive Product, Licensed Product, Evaluation AACS Online Service, AACS Online Service Component or AACS Online Service based on a Necessary Claim or a Relatively Necessary Claim of Executing Entity or its Affiliate; or (ii) breaches Section 2.6.5; then such Licensor alone or with some or all of its Affiliates, at Licensor's option, may suspend its or their license and covenant under this Section 2.3.2 with respect to Executing Entity and its Affiliates; provided, that if such cause of action relates to a Relatively Necessary Claim, such Licensor and its Affiliates must first indicate in writing their willingness to license their Relatively Necessary Claims to Executing Entity and its Affiliates under reasonable and non-discriminatory license terms for any Evaluation Licensed Component, Evaluation Licensed Product, Licensed Component, Licensed Production/Test Tools, Robust Inactive Product, Licensed Product, Evaluation AACS Online Service, AACS Online Service, distributed by Executing Entity or its Affiliates at or prior to the time of the legal action.
- 2.3.3 Limited Non Assertion by Licensors Against Service Provider. Each Licensor hereby covenants not to assert its Necessary Claims, and to cause its Affiliates, if any, that have the right to assert any Necessary Claims not to assert such Necessary Claims, against Service Provider for the use of the Specifications and AACS Keys to make, have made (under contract with Service Provider pursuant to Service Provider's design and for the sole account of Service Provider, subject to Sections 5.2.2 and 5.3.2), use, offer to sell, sell and import, services that would be an AACS Online Service but for a failure to comply with the Compliance Rules, unless and until this Agreement is terminated by AACS LA pursuant to Section 6.1.4. Notwithstanding the foregoing, the Licensors may suspend the foregoing non-assertion covenant in the circumstances set forth in the defensive suspension provisions of Sections 2.2.2, 2.2.4, 2.3.2 and 2.3.5.
- 2.3.4 Production Trade Secret and Copyright License. AACS LA grants to Service Provider a nonexclusive, nontransferable, nonsublicensable, revocable, worldwide license under those trade secrets and copyrights

embodied in the Specifications and AACS Keys to (i) reproduce, modify, display and distribute the Specifications internally (or to a subcontractor pursuant to Section 2.3.6) and (ii) use, reproduce, modify, distribute, display, perform or otherwise transfer AACS Online Services or AACS Online Service Components; provided, however that AACS Online Service Components shall not be offered for sale, sold, distributed or otherwise transferred other than (i) in a manner consistent with Section 2.3.6; (ii) to Fellow Service Providers for incorporation into an AACS Online Service; or (iii) to a Fellow Service Provider, Adopter, Content Participant or Content Provider for evaluation or testing.

- 2.3.5 Defensive Suspension. If Executing Entity or its Affiliate (i) initiates or becomes an adverse party to a legal action against AACS LA for patent infringement involving a Necessary Claim or Relatively Necessary Claim or infringement of copyrights or trade secrets of Executing Entity or its Affiliate contained in the Specifications or (ii) breaches Section 2.6.5, AACS LA, at AACS LA's option, may suspend the foregoing license with respect to Executing Entity and its Affiliates.
- 2.3.6 Have Made Activities. Pursuant to the licenses set forth in Sections 2.3.1 and 2.3.2, Service Provider may provide a subcontractor with AACS Technology or Specifications only under terms of a separate agreement, setting forth the terms of this Section 2.3 as it applies to subcontractors, the applicable confidentiality obligations and other terms relating to subcontractor use, such as but not limited to Section 2.4 and Section 2.5, for the subcontractor's production of an AACS Online Service or an AACS Online Service Component solely for the account of Service Provider. In the event a Service Provider subcontractor receives Highly Confidential Information, such receipt shall be pursuant to Section 5.3.2. The right of Service Provider under Sections 2.3.1 and 2.3.2 to have made AACS Online Service Components, (i) shall only apply to AACS Online Service or an AACS Online Service Component made for Service Provider after this Agreement is entered into and Service Provider makes an election to become a production licensee on Exhibit A, and for which the designs were created by Service Provider (either solely or jointly with one or more third parties) or for the licensed Service Provider; and, (ii) shall not apply to any products or components in the form manufactured or marketed by said have made manufacturer or any methods used by said have made manufacturer prior to Service Provider's furnishing of said designs. If a have made manufacturer directly or indirectly initiates or becomes party to a legal action against a Licensor (or its Affiliate(s)) for patent infringement involving a Necessary Claim or Relatively Necessary Claim of such manufacturer, such Licensor alone or with some or all of its Affiliates, at Licensor's option, may suspend Service Provider's have made licenses with respect to such manufacturer under this Section 2.3. If such have made manufacturer initiates or becomes an adverse party to a legal action against AACS LA for copyright or trade secret infringement

or patent infringement involving an Evaluation Licensed Component, Evaluation Licensed Product, Licensed Component, Licensed Production/Test Tool, Robust Inactive Product or Licensed Product or Evaluation AACS Online Service, AACS Online Service or AACS Online Service Component based on a Necessary Claim or Relatively Necessary Claim of such subcontractor, AACS LA, at its option, may suspend Service Provider's have made licenses from AACS LA with respect to such subcontractor.

2.4 Scope of Use. The licenses under Sections 2.2 and 2.3 and the non-assertion covenants under Sections 2.6.1, 2.6.3, 2.6.6 and 2.6.7 shall extend only to the use of AACS Technology, for the protection of Digital Entertainment Content in compliance with the Specifications and Compliance Rules, Evaluation AACS Online Service, AACS Online Service, and AACS Online Service Components in each case which implement AACS Technology and Specifications solely to the extent disclosed with particularity in the Specifications, and exclude the use of AACS Technology and/or Specifications in any portion of any product and any combinations thereof, or for any purpose or function, that is not required by the implementation (including testing the implementation) of mandatory parts of the Specifications. For the avoidance of doubt, neither the licenses granted under Sections 2.2 and 2.3 nor the non-assertion covenants under Sections 2.6.1 and 2.6.3 extend to any Digital Entertainment Content contained in a Licensed Content Product. For purposes of this Agreement, the "mandatory parts of the Specifications" include such parts of the Specifications that are required to be implemented for any particular feature or functionality described in the Specifications. For the avoidance of doubt, (i) if Service Provider is not required to implement a particular feature or functionality, but is required to do so in a particular manner if Service Provider chooses to provide such feature or functionality, then the description of how that feature or functionality must be implemented is a "mandatory part"; and (ii) where Service Provider is required to choose to implement one or more among two or more parts of the Specification in order to provide a given feature or functionality, each part that Service Provider is required to choose among is a mandatory part.

2.5 Proper Use. This Agreement authorizes Service Provider to use AACS Technology, the Specifications, Confidential Information and/or Highly Confidential Information (collectively, the "Licensed Materials") only in accordance with the terms of this Agreement, and Service Provider shall not use the Licensed Materials, or any mentally retained recollections of the Licensed Materials to (or assist others to) design, test, produce, sell or otherwise transfer or distribute devices or software, where such devices or software are designed to circumvent the requirements or effectiveness of the Specifications or Compliance Rules.

2.6 Non Assertion Covenants. For the avoidance of doubt, any non-assertion covenant in this Section 2.6 shall continue to apply to any allegedly infringing actions taken by a party to an Approved License while such Approved License



was in force, even after such Approved License expires or is terminated for any reason, unless and until the conditions for defensive suspension of such covenant not to assert are met.

2.6.1 Non Assertion Against Fellow Service Providers and Adopters. From and after the Production Election Date, Executing Entity hereby covenants that it shall not assert or maintain, and shall cause each of its Affiliates not to assert or maintain, any claim of infringement of its, or their respective, Necessary Claims or its, or their respective, copyrights and trade secrets in the Specifications, AACS Keys and Evaluation Keys:

2.6.1.1 against Fellow Service Providers or Adopters, as applicable, and any entities with which a Fellow Service Provider or Adopter contracts to make or design products in accordance with such Fellow Service Provider's Service Provider Agreement or such Adopter's Adopter Agreement solely with respect to such entities' activities under such contract with a Fellow Service Provider or Adopter, for reproducing, modifying, displaying, performing, distributing internally, making, having made (solely with respect to Fellow Service Providers or Adopter), having designed (solely with respect to Fellow Service Providers or Adopter) and using Evaluation Licensed Components, Evaluation Licensed Products and Evaluation AACS Online Services, and using Licensed Production/Test Tools, for the sole purpose of designing, developing, evaluating and testing (including having designed, developed, evaluated or tested by third parties under contract to such Fellow Service Providers or Adopter for the sole account of such Fellow Service Providers or Adopter) such Evaluation Licensed Products and Evaluation Licensed Components and Evaluation AACS Online Services;

2.6.1.2 against Fellow Service Providers or Adopter, as applicable, and any entities with which a Fellow Service Provider or Adopter contracts to make or design products in accordance with Fellow Service Provider's Service Provider Agreement or Adopter's Adopter Agreement for reproducing, modifying, distributing, displaying, performing, or otherwise transferring, making, having made (solely with respect to Fellow Service Providers or Adopter), having designed (solely with respect to Fellow Service Providers or Adopter) using, offering to sell, selling, and importing Licensed Components, Robust Inactive Products, AACS Online Service Components and Licensed Products and operating an AACS Online Service, and using Licensed Production/Test Tools to test and produce Licensed Components, Robust Inactive Products, AACS Online Service Components, AACS Online Service, and Licensed Products,

2.6.1.3 against Fellow Service Providers' or Adopters', as applicable, direct and indirect vendors, resellers, distributors, or other persons or entities in the chain of distribution for distributing, displaying, performing or otherwise transferring, using, offering to sell, selling and importing AACS Online Service, Licensed Components, Robust Inactive Products and Licensed Products; or

2.6.1.4 against end users for the using of AACS Online Services, Licensed Components, Robust Inactive Products and Licensed Products,

provided however, that such covenant not to assert shall, in the case of Licensed Components and AACS Online Service Components, extend only to Licensed Components or AACS Online Service Components offered for sale, sold, distributed or otherwise transferred (v) in a manner consistent with Section 2.2.6; or to Fellow Service Providers, Content Participants or Adopters, as applicable, for incorporation into Licensed Products or AACS Online Services; Notwithstanding the foregoing, if Service Provider is also a Licensor, this Section 2.6.1 shall not apply unless and until Licensor and/or its Affiliate withdraws from the ACMS LA Founders Agreement, effective February 20, 2004

2.6.2 Defensive Suspension. If a Fellow Service Provider or Adopter (for the avoidance of doubt, including any Affiliate included therein) initiates or becomes an adverse party to a legal action against Executing Entity or its Affiliate(s) for patent infringement involving an Evaluation Licensed Component, Licensed Production/Test Tool, Evaluation Licensed Product, Licensed Component, Robust Inactive Product or Licensed Product, Evaluation AACS Online Service, AACS Online Service or AACS Online Service Component based on a Necessary Claim of such Fellow Service Provider or Adopter or its/their respective Affiliate, Executing Entity alone or with some or all of its Affiliates, at Executing Entity's option, may suspend its or their covenant not to assert under Section 2.6.1 with respect to such Fellow Service Provider or Adopter and its or their Affiliates. If a have made manufacturer directly or indirectly initiates or becomes party to a legal action against Executing Entity or its Affiliate for patent infringement involving a Necessary Claim of such manufacturer, Executing Entity alone or with some or all of its Affiliates, at Executing Entity's option, may suspend its or their covenant not to assert under Section 2.6.1 with respect to such have made manufacturer.

2.6.3 Non Assertion Against Content Participants and Content Providers. From and after the Production Election Date, Executing Entity hereby covenants that it shall not assert or maintain, and shall cause each of its Affiliates not to assert or maintain:

2.6.3.1 any claim of infringement of its, or their, respective Necessary Claims

2.6.3.1.1 against Content Participants or Content Providers, or any entities with which a Content Participant or Content Provider contracts to make or design Licensed Content Products or AACS Online Services in accordance with such Content Participant's Content Participant Agreement or Content Provider's Content Provider Agreement or its AACS Online Service Provider Agreement (each a "Have Made Entity"), solely with respect to such entities' activities under such contract with a Content Participant or Content Provider or Service Provider, for

2.6.3.1.1.1 making, having made or offering an AACS Online Service, making or having made only to the extent of duplicating of Licensed Content Products on Removable Storage Media, or having duplicated on Removable Storage Media, for the sole account of such Content Participant or Content Provider and in the case of a downloadable Licensed Content Product, downloading or having downloaded such Licensed Content Product for the sole account of such Content Participant or Content Provider), using, selling, offering to sell and importing Licensed Content Products or using Licensed Production/Test Tools to test and produce Licensed Content Products; or (ii) making and having made (including having designed and having developed by third parties for the sole account of Content Participant or Content Provider) Evaluation Licensed Content Products;

2.6.3.1.1.2 against a Content Participant or Content Provider or a Content Participant's or Content Provider's direct and indirect vendors, resellers, distributors, or other persons or entities in the chain of distribution for distributing, displaying, performing or otherwise transferring, using, offering to sell, selling and importing Licensed Content Products or AACS Online Service; or

2.6.3.1.1.3 against end users for the using of Licensed Content Products or AACS Online Services; or

2.6.3.1.2 any claim of infringement of those trade secrets and copyrights embodied in the Specifications, AACS Keys

and Evaluation Keys against Content Participants or Content Providers for:

- 2.6.3.1.2.1 using, reproducing, modifying, displaying, performing or distributing them internally for the sole purpose of designing, developing, evaluating and testing Evaluation Licensed Content Product or Evaluation AACS Online Services;
- 2.6.3.1.2.2 using, reproducing, modifying or displaying the Specifications internally; or
- 2.6.3.1.2.3 using, reproducing, modifying, displaying, performing or otherwise transferring Licensed Content Products.

2.6.3.2 If a Content Participant or Content Provider (for the avoidance of doubt, including any Affiliate included therein) initiates or becomes an adverse party to a legal action against Executing Entity or its Affiliate(s) for patent infringement involving an Evaluation AACS Online Service based on a Necessary Claim of such Content Participant or its Affiliate, Executing Entity alone or with some or all of its Affiliates, at Executing Entity's option, may suspend its or their covenant not to assert under this Section 2.6.3 with respect to such Content Participant or Content Provider.

2.6.3.3 If a Have Made Entity directly or indirectly initiates or becomes party to a legal action against Executing Entity or its Affiliate for patent infringement involving a Necessary Claim of such entity, Executing Entity alone or with some or all of its Affiliates, at Executing Entity's option, may suspend its or their covenant not to assert under this section with respect to such Have Made Entity. Notwithstanding the foregoing, if Service Provider is also a Licensor, this Section 2.6.3 shall not apply unless and until Licensor and/or its Affiliate withdraws from the ACMS LA Founders Agreement, effective February 20, 2004.

2.6.4 Acceptance of Non Assertion Covenants. Service Provider hereby accepts Fellow Service Providers', Adopters', Content Participants' and Content Providers' agreement not to assert or maintain any claim of infringement under provisions equivalent to Sections 2.6.1 and 2.6.3 in their respective Service Provider Agreements, Adopter Agreements, Content Participant Agreements and Content Provider Agreements. This section applies whether another entity has become a Fellow Service Provider, Adopter or Content Participant or Content Provider before or after Service Provider signs this Agreement.

2.6.5 Non Assertion Against Licensors and AACS LA. Executing Entity hereby covenants not to assert or maintain, and shall cause each of its Affiliates not to assert or maintain, against Licensors or AACS LA and Affiliates

thereof any claim of infringement under Executing Entity's or its Affiliates' patents, patent applications, trade secrets or copyrights for the operation of the key generation facility and the provision of Evaluation Keys, AACS Keys, the operation of the AACS Default Managed Copy Authorization Service, and other services necessary to the administration of the Approved Licenses and the distribution and licensing of the Specifications and AACS Technology pursuant to such Approved Licenses.

- 2.6.6 Non Assertion and Defensive Suspension as to Fellow Service Providers. From and after the Production Election Date, Executing Entity hereby covenants that it shall not assert or maintain, and shall cause each of its Affiliates not to assert or maintain, any claim of infringement of its, or their respective, Necessary Claims or its, or their respective, copyrights and trade secrets in the Specifications and AACS Keys against any Fellow Service Provider for the operation of an AACS Online Service, the development, sale or distribution of AACS Online Service Components, to make available offers for or authorize Managed Copies on behalf of Content Participants and Content Providers. If a Fellow Service Provider initiates or becomes an adverse party to a legal action against Executing Entity or its Affiliate(s) for patent infringement involving an Evaluation Licensed Component, Licensed Production/Test Tool, Evaluation Licensed Product, Licensed Component, Robust Inactive Product or Licensed Product, AACS Online Service, AACS Online Service Component or Evaluation AACS Online Service based on a Necessary Claim of such Fellow Service Provider or its respective Affiliate, Executing Entity alone or with some or all of its Affiliates, at Executing Entity's option, may suspend its or their covenant not to assert under this Section 2.6.6 with respect to such Fellow Service Provider.
- 2.6.7 Non Assertion and Defensive Suspension as to Licensed Production/Test Tools. From and after the Production Election Date, Executing Entity hereby covenants that it shall not assert or maintain, and shall cause each of its Affiliates not to assert or maintain, any claim of infringement of its, or their respective, Necessary Claims or its, or their respective, copyrights and trade secrets in the Specifications and AACS Keys against any party for making, having made, using, offering to sell, selling and importing Licensed Production/Test Tools to the extent that such party (a "Tool Licensee") is licensed to do so by the Licensors and AACS LA under an Approved License. If a Tool Licensee initiates or becomes an adverse party to a legal action against Executing Entity or its Affiliate(s) for patent infringement involving an Evaluation Licensed Component, Licensed Production/Test Tool, Evaluation Licensed Product, Licensed Component, Robust Inactive Product or Licensed Product, AACS Online Service or Evaluation AACS Online Service based on a Necessary Claim of such Tool Licensee or its Affiliate, Executing Entity alone or with some or all of its Affiliates, at Executing Entity's option, may suspend its or their

covenant not to assert under this Section 2.6.7 with respect to such Tool Licensee and its Affiliates.

2.7 Affiliates. Executing Entity represents that it has and covenants that it will have the authority to bind its Affiliates to the terms and conditions of this Agreement.

2.8 Minority Interests. When two or more AACS Founders, Fellow Service Providers, Adopters, Content Providers and/or Content Participants each have an ownership interest in a third party, where and only so long as each such Founder, Fellow Service Provider, Adopter, Content Participant and/or Content Provider owns a voting interest in ownership interests or securities of at least 20% and in aggregate between them own a voting interest in ownership interests or securities of more than 50%, then each such Founder, Fellow Service Provider, Adopter, Content Participant and/or Content Provider (a “Joint Owner”) shall be considered a Joint Owner of such third party (a “Jointly Owned Party”).

Each Joint Owner, with respect to a Jointly Owned Party, shall have the following obligations:

2.8.1 In the event that a Jointly Owned Party does not offer a patent license under reasonable and non-discriminatory terms (for avoidance of doubt, such terms need not be the same as the terms of an Approved License to be considered reasonable and non-discriminatory) to a requesting Fellow Service Provider, Adopter, Content Provider or Content Participant for the purpose of implementing AACS Technology in Licensed Products, Robust Inactive Products, Licensed Components, AACS Online Service Component or AACS Online Services or using AACS Technology in Licensed Production/Test Tools, or to a requesting Founder or AACS LA itself for the purpose of licensing the AACS Technology, operating the AACS key generation facility or operating a AACS Online Service, under patent claims of the Jointly Owned Party that would (if such patent claims were owned by the Joint Owner) be within the scope of the non-assertion provisions of such a Joint Owner’s agreement with AACS LA, or in the event that a Jointly Owned Party files for or is granted injunctive relief against AACS LA or a Founder, Fellow Service Provider, Adopter, Content Provider or Content Participant (“Requesting Party”) for, as is applicable, the license of AACS Technology or the operation of the AACS key generation facility or the implementation of AACS Technology in Licensed Products, Robust Inactive Products, Licensed Components, AACS Online Service or AACS Online Service Components, or the use of AACS Technology in Licensed Production/Test Tools, such Requesting Party may request the assistance of a Joint Owner, who shall, upon receipt of such a request, use reasonable efforts to facilitate communication among the Jointly Owned Party and the Requesting Party.

- 2.8.2 This provision shall not require any Founder, Fellow Service Provider, Adopter, Content Participant and/or Content Provider to take any action to influence or affect the management or Board of Directors of any Jointly Owned Party outside of its obligation to use reasonable efforts to facilitate the establishment of communications between the Jointly Owned Party and the Requesting Party as contemplated in this Section 2.8.
- 2.9 Representation and Warranty of Non-Avoidance. Service Provider warrants and represents that it has not transferred any ownership or sublicensing interests in any of its patents that fall within the scope of the patent non-assertion obligations of its agreement with AACS LA either concurrent with execution of its license agreement with AACS LA, at any time in the past, nor will it do so at any time in the future, into an entity that then or subsequently becomes or became a Jointly Owned Party for the purpose of avoiding the patent non-assertion obligations in its agreements with AACS LA. All parties to Approved Licenses that would benefit from Service Provider's non-assertion obligations are intended beneficiaries of this provision.
- 2.10 Transfers of Ownership of Patents. Service Provider shall, in the event it transfers any ownership or sublicensing authority of or for any patent that is subject to its non-assertion obligation under any agreement with AACS LA, require that the transferee of such an ownership or sublicensing right be bound to the non-assertion obligations associated with such transferred patents as if it were Service Provider. The transferor of such rights shall obligate the transferee to obligate any subsequent transferee(s) to this provision. All parties to Approved Licenses that would benefit from Service Provider's non-assertion obligations are intended beneficiaries of this provision.

### 3. **ADDITIONAL SERVICE PROVIDER REQUIREMENTS**

- 3.1. Compliance With Specifications and Compliance Rules. Service Provider agrees that when it makes or has made for sale or distribution a service that uses and implements AACS Technology for authorizing copying or recording of AACS Content (including associated Online Transactions described in the Specifications), or incorporates AACS Keys into a service such service shall (i) implement only the latest version of the applicable Book available for licensing from AACS LA as of the Effective Date or such later version for which Service Provider has been given reasonable advance notice (at least 30 days), and (ii) comply with such Specifications and the Compliance Rules (including changes for which Service Provider has been given reasonable advance notice, at least 30 days) as applicable depending on whether the service is designed or represented by Service Provider to be an AACS Online Service Component or AACS Online Service.
- 3.2. Financial Audit. See section 5, below.

- 3.3. Acknowledgement of Compliance with Consumer Notice Requirements. Service Provider acknowledges its responsibility, for the term of this Agreement, or for so long as Service Provider is permitted to introduce an AACS Online Service into the stream of commerce under color of this Agreement, to comply with consumer notice requirements (whether national, state, federal, local or other) that may be applicable, if any, to sale or distribution or use of Service Provider's AACS Online Service because of the implementation of AACS Technology in such services.
- 3.4. Representation and Warranty of Compliance with Privacy Requirements. Service Provider hereby covenants, represents and warrants that it shall, for the term of this Agreement, or for so long as Service Provider is permitted to introduce, offer or distribute AACS Online Services into the stream of commerce under color of this Agreement, comply with all privacy laws or regulations, if any (including, without limitation, the Video Privacy Protection Act of the United States Code and any laws foreign or domestic concerning the storage or transfer of personal information), applicable to the AACS Online Services offered by Service Provider, in all jurisdictions where Service Provider offers or distributes such AACS Online Services and any other jurisdictions whose laws may be applicable to the storage or transfer of personal information.
- 3.5. Service Provider hereby covenants, represents and warrants that it has obtained the necessary rights and authorization from Content Participants or Content Providers with respect to the intellectual property rights in the Digital Entertainment Content offered by and through its AACS Online Service.

#### 4. **FEES**

- 4.1. Annual Administration Fees. Within thirty (30) days of the execution date of this agreement, Service Provider shall pay AACS LA Administration Fees as set forth in the Fee Schedule attached as Exhibit B. Upon each anniversary of the execution date, Adopter shall pay AACS LA the Annual Administration Fee for the following year which fee shall be used to offset the costs associated with the AACS LA's administration of the AACS Technology, including without limitation licensing, testing, enforcement, and litigation. AACS LA may, upon at least thirty (30) days notice to Adopter, modify 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 any increase in AACS LA's costs. Without limiting the foregoing, where costs per Fellow Adopter decrease, AACS LA shall use commercially reasonable efforts to reduce the Annual Administration Fee. Adopter shall not be entitled to any refund of fees paid for any reason.
- 4.2. Transaction Fees. Service Provider shall pay AACS LA on an annual basis or per-unit as set forth in the Fee Schedule attached as Exhibit B. AACS LA will supply a written invoice for such charges either annually for Schedule 1 fees or upon receiving Service Providers quarterly usage report for Schedule 2 fees. Service Provider agrees to pay such invoice promptly. Service Provider will not



be entitled to any refund thereof for any reason. AACCS LA may, upon at least thirty (30) days notice to Service Provider, modify the transaction fees, provided that any increase in such fees shall not exceed an amount commensurate with any increase in AACCS LA's or Founder's costs. AACCS LA shall have the right to audit Service Provider's records for the sole purpose of determining the sufficiency of payments hereunder. Any such audit shall be conducted with commercially reasonable notice using commercially reasonable means.

- 4.3. Key Fees. Service Provider shall pay AACCS LA on a per-unit or set annual fee basis for key generation fees as set forth in the Fee Schedule attached as Exhibit B. AACCS LA will supply a written invoice for such charges upon receiving Service Provider's order in the form specified by AACCS LA, and Service Provider agrees to pay such invoice prior to generation of the keys for such order. Service Provider shall not be entitled to any refund thereof for any reason. AACCS LA may, upon at least thirty (30) days notice to Service Provider, modify the key fee, provided that any increase in such fees shall not exceed an amount commensurate with any increase in AACCS LA's or Founder's costs. AACCS LA shall have the right to audit Service Provider's records for the sole purpose of determining the sufficiency of payments hereunder. Any such audit shall be conducted with commercially reasonable notice using commercially reasonable means. Service Provider represents and covenants that prior to any key order, and to the extent that Service Provider's service(s) in which the keys will be used would require a Format License, Service Provider has signed and is in good standing under such Format License. For purposes of this Section 4.3, "Format License" shall mean a license agreement for one or more of the optical media formats to which the AACCS Technology may be mapped or ported, pursuant to the Specifications (e.g. the AACCS BD Book or the AACCS HD DVD Book) consistent with the provisions of this Agreement.
- 4.4. Adjustment for Inflation. On December 31, 2014 and every third anniversary thereof, AACCS LA may, at its option, adjust all of the fees set forth in this Section 4 for inflation based on the change in the Producer Price Index from January three years prior thereto to December of the then current year. AACCS LA will make any such adjustment effective on April 15 of the following year. Adjustments under this Section 4.4 and modifications under Sections 4.1, 4.2 and 4.3 shall be independent of one another, and not mutually exclusive.

## 5. CONFIDENTIALITY/EXPORT

- 5.1. Permitted Use. Service Provider shall use Confidential Information including its tangible embodiments only in accordance with the terms of this Agreement, and shall not use such information or any mentally-retained recollections thereof to circumvent the methods disclosed in Confidential Information or to circumvent any obligations under this Agreement. Service Provider shall use Highly Confidential Information including its tangible embodiments only in

accordance with the terms of this Agreement and shall not use such information or any mentally retained recollection thereof to circumvent the methods disclosed in Highly Confidential Information or to circumvent any obligation under this Agreement. Service Provider may otherwise use and disclose in its business the increased or enhanced knowledge retained in the unaided memories (that is, without current use of the Confidential or Highly Confidential Information recorded in any tangible form) of its directors, employees, agents or contractors as a result of their exposure to the Confidential Information or Highly Confidential Information (a "Residual"). No recipient of Confidential Information or Highly Confidential Information shall: (i) intentionally memorize the Confidential Information or Highly Confidential Information so as to reduce it to an intangible form for the purpose of creating a Residual or using the same; or (ii) avoid its obligation to maintain the confidentiality of the Confidential Information or Highly Confidential Information merely by having a person commit such item to memory so as to reduce it to intangible form. No Party shall have any rights in any business endeavors of any other Party that may use such knowledge and experience nor any right to compensation related to any Party's use of such knowledge and experience.

5.2. Confidential Information. Service Provider shall maintain the confidentiality of Confidential Information in the following manner:

- 5.2.1. Service Provider shall employ procedures for safeguarding Confidential Information at least as rigorous as Service Provider would employ for its own confidential information, but no less than a reasonable degree of care.
- 5.2.2. Service Provider may disclose Confidential Information to (1) regular full-time and/or part-time employees (with the exception of short-term employees including by way of example and not of limitation employees such as interns, seasonal and temporary employees), and individuals retained as independent contractors who have a reasonable need to know such Confidential Information in order to allow Service Provider to implement AACS Technology in compliance with the Specifications and Compliance Rules and who have executed a nondisclosure agreement sufficient to protect the Confidential Information in accordance with the terms of this Agreement; (2) Fellow Service Providers; (3) Service Provider's attorneys, auditors or other agents who have a reasonable need to know the Confidential Information and who owe Service Provider a duty of confidentiality sufficient to prevent the disclosure of such Confidential Information, or (4) third parties that have signed and have in force an Approved License having provisions for the protection of Confidential Information no less restrictive than those set forth in this Agreement. Service Provider may disclose Confidential Information to third parties pursuant to the have designed and have made rights provided under Sections 2.2 and 2.3, provided that Service Provider shall remain responsible for the maintenance of the confidentiality of the Confidential Information provided to such third parties and shall execute a

nondisclosure agreement with such third parties sufficient to protect the Confidential Information in accordance with the terms of this Agreement.

- 5.3. Highly Confidential Information. Service Provider shall maintain the confidentiality of Highly Confidential Information in the following manner:
- 5.3.1. Service Provider shall employ procedures for safeguarding Highly Confidential Information at least as rigorous as Service Provider would employ for its own most highly confidential information, such procedures to include, at a minimum: (1) maintaining on Service Provider's premises a secure location in which any and all Highly Confidential Information shall be stored, where such a location may include electronic storage that is at least as secure with respect to the Highly Confidential Information as the AACS Technology is with respect to the protection of digital content; (2) that any Highly Confidential Information stored in such a location shall be accessible only by Authorized Recipients (as defined below); (3) that (x) where Highly Confidential Information is stored in a location that is physically secure, Authorized Recipients visiting such location shall sign in and out each time that they visit such location; and (y) where Highly Confidential Information is stored securely in an electronic form, Authorized Recipients having access to such Highly Confidential Information shall sign in and out each time that they have such access; and (4) when Highly Confidential Information is not in use, such information shall be stored in a locked safe at such secure location or shall be stored electronically in a form that is at least as secure with respect to the Highly Confidential Information as the AACS Technology is with respect to protection of digital content.
- 5.3.2. Service Provider may disseminate Highly Confidential Information only to the strictest minimum possible number, consistent with the notification requirements below, of regular full time or part-time employees or individual independent contractors (with the exception of short-term employees including by way of example and not of limitation employees such as interns, seasonal and temporary employees) of Service Provider: (1) who have an absolute need to know such Highly Confidential Information in order to enable Service Provider to implement AACS Technology in compliance with the Specifications and Compliance Rules; (2) who are bound in writing by obligations of confidentiality sufficient to protect the Highly Confidential Information in accordance with the terms of this Agreement; and (3) who, prior to the disclosure of such Highly Confidential Information, have: (x) been identified in writing by Service Provider to AACS LA; and (y) read and executed the acknowledgment attached as Exhibit C hereto (the original of such executed acknowledgment to be sent to AACS LA) ("Authorized Recipients"). Service Provider shall take reasonable steps to cause Authorized Recipients to abide by their obligations hereunder and shall use the same efforts to enforce the confidentiality obligations of each Authorized

Recipient during and after the termination of his/her employment as Service Provider uses to enforce with respect to Service Provider's own similarly confidential information, provided that Service Provider shall not use less than reasonable efforts in such enforcement. Service Provider shall make reasonable efforts to assist AACS LA in relation to any claim, action, suit, proceeding, or litigation with respect to the access of Service Provider's former employee to information provided under this Section 5. Notwithstanding any contrary provision, Service Provider shall not disseminate any Highly Confidential Information to more than three (3) Authorized Recipients per product category (e.g. pre-recorded media, recordable media, etc.) ("Key Recipients") unless Service Provider has notified AACS LA in advance of its intention to increase the number of Key Recipients to an additional increment of up to three (3) such recipients. Service Provider may make such notifications of additional increments of Key Recipients without limit, but in doing so shall abide by the terms of clauses (1), (2), and (3), above. Service Provider may substitute another employee for a Key Recipient only in the event of death, permanent or long term disability or resignation or termination of employment or contract of an existing Key Recipient or reassignment of an existing Key Recipient to a substantially different business unit that is not involved in the development, manufacture, or sale of products (in the product category Key Recipient was theretofore involved in) incorporating AACS Technology. Service Provider shall inform AACS LA in writing prior to the substitution or addition of any Key Recipient. Service Provider may also disclose Highly Confidential Information to an employee of another Fellow Service Provider, or of a Content Participant or Content Provider, where such other company is authorized to possess such Highly Confidential Information and where the recipient to whom disclosure is made is a Key Recipient for such other company. Prior to any disclosure pursuant to the preceding sentence, Service Provider must assure itself that such other company is, in fact, authorized to possess the Highly Confidential Information to be disclosed, that the recipient to whom such disclosure is to be made is entitled to possess the Highly Confidential Information to be disclosed, and that the method to be used to disclose Highly Confidential Information is as secure as the methods used by AACS LA to disclose the same information to Service Provider. Service Provider may rely on a written representation from such other company, attesting that such company is authorized to possess the Highly Confidential Information and that the recipient to whom the disclosure is to be made is entitled to possess the Highly Confidential Information disclosed, provided Service Provider does not know or have reason to know that the other company or the recipient is not authorized to possess the Highly Confidential Information. Service Provider may disclose Highly Confidential Information to third parties pursuant to the have designed and have made rights provided under Sections 2.2 and 2.3, provided that Service Provider shall remain responsible for maintaining

- 5.4. Copies of Highly Confidential Information. Service Provider shall not make any copies of any document containing Highly Confidential Information.
- 5.5. Contact Person and Provision of AACS LA Information. Service Provider shall designate a single Authorized Recipient who shall receive all Confidential Information and/or Highly Confidential Information (the "Service Provider Contact") disclosed by AACS LA and may designate a single alternative Authorized Recipient ("Alternate Service Provider Contact") who shall be entitled to receive such Confidential Information and/or Highly Confidential Information in the event that Service Provider Contact is absent at the time such information is to be provided. Prior to the provision of any Confidential Information and/or Highly Confidential Information to Service Provider Contact or Alternate Service Provider Contact, such Service Provider Contact or Alternate Service Provider Contact shall have complied with all of his/her obligations under Sections 5.2 and 5.3. Additional or substitute Service Provider contacts may be authorized by AACS LA, subject to additional fees and security requirements.
- 5.6. Notification of Unauthorized Use or Disclosure. Service Provider shall notify AACS LA in writing promptly upon discovery of any unauthorized use or disclosure of Confidential Information and/or Highly Confidential Information, and will cooperate with AACS LA and the Licensors in every reasonable way to regain possession of such information and to prevent its further unauthorized use or disclosure.
- 5.7. Disclosure of Service Provider Status. AACS LA shall have the right to disclose to third parties the fact that Service Provider has signed this Agreement and obtained a license to implement AACS Technology, and may make available a list of such Fellow Service Providers at least once per quarter which list shall specifically identify which listed Fellow Service Providers have elected to become production licensees pursuant to Section 2.3 and which are Licensed Content Producers, provided, however, that such disclosure and such list shall be limited to the Signing Entity and other entities that have signed Service Provider Agreements and such of their Affiliates as have been identified to AACS LA in a notice pursuant to Section 10.12.1. If Service Provider makes a written request to AACS LA at the time of signing this Agreement, AACS LA shall maintain the fact that Service Provider has obtained a license to implement AACS Technology confidential, subject to exceptions and obligations equivalent to those set forth in Sections 5.9 and 5.10, until such time that Service Provider has publicly announced that it intends to manufacture a Licensed Product or Licensed Component or has begun marketing such a

product or two (2) years after the Effective Date of this Agreement, whichever is earlier. In the event that Service Provider exercises this option, Service Provider shall promptly notify AACS LA when it has publicly announced its product plans or begins marketing a Licensed Product or Licensed Component. Notwithstanding the foregoing, AACS LA may confirm the fact that Service Provider has signed a Service Provider Agreement to any party to an Approved License with AACS LA that is seeking to enforce an obligation of Service Provider under this Agreement following a written refusal to meet such obligation by Service Provider.

- 5.8. Disclosure Required By Law. In the event Service Provider is required by law, regulation or order of a court or other authority of competent jurisdiction to disclose Confidential Information and/or Highly Confidential Information, (1) Service Provider shall take reasonable steps to notify AACS LA prior to disclosure, or (2) where notice to AACS LA prior to disclosure is not reasonably possible, Service Provider shall take reasonable steps to challenge or restrict the scope of such required disclosure and notify AACS LA as soon as possible thereafter. In either case, Service Provider shall take reasonable steps to seek to maintain the confidentiality of the information required to be disclosed and to cooperate with AACS LA in any effort undertaken by AACS LA to challenge the scope of such required disclosure, or to obtain a protective order requiring that Confidential or Highly Confidential Information so disclosed be used only for the purposes for which the order was issued.
- 5.9. Confidentiality Exceptions. The non-use and confidentiality restrictions shall not apply to Highly Confidential Information and/or Confidential Information which Service Provider can demonstrate: (1) is now, or hereafter becomes, through no act or failure to act on the part of Service Provider or its representatives, generally known or available, except that non-use and confidentiality restrictions shall continue to apply to information that must be treated as Highly Confidential Information under the definition of "Highly Confidential Information" whether or not it is marked as such; (2) is known by the receiving Party, as evidenced by its records, without obligation of confidence at the time of receiving such information; (3) is, after receipt of the information from AACS LA or Licensor(s) hereunder, also furnished to Service Provider by a third party without breach of confidence and without restriction on disclosure; (4) is independently developed by Service Provider without any breach of this Agreement; or (5) is the subject of a written permission to disclose provided by AACS LA.
- 5.10. Confidentiality Period. The confidentiality obligations set forth in Section 5.2 shall be in effect during the term of this Agreement and shall continue thereafter until five (5) years after termination of this Agreement. The confidentiality obligations set forth in Section 5.3 shall be in effect during the term of this Agreement and shall continue thereafter until the later of (1) three (3) years after the last commercial use of AACS Technology by AACS LA or any Service Provider, or (2) the expiration of the last copyright related to any AACS

Technology encrypted/scrambled content which then exists in any country adhering to the Agreement on Trade Related Aspects of Intellectual Property Rights of the World Trade Organization dated April 15, 1994.

- 5.11. Reverse Engineering. Under no circumstances shall Service Provider or its subcontractors under Sections 2.2.3 or 2.3.3 reverse engineer, reverse translate, decompile, disassemble, or otherwise seek to determine the operation of any element of Highly Confidential Information or Confidential Information or allow another to do so, provided, however, that this Section 5.11 shall not prohibit Service Provider or its subcontractors under Sections 2.2 or 2.3 from conducting testing for the purpose of verifying compliance of its own Evaluation AACS Online Service, AACS Online Service or AACS Online Service Component with the Compliance Rules. Service Provider or its subcontractors under Sections 2.2 or 2.3 may, to the minimum extent necessary to (i) test, debug, integrate or tune its own Evaluation AACS Online Service, AACS Online Service or AACS Online Service Component to ensure that they work in their intended operational environment with other Evaluation AACS Online Services, AACS Online Services or AACS Online Service Components; or, (ii) verify compliance of its own Evaluation AACS Online Service, AACS Online Service, AACS Online Service Component with the Compliance Rules, conduct compliance or electrical analyses with respect to the operation of such AACS Online Service and Licensed Products that form part of such intended operational environment.
- 5.12. Export. Service Provider shall comply with all applicable laws and regulations of the United States, Japan 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, and shall obtain any approval required under such laws and regulations whenever it is necessary for such export or re-export. Service Provider 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, the US Export Administration Regulations, and the Japanese Foreign Exchange and Foreign Trade Law, and shall obtain any approval required under such laws and regulations whenever it is necessary for such export or re-export.
- 5.13. Executing Entity Responsibility for Affiliates. For the avoidance of doubt, the Executing Entity and its Affiliates may disclose Highly Confidential Information or Confidential Information to each other as provided for in this Section 5, provided that in such case the Executing Entity shall cause its Affiliates to be bound by any and all provisions of this Agreement to the same extent such entity is bound. Failure by such Affiliates to observe any provision of this Section 5 shall constitute a breach of this Agreement by Service Provider.

## 6. TERM/TERMINATION

6.1. Termination. This Agreement shall commence upon the Effective Date and shall continue until expired or terminated in accordance with any of the following provisions:

6.1.1. Automatic Termination of Evaluation License. If Service Provider has made an election under Section 10.11 on Exhibit A to be an evaluation licensee but not a production licensee, this Agreement will terminate two (2) years after the Evaluation Election Date, unless extended by mutual agreement of the Parties.

6.1.2. Automatic Termination of Production License. If Service Provider has made an election under Section 10.11 on Exhibit A to be a production licensee, this Agreement will terminate twenty (20) years from its Effective Date unless terminated earlier according to this Section.

6.1.3. Voluntary Termination by Service Provider.

6.1.3.1. Service Provider shall have the right to terminate this Agreement at any time upon at least thirty (30) days prior written notice to AACCS LA and any and all Content Participants and Content Providers to which it provides services under this Agreement.

6.1.3.2. In the event of a change to one or more Books under this Agreement, Service Provider shall have the right during the thirty (30) day notice period specified in Section 3.1 to give AACCS LA written notice and in compliance with Section 6.1.3.1, above, that it is terminating this Agreement effective on a date no later than the date on which Service Provider would have to comply with the change under Section 3.1. In the event of such termination, and provided that Service Provider does not implement such change, Service Provider's covenants not to assert under Section 2.6 shall not apply to claims that would otherwise be Necessary Claims with respect to the new version of the Book(s) but which were not Necessary Claims prior to such changes, and Service Provider shall not have any right under this Agreement to implement the new versions of the Book(s).

6.1.3.3. In the event that AACCS LA and the Licensors adopt one or more new Book(s) under this Agreement that maps or ports AACCS Technology to an additional Removable Storage Media to which content is cryptographically bound using AACCS Technology so that such content can be accessed by compliant products upon insertion of such media in such products, Service Provider shall have the right, within thirty (30) days of receiving notice from AACCS LA of the adoption of such new Book(s), to give AACCS LA



written notice and to comply with the additional requirements of Section 6.1.3.1, above, that it is irrevocably terminating this Agreement effective on a date no later than eighteen (18) months from the date of notice of such new Book(s). In the event of such termination, and provided that Service Provider does not implement such new Book(s), Service Provider's covenants not to assert under Section 2.6 shall not apply to claims that would otherwise be Necessary Claims with respect to the new Book(s) or any subsequently adopted Book(s), and Service Provider shall not be granted any rights under Sections 2.2 or 2.3 with respect to the new Book(s) or any subsequently adopted Book(s).

6.1.4. Breach and Opportunity to Cure. AACCS LA, but not a Licensor, may terminate this Agreement on behalf of itself and the Licensors for any material breach by Service Provider, and Service Provider may terminate this Agreement for any material breach by AACCS LA or Licensors, subject to the following provisions regarding whether the Party in breach is entitled to an opportunity to cure.

6.1.4.1. This Agreement may be terminated upon written notice to the Party being terminated, without opportunity to cure, in the case of a material breach that:

6.1.4.1.1. is not fully curable within 30 days of such notice, (other than a the extent to which a breach involves the offer of a service that violates Section 3.1); or

6.1.4.1.2. is part of a pattern of behavior involving the repeated offers of non-compliant services for which Service Provider received prior notice of breach, whether or not Service Provider cured such repeated breaches following such notice, or

6.1.4.1.3. is part of a pattern of behavior involving the repeated distribution of AACCS Online Service Components in violation of the distribution restrictions of Sections 2.3.1 and 2.3.4 for which Service Provider received prior notice of breach. Repeated instances of the failure of AACCS Online Service Components to be received by the intended authorized recipient pursuant to clause (v) of the definition of "AACCS Online Service Component" may be considered part of a pattern of behavior as contemplated under this section.

6.1.4.2. This Agreement may be terminated for a breach involving the offer of a service that violates Section 3.1 that is not fully curable within 30 days of written notice of such breach, unless Service

Provider ceases to offer such service in violation of Section 3.1 within such 30 day period,

6.1.4.3. In all other cases, this Agreement may be terminated only if the Party being terminated is given written notice and fails to cure the breach within thirty (30) days of such notice.

6.1.5. Avoidance of Legal Liability. In the event such action is necessary to avoid its potential legal liability, AACS LA may terminate this Agreement by providing thirty (30) days written notice to Service Provider. Any Licensor may terminate its licenses to Necessary Claims and convert such licenses to equivalent covenants not to assert Necessary Claims, subject to equivalent defensive suspension qualifications, to the extent such action is necessary to avoid such Licensor's potential legal liability, by providing thirty (30) days written notice to Service Provider.

6.1.6. Bankruptcy. AACS LA may terminate this Agreement and any Licensor may terminate its licenses to Necessary Claims in the event that Service Provider: (i) files in any court or agency pursuant to any statute or regulation of any state, country or jurisdiction, a petition in bankruptcy or insolvency or for reorganization or for an arrangement or for the appointment of a receiver or trustee of its assets; (ii) proposes a written agreement of composition or extension of its debts; (iii) is served with an involuntary petition against it, filed in any insolvency proceeding, and such petition is not dismissed within sixty (60) days after the filing thereof; (iv) proposes or becomes a party to any dissolution or liquidation; or, (v) makes an assignment for the benefit of its creditors.

6.1.7. Effect of Termination. Upon termination or expiration of this Agreement, all licenses granted to Service Provider by the Licensors and AACS LA under Sections 2.2 and 2.3 shall terminate and Service Provider shall promptly cease use of AACS Technology, and cease all activities under licensed rights under this Agreement, including but not limited to, use, evaluation, testing, development, production, manufacture, sale or distribution of services authorized by or licensed under this Agreement. Service Provider acknowledges that upon Effective Date of Termination the Service Provider's AACS Online Service will be placed on the next updated version of the CRL. Service Provider shall comply with all of the following:

6.1.7.1. Notify its customers that are Content Participant(s) and/or Content Provider(s) immediately upon receipt of notice of termination of its obligation to redirect Online Transactions at Effective Date of Termination to the AACS Default Online Service or another Fellow Service Provider as may be designated by Content Participant or Content Provider.

6.1.7.2. Service Provider will reasonably cooperate with instructions of Content Participant or Content Provider regarding redirection of Online Transactions to another Service Provider or to the AACS Default Online Service (for a period of sixty (60) days) and shall notify AACS of these instructions.

6.1.7.3. In the absence of instruction as required in (ii) above, Service Provider shall, upon Effective Date of Termination, notify AACS LA that it has not received instructions; provide the Content IDs and/or Content Certificate IDs at issue; and shall for a period of sixty (60) days, redirect Online Transactions received to the AACS Default Online Service; provided however, that AACS is under no obligation to fulfill these redirected Online Transactions.

6.1.7.4. Within thirty (30) days of termination return all Confidential Information and Highly Confidential Information to AACS LA or, at AACS LA's option, destroy all such information in its possession, retaining no copies thereof, and provide to AACS LA a written certification of such destruction, including a list of all unused AACS Keys that have been destroyed, signed by a senior official or officer of Service Provider.

6.2. Survival. Sections 1, 2.5, 2.6.1 through 2.6.7 (in each case, with respect to all versions of the Books that were or became Books during the term of this Agreement except as otherwise provided in 6.1.3.2 or 6.1.3.3), 2.9, 2.10, 5 through 10 and such other sections of this Agreement that, 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 terms they are fulfilled.

## 7. **DISCLAIMER & LIMITATION ON LIABILITY**

7.1. Generally. The following terms limit the ability of Service Provider to recover any damages from AACS LA or the Licensors in excess of fees actually paid to AACS LA by Service Provider. These provisions are an essential part of the bargain, without which neither AACS LA nor Licensors would be willing to enter into this Agreement.

7.2. Disclaimer. ALL INFORMATION, AACS TECHNOLOGY, AND SPECIFICATIONS ARE PROVIDED "AS IS." AACS LA, LICENSORS AND THEIR AFFILIATES MAKE NO REPRESENTATIONS OR WARRANTIES, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EXPRESSLY DISCLAIM IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ANY EQUIVALENTS UNDER THE LAWS OF ANY JURISDICTION THAT MIGHT ARISE FROM ANY ACTIVITIES OR INFORMATION DISCLOSURES RELATING TO THIS AGREEMENT. AACS LA,

LICENSORS, AND THEIR AFFILIATES FURTHER DISCLAIM ANY WARRANTY THAT ANY IMPLEMENTATION OF THE SPECIFICATIONS OR COMPLIANCE RULES, IN WHOLE OR IN PART, WILL BE FREE FROM INFRINGEMENT OF ANY THIRD PARTY INTELLECTUAL PROPERTY OR PROPRIETARY RIGHTS.

7.3. Limitation of Liability. NEITHER AACS LA NOR LICENSORS OR THEIR AFFILIATES, NOR ANY OF THEIR DIRECTORS, OFFICERS, AGENTS, MEMBERS, REPRESENTATIVES, EQUIVALENT CORPORATE OFFICIALS, OR EMPLOYEES ACTING IN THEIR CAPACITIES AS SUCH (COLLECTIVELY, THE “AFFECTED PARTIES”) OR THEIR AFFILIATES SHALL BE LIABLE TO SERVICE PROVIDER FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES ARISING OUT OF ANY CAUSE OF ACTION RELATING TO THIS AGREEMENT, INCLUDING TERMINATION OF THE AGREEMENT PURSUANT TO SECTION 6.1, OR BASED ON ANY PERSON’S USE OF OR MAKING, USING, SELLING OR IMPORTING ANY PRODUCTS OR SERVICES OF SERVICE PROVIDER THAT IMPLEMENT CONFIDENTIAL INFORMATION OR HIGHLY CONFIDENTIAL INFORMATION OR AACS TECHNOLOGY, REFERENCE CODE, OR SPECIFICATIONS, WHETHER UNDER THEORY OF CONTRACT, TORT, INDEMNITY, INTELLECTUAL PROPERTY INFRINGEMENT (DIRECT, CONTRIBUTORY OR OTHERWISE), PRODUCT LIABILITY, REGULATORY OR STATUTORY VIOLATION, OR OTHERWISE. TO THE EXTENT THAT ANY COURT OF COMPETENT JURISDICTION RENDERS JUDGMENT AGAINST ANY OF THE AFFECTED PARTIES NOTWITHSTANDING THE ABOVE LIMITATION, THE AFFECTED PARTIES’ AGGREGATE LIABILITY TO SERVICE PROVIDER IN CONNECTION WITH THIS AGREEMENT SHALL IN NO EVENT EXCEED THE FEES PAID BY SERVICE PROVIDER TO AACS LA HEREUNDER. SERVICE PROVIDER AND ITS DIRECTORS, OFFICERS, AGENTS, MEMBERS, REPRESENTATIVES, EQUIVALENT CORPORATE OFFICIALS, OR EMPLOYEES ACTING IN THEIR CAPACITIES AS SUCH SHALL NOT BE LIABLE TO AACS LA, LICENSORS, OR THEIR AFFILIATES FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES BUT SHALL BE LIABLE FOR DAMAGES AS SET FORTH IN SECTION 8.

7.4. Other Licenses. Service Provider acknowledges that it may require a license under patent claims other than the Necessary Claims licensed under this Agreement to implement the Specifications, including but not limited to the AACS Technology.

## 8. **REMEDIES**

8.1. Indemnification for Wrongful Acts of Service Provider. Service Provider shall indemnify and hold AACS LA, the Licensors, their Affiliates and their

respective officers, members, representatives, agents, directors, equivalent corporate officials, and employees (each, an “Indemnified Party”), harmless from and against any and all losses, claims, actions, suits, proceedings or litigation, and any losses, deficiencies, damages, liabilities, costs and expenses, including without limitation, reasonable attorneys’ fees and all related costs and expenses, to be paid or otherwise incurred in connection with the defense of any claim, action, suit, proceeding or litigation, to the extent resulting from any breach by Service Provider of Sections 3.4 or 3.5 of this Agreement.

- 8.2. Equitable Relief. Service Provider agrees that AACS LA shall be entitled to seek injunctive relief to prevent further or threatened breaches of this Agreement according to the terms of this Section 8.2 provided that it first provides Service Provider with (i) written notice and (ii) an opportunity to cure if and to the same extent that Service Provider would have an opportunity to cure in the event that AACS LA were seeking termination under Section 6.1.4. Service Provider agrees that if it breaches its obligations under the Compliance Rules of this Agreement, and such breach is not cured or Service Provider is not entitled to cure such breach following notice as provided for in Section 6.1.4, money damages may not provide adequate compensation. This is 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 AACS Technology and unauthorized copying of copyrighted content intended to be protected using AACS Technology. Service Provider further agrees that, as provided by law, injunctive relief is an appropriate remedy to prevent or limit the adverse consequences of actual or threatened breaches of this Agreement that are not cured or which Service Provider is not entitled to cure consistent with Section 6.1.4. AACS LA agrees that systemic failures of AACS Technology, or any aspect of AACS Technology, that are not caused by breaches by Service Provider shall not trigger application of the provisions of this Section 8.2 to Service Provider and/or its products.
- 8.3. Damages Measures and Limitation for AACS LA Claims. Service Provider agrees that AACS LA shall be entitled to seek liquidated damages according to the terms of this Section 8.3 provided that AACS LA first provides Service Provider with (i) written notice of breach and (ii) an opportunity to cure if and to the same extent that Service Provider would have an opportunity to cure in the event that AACS LA were seeking termination under Section 6.1.4. The Parties agree that it may be impossible to estimate the amount of damages in the event of certain breaches. Service Provider agrees that in the event of those material breaches by Service Provider described below in Sections 8.3.1-8.3.3, in addition to any other remedies in equity, but in lieu of any and all other claims by AACS LA for monetary damages, Service Provider shall be liable to AACS LA for liquidated damages for each material breach that is not cured or which Service Provider is not entitled to cure following notice consistent with Section 6.1.4 in the amount set forth below, such amounts to be the exclusive monetary remedies available to AACS LA for any and all such breaches by

Service Provider. For purposes of this Section 8.3, a series of substantially related events shall constitute a single material breach. For the avoidance of doubt, in the event that Service Provider pays the amount designated in Sections 8.3.1-8.3.3 in connection with a material breach by Service Provider of this Agreement, Service Provider shall have no further liability to AACS LA, or the Licensors in their capacity as Licensors, or the constituent entities of AACS LA in their capacity as constituent entities of AACS LA, for additional monetary damages (regardless of legal theory (e.g., negligence) based in whole or in part on the act(s) or omission(s) of Service Provider that gave rise to such material breach, except insofar as Section 8.4.1 may apply.

- 8.3.1. Material Breach of Confidentiality Provisions. Without limitation of any amounts for which Service Provider may be liable to AACS LA under Section 8.4.2, in the event of a material breach of the confidentiality provisions set forth in Sections 5.1 through 5.4 and Section 5.11 of this Agreement, Service Provider shall be liable to AACS LA for one million dollars (\$1,000,000). For purposes of this Section 8.3.1 a breach shall be “material” only if it has resulted in or would be likely to result in commercially significant harm to other users of AACS Technology, including but not limited to Fellow Service Providers, Adopters and Content Participants, or constitute a threat to the integrity or security of the AACS Technology or the security of AACS Content. In addition, the following is a non-exclusive list of circumstances in which the provisions of this Section 8.3.1 above shall not apply: (i) if no Confidential Information and/or Highly Confidential Information was released to a third party not permitted hereunder to have such information or could reasonably have been expected to have been released to such third party as a result of the breach; (ii) if Service Provider maintains a documented internal program to assure compliance herewith (including a program to assure maintenance of inventory, samples, and confidentiality of information for purposes in addition to compliance with this Agreement), the breach was inadvertent or otherwise unintentional, and the breach did not have a material adverse effect on the integrity or security of the AACS Technology or the security of AACS Content; or (iii) if Service Provider brought the breach to AACS LA’s attention in a timely manner as required by this Agreement and such breach did not have a material adverse effect on the integrity or security of the AACS Technology or the security of AACS Content.
- 8.3.2. Material Breach of Compliance or Robustness Rules. In the event of a material breach of the applicable Compliance Rules that involves the offer of a service that fails to protect the integrity or security of the AACS Technology or the security of AACS Content, in either case where such breach involves the unauthorized exposure of AACS Keys, Service Provider shall be liable to AACS LA in the amount of eight million dollars (\$8,000,000). For other material breaches of the applicable Compliance Rules that involves the offer of a service that fails to protect the integrity

or security of AACS Technology or the security of AACS Content, other than as covered in the preceding sentence, Service Provider shall be liable to AACS LA in the amount of one million dollars (\$1,000,000). AACS LA agrees that systemic failures of the AACS Technology, or any aspect of the AACS Technology, that are not caused by breaches by Service Provider shall not trigger application of the provisions of this Section 8.3.2 to Service Provider and/or its products.

8.3.3. Misdistributions of AACS Online Services Components. In the event of a material breach that involves the distribution of an AACS Online Service Component containing at least one Device Key in violation of Sections 2.3.1 and 2.3.4, other than in cases where Service Provider has reported to AACS LA the failure of AACS Online Service Components to be received by the intended authorized recipient pursuant to Section 1.6(v), Service Provider shall be liable to AACS LA in the amount of eight million dollars (\$8,000,000).

8.3.4. For the avoidance of doubt, in the event an AACS Licensee is a party to one or more Approved License, such AACS Licensee shall only be liable for such material breach of Section 8.3.1, 8.3.2 or 8.3.3 under one of the AACS Licensee's Approved Licenses.

8.4. Breaches Triggering Expiration of AACS Keys

8.4.1. In the event of a material breach for which Service Provider is not liable under Section 8.3.1 or Section 8.3.2 because Service Provider has cured such breach in accordance with Section 8.3, if such cured breach leads to Expiration under Section 9, then Service Provider shall be liable to AACS LA for actual damages resulting from such breach including but not limited to the costs of: (i) Expiring AACS Keys, (ii) investigation, analysis and testing; and (iii) replacement AACS Keys that AACS LA may issue to other AACS Licensees.

8.4.2. Other Material Breaches. Service Provider agrees that AACS LA shall be entitled to seek actual damages according to the terms of this Section 8.4 provided that AACS LA first provides Service Provider with (i) written notice and (ii) an opportunity to cure if and to the same extent that Service Provider would have an opportunity to cure in the event that AACS LA were seeking termination under Section 6.1.4. In the event of a material breach that involves any provision of this Agreement, other than Sections 2.6, 2.9 and 2.10 or those covered by Sections 8.3.1, 8.3.2, or 8.3.3 such breach is not cured or Service Provider is not entitled to cure following notice consistent with Section 6.1.4, Service Provider shall be liable to AACS LA for actual damages up to but not in excess of eight million dollars (\$8,000,000). AACS LA agrees that systemic failures of the AACS Technology, or any aspect of the AACS Technology, that are not

caused by breaches by Service Provider shall not trigger application of the provisions of this Section 8.4 to Service Provider and/or its services.

- 8.5. Prevailing Party Attorneys' Fees. The prevailing party in any action to enforce any remedy available under this Section 8 (a "Claim") shall be entitled to an award of its reasonable attorneys' fees incurred in relation to the Claim, in an amount to be fixed either pursuant to stipulation by the parties to a given case or the court; provided, that if it is AACS LA acting as a plaintiff, such plaintiff must establish by clear and convincing evidence that the defendant Service Provider, Fellow Service Provider, Adopter, Content Participant or Content Provider has materially breached or engaged in a pattern or practice of breaching the relevant Approved License.

## 9. EXPIRATION OF AACS KEYS

- 9.1. Expiration/Renewal of AACS Keys. In addition to the circumstances set forth in 8.4 above, Service Provider understands and agrees that AACS may from time-to-time, in its sole discretion, Expire or Revoke an existing AACS Key and replace such Expired or Revoked AACS Key with another one at no charge to Service Provider. Service Provider shall have thirty (30) days from date of notice of such Expiration/Revocation and Renewal to replace such Expired/Revoked AACS Key with the new AACS Key provided by AACS following the procedures outlined in the Compliance Rules. Service Provider shall cooperate fully with AACS to accomplish such Expiration within thirty (30) days. Notwithstanding the foregoing, AACS LA shall not be required to provide a new AACS Key to replace an Expired/Revoked AACS Key if this Agreement is terminated.
- 9.2. Audit. In the event AACS has a good faith belief that Service Provider facility or AACS Online Service is not Compliant, AACS LA may, in its sole discretion, require Service Provider obtain a security audit from an AACS LA-approved security expert chosen from a list of at least three (3) such experts that AACS LA shall provide to Service Provider. Such audit shall evaluate whether Service Provider's security policy(ies), plans, standards, procedures, risk registers, and service manual, if any, for any AACS Online Service comply with acceptable security standards, the Specification and the Compliance Rules. Upon conclusion of the audit, Service Provider shall provide AACS LA with a summary prepared by the security expert of the audit findings, including but not limited to any indications of non-compliance. In the event the security expert's findings indicate non-compliance on the part of Service Provider, Service Provider shall reimburse AACS LA for the cost of such audit and shall correct all instances of non-compliance within thirty (30) days or such other timeframe as may be acceptable to AACS LA, such acceptance shall not be unreasonably withheld. In the event the security expert finds that Service Provider has complied completely with all AACS requirements, then AACS LA shall be responsible for the cost of such audit.



9.3. Keys Containing Errors. Prior to distributing AACS Keys to Service Provider, AACS LA shall use reasonable care to verify, or cause its designee to use reasonable care to verify, that such AACS Keys are correct. In the event that AACS LA determines that an error was contained in AACS Keys distributed to Service Provider, AACS LA shall promptly (a) notify Service Provider of such fact and shall cooperate with Service Provider, and provide all reasonably requested information, so as to assist Service Provider in mitigating the effect of such error, and (b) within one week, in the case of AACS Keys other than MKBs, issue to Service Provider, without charge, replacement AACS Keys. AACS LA shall keep confidential, and not disclose to third parties, the fact that Service Provider was issued erroneous AACS Keys, provided that AACS LA may disclose such information to the Founders without identifying Service Provider, and provided further that AACS LA shall be relieved of such confidentiality obligation if Service Provider makes such information publicly available or in any of the other circumstances described in Section 5.9. Notwithstanding anything to the contrary in this Agreement, Service Provider shall have the right to notify its customers, distributors, resellers, and other third parties who could be affected by the error, of the error. In addition, in the event that one or more Fellow Service Providers receives such an erroneous AACS Key, AACS LA shall make available to such Fellow Service Providers, on a pass-through basis, the benefit of any ability that AACS LA has to recover for such Fellow Service Providers' losses from any third party key generator that makes such AACS Keys under contract with AACS LA.

## 10. MISCELLANEOUS

- 10.1. Ownership. All Confidential and/or Highly Confidential Information, copyrights and patents, and media embodying any of the above as provided by AACS LA to Service Provider shall remain the respective property of AACS LA, the Licensors, or their suppliers. Except as expressly provided herein, this Agreement does not give Service Provider any license or other rights to any information provided under this Agreement.
- 10.2. Entire Agreement. Except as rights under this Agreement are affected/determined by the terms of Content Participant Agreements, this Agreement, the exhibits hereto and the Specifications constitute the entire agreement between the Parties with respect to the subject matter involved and supersede all prior oral or written agreements. This Agreement shall not be modified except in accordance with Section 3.1 or as otherwise specifically provided in this Agreement or by written agreement dated contemporaneously with or subsequent to the date of this Agreement and signed by all Parties.
- 10.3. Currency. All fees shall be paid to AACS LA or to its order in United States dollars by wire transfer or such other means as AACS LA may reasonably specify.

- 10.4. Assignment. The rights and licenses granted to Service Provider by this Agreement are personal to Service Provider and shall not be assigned or otherwise transferred except: (1) with the written approval of AACS LA and with respect to Necessary Claims, written approval of all of the Licensors; (2) to an Affiliate of the Executing Entity; or (3) to the purchaser of all or substantially all of the outstanding capital stock or assets and obligations of Service Provider or of all or substantially all of the outstanding capital stock or assets and obligations of the business unit of Service Provider that is making use of the Confidential Information and/or Highly Confidential Information in its business activities or the surviving entity in a merger, reorganization, or other business combination; provided written notice of such assignment has been provided in advance to AACS LA and the surviving or acquiring company has agreed in writing to be bound by the terms of this Agreement. Subject to the limitations set forth in this Agreement, this Agreement shall inure to the benefit of and be binding upon the Parties, their successors and permitted assigns. AACS LA or Licensors may assign or transfer this Agreement to any person or entity that agrees to assume the transferor's obligations hereunder, and AACS LA shall provide Service Provider with written notice of such assignment or transfer. Any transfer by Service Provider to a third party of a patent having Necessary Claims shall be subject to Service Provider's existing obligations, if any, under this Agreement. The inclusion in any agreement for assigning a Necessary Claim(s) of a provision that such assignment is subject to existing licenses and obligations to license imposed on Service Provider by the agreement with AACS LA shall be sufficient to comply with this Section.
- 10.5. Presumptions. In construing the terms of this Agreement, no presumption shall operate in any Party's favor as a result of its counsel's role in drafting the terms or provisions hereof.
- 10.6. Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, THE U.S.A., APPLICABLE TO AGREEMENTS MADE AND TO BE PERFORMED ENTIRELY IN SUCH STATE.
- 10.7. Consent to Jurisdiction. IN CONNECTION WITH ANY LITIGATION BETWEEN THE PARTIES HERETO, EACH PARTY IRREVOCABLY CONSENTS TO: (1) THE EXCLUSIVE JURISDICTION AND VENUE IN THE FEDERAL AND STATE COURTS LOCATED IN THE COUNTY OF NEW YORK, N.Y., THE U.S.A; AND (2) THE SERVICE OF PROCESS OF SAID COURTS IN ANY MATTER RELATING TO THIS AGREEMENT 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 11.8 BELOW. THE PARTIES AGREE TO WAIVE A JURY TRIAL ON ANY ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT.

- 10.8. Agent. SERVICE PROVIDER SHALL APPOINT AN AGENT IN THE STATE OF NEW YORK FOR ACCEPTANCE OF SERVICE OF PROCESS PROVIDED FOR UNDER THIS AGREEMENT AND SHALL NOTIFY AACS LA OF THE IDENTITY AND ADDRESS OF SUCH AGENT WITHIN THIRTY (30) DAYS AFTER THE EFFECTIVE DATE.
- 10.9. Notice. Any notice required to be given under this Agreement shall be in writing and may be by email except in the case of notices under 6.1.4, 6.1.5, and 8.3 which shall be by overnight mail or international courier, which requires signing on receipt, postage prepaid, to the Parties at the address 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 may give written notice of a change of address and, after notice of such change has been received, any notice or request shall thereafter be given to such Party at such changed address. For the avoidance of doubt, invoices under this Agreement may be delivered by email or regular mail to such address as is designated by Service Provider.
- 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 thereover without further action by the Parties hereto and only to the extent necessary to make such part or parts valid and enforceable. A waiver by any of the Parties hereto of any of the covenants or promises to be performed by the other Party(ies) 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. Election of License Category and Identification of Affiliates And Subcontractors. Upon execution of this Agreement, Executing Entity shall elect to become an evaluation licensee and/or a production licensee, by completing the initial election requirements on Exhibit A. Subsequent to execution of this Agreement, Executing Entity who has chosen to enter one license may enter a second license by submitting a revised Exhibit A which shall become a binding part of this Agreement upon receipt by AACS LA.
- 10.12. Executing Entity shall provide AACS LA with prompt written notice of:
- 10.12.1. any of its Affiliates that will exercise license rights under Executing Entity's election under Exhibit A based on its status as an Affiliate of Executing Entity;
  - 10.12.2. any party that will act as a permitted have designed or have made subcontractor to Executing Entity or any of its Affiliates under Service Provider's election under Exhibit A; and

10.12.3. whether Executing Entity or any of its Affiliates, or any party under (i) or (ii) above, will be a Licensed Content Producer.

SO AGREED AS OF THE DATE FIRST ABOVE WRITTEN.

This Agreement may be executed in multiple counterparts.

**AACS LA:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Service Provider:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Addresses for notices

AACS LA LLC:  
c/o AACS Administration  
3855 SW 153rd Drive  
Beaverton, Oregon 97006 USA

**Service Provider:**  
\_\_\_\_\_  
\_\_\_\_\_

**Service Provider** and the Licensors agree and acknowledge that **Service Provider's** and Licensors' sole rights, obligations and liabilities towards each other under this Agreement shall be as expressly set forth in the Agreement, and that the Parties below are Parties to the Agreement solely with respect to such express provisions.

Intel GF Inc.  
2200 Mission College Boulevard  
Santa Clara, California 95052 USA

International Business Machines Corp.  
New Orchard Road  
Armonk, New York 10504 USA

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Attorney-in-fact  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Attorney-in-fact  
Date: \_\_\_\_\_

Panasonic Intellectual Property  
Corporation of America  
300 Delaware Avenue, Suite 1203  
Wilmington, Delaware 19801, USA

Microsoft Corporation  
1 Microsoft Way  
Redmond, Washington 98052 USA

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Attorney-in-fact  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Attorney-in-fact  
Date: \_\_\_\_\_

Signatures continued on following page

SCA IPLA Holdings, Inc. (Sony)  
550 Madison Avenue, 27th Floor  
New York, NY 10022 USA

Toshiba America Information Systems, Inc.  
9740 Irvine Boulevard  
Irvine, California 92618 USA

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Attorney-in-fact  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Attorney-in-fact  
Date: \_\_\_\_\_

Disney Technology Operations  
and Licensing  
500 S. Buena Vista Street  
Burbank, California 91521 USA

Warner Brothers Entertainment, Inc.  
4000 Warner Boulevard  
Los Angeles, California 91522 USA

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Attorney-in-fact  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Attorney-in-fact  
Date: \_\_\_\_\_

Remainder of this page intentionally left blank.

For review only -  
Not for execution

**EXHIBIT A**

**Evaluation/Production License Election**

**Evaluation License.** Service Provider elects to become an evaluation licensee, pursuant to Section 2.2 and agrees to comply with all applicable terms and conditions of this Agreement. Service Provider's election shall be effective by checking the applicable box(es) below upon execution of this Agreement.

- Initial Election:** Service Provider elects, upon execution of this Agreement, the evaluation license pursuant to Section 2.2.
- Revised Election:** Service Provider elects, subsequent to execution of this Agreement, the evaluation license pursuant to Section 2.2.

Service Provider authorized representative signature: \_\_\_\_\_

AACS LA confirmation signature: \_\_\_\_\_

Date of AACS LA confirmation of election: \_\_\_\_\_

Production License. Service Provider elects to become a production licensee, pursuant to Section 2.3 and agrees to comply with all the terms and conditions of this Agreement. Service Provider's election shall be effective by checking the applicable box(es) below upon execution of this Agreement.

- AACS Online Service Component Producer
- AACS Online Service Provider
- Executing Entity's Affiliate(s) identified as follows:

\_\_\_\_\_  
\_\_\_\_\_

Service Provider authorized representative signature: \_\_\_\_\_

AACS LA confirmation signature: \_\_\_\_\_

Date of AACS LA confirmation of election: \_\_\_\_\_

## EXHIBIT B Fees

### 1. Annual Administration Fee

As provided in Section 4 of this Agreement, administrative fees are used to offset the costs associated with the AACS LA's administration of the AACS Technology. As a result, the administrative fees may vary in subsequent years due to an increase or decrease in AACS LA's administrative costs.

AACS Online Service Provider Agreement

US\$ 5,000.00

### 2. Withholding from Payments

Any Fees paid by Service Provider hereunder shall 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, Service Provider shall include with its payment written notification of such withholding and shall forward to AACS LA in a timely manner (but no later than ninety (90) days after such notification) evidence of such withholding adequate to permit AACS LA and/or the Licensors to claim relevant tax credits under applicable treaties. Service Provider assumes full responsibility for remitting such withholding to the proper authority. Failure to provide suitable evidence of withholding shall result in the amount of the withholding being re-applied to Service Provider's account as a balance in arrears.

### 3. Routing of Orders and Payments

All fees shall be paid to AACS LA or to its order in United States dollars by wire transfer or such other means as AACS LA may reasonably specify.

Key orders shall be directed to:

AACS LA, LLC  
c/o AACS Administration  
3855 SW 153rd Drive  
Beaverton, OR 97006 USA  
Tel.: +1-503- 619-0863  
Fax: +1-503- 644-6708  
Email (orders only): [orders@aacsla.com](mailto:orders@aacsla.com)  
Email (all other issues): [admin@aacsla.com](mailto:admin@aacsla.com)

AACS LA shall provide wire transfer instructions with each invoice, or upon request by Service Provider.

#### 4. Recordkeeping and Audits

Service Provider will be invoiced for OSPA Transaction Fees annually for OSPA Schedule 1 fees and quarterly for OSPA Schedule 2 fees.

Service Provider will be invoiced for Key Fees at the time its order is received. Key orders shall be placed in accordance with, and at the fee levels provided in, the AACS Final Adopter Agreement Fee Schedule, Exhibit B. All fees are due and payable prior to shipment of orders.

AACS LA shall have the right to audit Service Provider's records as provided in the applicable Online Service Provider Agreement for purposes of determining sufficiency of any payments hereunder.

#### 5. Order Fulfillment Fees for AACS key orders

Order Fulfillment Fees offset the costs associated with generating key orders and shall be paid at the rate provided in the Final Adopter Agreement Fee Schedule, Exhibit B, for each key order placed.

Even if submitted at the same time, multiple requests for keys of a particular category or type will each be considered a separate "order", and therefore subject to a separate Order Fulfillment Fee.

#### Schedule 1 – Transaction Fees for Managed Copy Authorizations and BD Live Streams or Downloads

Annual Transaction Volume	Annual Transaction Fee
Up to 100K Transactions	\$2500.00
Up to 1M Transactions	\$5000.00
Unlimited	\$10,000.00

#### Schedule 2 – Transaction Fees for Downloads and Streams

\$.04 per Download or Stream transaction

“NOTE: The above is a “default” fee level. AACS LA is prepared to discuss alternate fee arrangements with specific Service Providers to enable particular business models. This will be done on a case-by-case basis, but consistent with AACS LA’s nondiscriminatory approach to licensing and fees.”



6. Payment in Advance

All Fees are due and payable in advance of fulfillment of key orders by AACCS LA. Key orders will not be fulfilled if any Fees are in arrears.

For review only -  
Not for execution

**EXHIBIT C**  
**CONFIDENTIALITY AGREEMENT**  
**ACKNOWLEDGMENT BY AUTHORIZED RECIPIENTS**

I, \_\_\_\_\_, a full-time or part-time employee or individual independent contractor of \_\_\_\_\_, a \_\_\_\_\_ (“Service Provider”), acknowledge that I have been designated by Service Provider as an “Authorized Recipient” to receive on behalf of Service Provider access to Highly Confidential Information of AACS LA (the “Company”), the Licensors of the Company, or another Fellow Service Provider, which Authorized Recipient is obligated to maintain strictly confidential under the terms of the AACS Service Provider Agreement (the “Agreement”) between the Company and Service Provider. With respect to Highly Confidential Information, I acknowledge that the Agreement entered into between the Company and Service Provider requires Service Provider to employ procedures for safeguarding Highly Confidential Information which procedures include, at a minimum: (i) Service Provider shall employ procedures for safeguarding Highly Confidential Information at least as rigorous as Service Provider would employ for its own most highly confidential information, such procedures to include, at a minimum: (1) maintaining on Service Provider’s premises a secure location in which any and all Highly Confidential Information shall be stored, where such a location may include electronic storage that is at least as secure with respect to the Highly Confidential Information as the AACS Technology is with respect to the protection of digital content; (2) that any Highly Confidential Information stored in such a location shall be accessible only by Authorized Recipients; (3) that (x) where Highly Confidential Information is stored in a location that is physically secure, Authorized Recipients visiting such location shall sign in and out each time that they visit such location, and (y) where Highly Confidential Information is stored securely in an electronic form, Authorized Recipients having access to such Highly Confidential Information shall sign in and out each time that they have such access; and (4) when Highly Confidential Information is not in use, such information shall be stored in a locked safe at such secure location or shall be stored electronically in a form that is at least as secure with respect to the Highly Confidential Information as the AACS Technology is with respect to protection of digital content. I further acknowledge that the Agreement defines Highly Confidential Information to include Calculated Keys, Device Keys, Sequence Keys, Drive Private Key, Host Private Key, MCS, Private Keys, Media Keys, Title Keys, C<sub>mfg</sub>, Data Key, Bus Key and intermediate data items that are derived from such items. Examples include but are not limited to K<sub>vu</sub>, also known as the Volume Unique Key and which is derived from the Media Key and the Volume ID as defined in the Specifications, and the random/pseudorandom number generator constants k and S, as defined in the Specifications (capitalized terms used herein as defined in the Agreement).

I further acknowledge that I have signed a prior written agreement with Service Provider pursuant to which I have agreed to maintain the confidentiality of third party confidential information received by Service Provider. I acknowledge that I am bound by such agreement or by Service Provider’s policies and practices to maintain the confidentiality of Highly Confidential Information during my employment or contract period and after my employment and contract period with Service Provider.

By signing below, I attest that I have read and understood this acknowledgment.

Signed: \_\_\_\_\_  
Name: \_\_\_\_\_  
Date: \_\_\_\_\_

cc: AACS LA, LLC

## Exhibit D

### AACS COMPLIANCE RULES FOR ONLINE SERVICE PROVIDERS

Where a capitalized term is used, but not otherwise defined in this Exhibit D, the meaning ascribed thereto elsewhere in the Agreement or applicable AACS Specification shall apply.

**Applicability.** This Exhibit D is applicable to Service Providers, AACS Online Services and AACS Online Service Components with respect to Online Transactions as described in the Specification(s). *For the avoidance of doubt, this Section does not define the obligations applicable to a Licensed Content Producer making a Licensed Content Product for delivery via On Line Transactions. To the extent that an Online Service Provider carries out that function, it must do so as an Adopter in compliance with its Adopters Agreement.*

1. **Transaction Capability.** An AACS Online Service shall follow the transaction protocols as described in the Specifications and the additional requirements below, including but not limited to transactions where the MCS is authorized to make a Managed Copy using AACS Prepared Video Format and thereby acts as a PVAS and signs the PVT.
  - 1.1. AACS Online Service shall comply with the requirements of the Managed Copy Offer only as, and to the extent, authorized by the Content Participant/Provider.
  - 1.2. AACS Online Service shall permit the Managed Copy Machine to select from any of the Managed Copy Output Technologies listed on Table C-1 and additionally, at Content Participant discretion, any of the MCOTs listed on Table C-2. Therefore, AACS Online Service shall support all of the Managed Copy Output Technologies listed on Table C-1. Should Service Provider want to support fewer than all of the Managed Copy Output Technologies listed on Table C-1, then Service Provider must make a written request to AACS LA and explain its reasons. AACS LA shall have full discretion to accept or reject any such request. Furthermore, Service Provider shall not make its AACS Online Service available with less than all of the Managed Copy Output Technologies listed on Table C-1 prior to receiving a written response from AACS LA explicitly permitting Service Provider to do so. Service Provider is advised that the baseline presumption shall be that all Managed Copy Output Technologies listed on Table C-1 must be supported. AACS Online Service shall verify that the MCOT associated with the selected Managed Copy Offer is on the relevant Table C-1 or C-2 and Service Provider shall update the AACS Online Service to reflect changes to Tables C-1 and C-2, including both deletions and additions of MCOTs. AACS Online Service shall not permit the making of a Managed Copy in an MCOT that has been delisted or suspended by AACS LA, unless specifically authorized by the Content Participant/Provider, which specific

authorization must be granted following the delisting or suspension of the relevant MCOT. The Managed Copy Machine may only permit one Managed Copy to an MCOT on Table C-1 unless additional copies are expressly authorized by the Content Participant/Content Provider. All such authorized copies shall comply with the Managed Copy terms and conditions as set by the Content Participant/Provider.

1.3. Appendix 2 attached to Exhibit E sets forth recommended practices that Service Provider should consider for implementation and that may be of interest to Content Participants/Providers.

- 2 **Confidential Information.** Service Provider may receive AACS Confidential and AACS Highly Confidential Information from Content Participant/Provider and may disclose AACS Confidential and AACS Highly Confidential Information to Content Participant/Provider only to the extent necessary to carry out Online Transactions, disclosing party must only do so in accordance with terms of their AACS Approved License.
- 3 **PVAS Private Key, Host Certificate, MCS Certificate & Device Keys.** Service Provider shall comply with the requirements of the Specification, (including, but not limited to, in Figure 1-2 and 1-3 of the Prepared Video Book) and this Agreement for the proper use and storage of these materials.
- 4 **AACS Approved Managed Copy Output Technology IDs (MCOT ID).**
  - 4.1 **IDs for AACS Authorized Copying Methods.** At initiation of a new AACS Online Service, Service Provider must utilize the most recent list of current IDs for AACS Authorized Copying (as set forth in Table C-1). Thereafter Service Provider shall comply with the requirement to support a new AACS Authorized Copy Method pursuant to the notice issued by AACS LA within ninety (90) days of such notice or such longer period as designated by AACS LA.
  - 4.2 **IDs for Content Owner Authorized Copying Methods.** If Service Provider uses a Content Owner Authorized Copying Method as listed on Table C-2 then Service Provider shall use the MCOT ID for such Content Owner Authorized Copying Method issued by AACS and listed on Table C-2.
- 5 **Managed Copy Transaction Database.** Service Provider shall develop and maintain a Managed Copy Transaction Database for each Content Participant or Content Provider and for use by such Content Participant or Content Provider. The Managed Copy Transaction Database shall be considered confidential information of Content Participant or Content Provider. In addition to any other requirements of Content Participant or Content Provider, Service Provider shall employ commercially reasonable secure backup and archival storage.
- 6 **MKB Download for Managed Copy to AACS PV.** AACS LA shall send a notice that a new MKB is available to Service Provider, which notice will set forth the process and procedures for Service Provider to order and receive such new MKB.

Service Provider must order the most recent MKB provided by AACS LA in carrying out Online Transactions involving Managed Copy to AACS PV within ten (10) business days of date of issuance of the notice by AACS LA. The Online Service Provider must commence use of the most recent MKB within fifteen (15) business days of receipt of new MKB from AACS LA.

- 7 Content Revocation Lists (CRL).** In the event AACS LA issues a notice requiring Service Provider to cease fulfilling requests for Managed Copy Offers for a particular Licensed Content Product, then Service Provider shall comply in accordance with the terms of the notice.
- 8 Use of Content ID or Content Certificate ID.** Service Provider shall associate the relevant Managed Copy Offer information, if any, provided by the Content Participant/Provider with respect to the particular Content ID or Content Certificate ID (in accordance with the instructions received from the relevant Content Participant/Provider as to whether to use the Content ID or Content Certificate ID) received from the Managed Copy Machine in accordance with the Specifications.
- 9 Validity Check of Serial Numbers, Sticker Codes, and Reporting**
  - 9.1** Service Provider shall check the validity of the PMSN or PVSN received from the Managed Copy Machine in accordance with one of the methods described in the Specifications which was used by the applicable Content Participant/Provider to determine which offer, if any, to present. With respect to Sticker Codes (as defined in the Specifications), Service Provider shall check the validity of the Sticker Code in accordance with the Specifications and any further requirements and processes established between Service Provider and the relevant Content Participant/Provider.
  - 9.2** If the AACS Online Service makes use of the PMSN or PVSN, it shall verify the value received from a Licensed Product in accordance with instructions received from the applicable Content Participant/Provider. Verification in accordance with the methods described in Chapter 5 of the AACS Prerecorded Video Book. Otherwise, validation is accomplished by comparison with the Content Database as below.
  - 9.3** Service Provider shall on a monthly basis report to the relevant Content Participant/Provider and to AACS LA detections of any managed copy requests made using a Content ID or Content Certificate ID, Sticker Code, PMSN or PVSN that (i) is false or anomalous, (ii) Service Provider does not recognize or (iii) could not be associated with Managed Copy Offer information (requests falling within (i), (ii) or (iii) are referred to in this section as “unauthorized attempts to make managed copies”). In the event that Service Provider becomes aware of a pattern of unauthorized attempts to make managed copies, including but not limited to the repeated use of a Sticker Code for which a Managed Copy offer has already been fulfilled, then Service Provider shall immediately notify the relevant Content Participant/Provider and AACS LA.

**9.4** Service Provider shall report on a monthly basis to the appropriate Content Participant/Provider and to AACS LA all unfulfilled Managed Copy requests and, where practicable, the reasons such requests went unfulfilled.

**10 Content Databases.** Where requested by a Content Participant/Provider, Service Provider shall maintain a Content ID database, a Sticker Code database, a Content Certificate ID database, a PMSN database and/or a PVSN database (each of the foregoing are referred to in this section as “content databases” and Content ID, Sticker Code, Content Certificate ID, PMSN and PVSN are referred to as “identifiers”) for use in accordance with Content Participant/Provider instructions, where the identifiers uniquely identify the AACS Content to Service Provider’s AACS Online Service in an online transaction. These content databases may, among other things, include information on how many times a given identifier has been used in the fulfillment of a Managed Copy request. Service Provider must disclose in writing to any and all Content Participant/Providers to which it provides services under this Agreement the option for such Content Participant/Providers to request Service Provider to maintain one or more of the foregoing databases.

For review only  
Not for execution

## **Exhibit E**

### **AACS ROBUSTNESS RULES FOR ONLINE SERVICE PROVIDERS**

Where a capitalized term is used, but not otherwise defined in this Exhibit E, the meaning ascribed thereto elsewhere in the Agreement or applicable Specification shall apply.

**Applicability.** This Exhibit E is applicable to all Service Providers offering AACS Online Services, including but not limited to Service Providers offering services for Managed Copy as defined in the Specifications.

1. **Generally.** Service Provider facilities and servers (hardware/software) shall be designed, configured and operated in a manner clearly designed to effectively frustrate attempts to compromise the confidentiality or integrity requirements, as set forth herein, while not compromising the availability of Service Provider's AACS Online Services by denying access to legitimate parties.
2. **Construction - Maintain Secrecy and Integrity.** Service Provider facilities and server equipment shall be designed, configured and operated in a manner that is clearly designed to effectively frustrate attempts by unauthorized parties to (a) discover or reveal AACS Keys and other confidential values as described in the Secrecy Required and Integrity Required Table in Appendix 1 or (b) modify values identified as requiring integrity in the Secrecy Required and Integrity Required Table in Appendix 1. Production AACS Online Services implementations that are consumer facing to the public-at-large shall not include development or service aids such as service menus, debugging aids and other software development tools, in each case by which the Content Protection Requirements or AACS secrecy/integrity requirements in Appendix 1, can be defeated, or by which Decrypted AACS Content in such implementations can be exposed to output, interception, retransmission or copying, in each case other than as permitted under the AACS Agreements. Development versions of such AACS Online Services implementations shall have such development, Test Keys or Test Vectors and/or service aids removed prior to deployment for use with AACS Keys.
3. **Construction – Online Security Requirements.** Service Provider shall be required to meet or exceed the following minimum security requirements as set forth in the following five paragraphs:
  - 3.1. **Copying of Managed Copy Service Private Keys.** Service Provider is permitted to generate copies of MCS Private Keys or AACS Keys within a particular physical device or server, for performance reasons, and is permitted to create a backup copy of MCS Private Keys or AACS Keys for secure offline storage. These copies of MCS Private Keys shall be subject to the requirements of this Exhibit E, which shall apply in full to such copies in the same manner as they would to the original MCS Private Key as securely generated within the Service Provider facilities. Service Provider shall promptly and securely destroy copies of MCS Private Keys when they are no longer required.

- 3.2. **Accountability.** Service Provider facilities shall be maintained so that all access to the system on which the MCS Private Key or AACS Keys resides, and in particular, all access to the MCS Private Key or AACS Keys, shall be logged. For purposes of this requirement, command logs and remote operation histories are sufficient. Further, all copying and destruction of MCS Private Keys or AACS Keys as permitted under Section 3.1 above shall be logged, and in such a way that examination of the log files shall permit the Service Provider or any other examiner of the log files to know how many copies of MCS Private Keys or AACS Keys were in existence in what location at any previous moment in time. Audit tools shall be available for forensic examination of the log files. Log files shall be maintained for a period of three (3) years from the date of their creation (including following termination of the Agreement if that is less than 3 years from the date of creation of one or more log files). Sufficient measures shall be implemented to ensure the integrity of the log files.
- 3.3. **Controls.** Service Provider shall implement controls to reduce risk to a level that will result in Service Provider's facilities having the level of protection described in Section 5 of this Exhibit E or better. Service Providers shall define system components in terms of their security function and shall control their access to and by other components accordingly.
- 3.4. **Policy.** Service Provider shall create, implement and maintain a policy detailing the security objectives and methods that will be put in place in order to reduce risks to a level that will result in the Service Provider's facilities having the level of protection described in Section 5 of this Exhibit E or better. This policy shall be consistent with the guidelines in the most recent version of "Information technology -- Code of practice for information security management", (including a successor with a new numbering sequence) ("ISO/IEC 27002") to the extent such guidelines are applicable.
- 3.5. **Standards and Procedures.** Service Provider shall create, implement and maintain security standards and procedures detailing how the policy will be implemented. These standards and procedures shall be consistent with the guidelines in ISO/IEC 27002 to the extent such guidelines are applicable.
4. **Methods of Preserving Confidentiality, Secrecy And Integrity.** Service Provider facilities shall be designed and operated using at least the following techniques in a manner that is clearly designed to effectively frustrate attempts to compromise the confidentiality or integrity of MCS Private Keys or AACS Keys as set forth below in Sections 4.1, 4.2, 4.3 and 4.4 and Appendix 1.

  - 4.1. **Software.** Any portion of the Service Provider facilities capable of accessing MCS Private Keys or AACS Keys in usable form by Software shall include all of the characteristics set forth in Section 1 of this Exhibit E. For the purposes of these AACS Robustness Rules for Online Service Providers, "Software" shall mean the implementation of the Content Protection Requirements, through any



computer program code consisting of instructions or data, other than such instructions or data that are implemented in Hardware. Such implementations shall:

- 4.1.1. Comply with Section 2 of this Exhibit E by a reasonable method including but not limited to: encryption, execution of a portion of the implementation in privileged or supervisor mode, execution on a hardened operating system, and/or embodiment in a secure physical implementation.
  - 4.1.2. Be designed so that checking of the integrity of the component parts occurs such that modifications must be recorded and processes will promptly assess whether these modifications were authorized or unauthorized. For the purpose of this provision, a “modification” includes any change in, or disturbance or invasion of, features or characteristics, or interruption of processing, relevant to Section 1 of this Exhibit E. Service Provider shall describe in the security policy, standards and procedures (as described in Section 1) how this provision is satisfied.
- 4.2. **Hardware.** Any portion of the Service Provider facilities capable of accessing MCS Private Keys or AACS Keys in usable form in Hardware shall include all of the characteristics set forth in Section 1 of this Exhibit E. For the purposes of these Robustness Rules, “Hardware” shall mean a physical device, including a component, that implements any of the Content Protection Requirements and that (i) does not include instructions or data other than such instructions or data that are permanently embedded in such device or component; or (ii) includes instructions or data that are not permanently embedded in such device or component where such instructions or data have been customized for such Service Provider facilities and/or can only be accessed under the control of the Service Provider by authorized parties. Such implementation shall:
- 4.2.1. Comply with Section 2 of this Exhibit E by any reasonable method including but not limited to embedding MCS Private Keys or AACS Keys in a Hardware Security Module (HSM) that provides the level of protection described in Section 3. Service Providers that wish to employ an HSM should use an HSM that meets FIPS 140-2 Level 3 or higher, or an equivalent level of protection as defined in an alternative internationally accepted standard.
  - 4.2.2. Be designed such that attempts to remove, replace, or reprogram Hardware elements in a way that would compromise the Content Protection Requirements would pose a serious risk of rendering Service Provider’s facilities unable to authorize Managed Copies or conduct Online Transactions and would be promptly detected as described in Section 4.1.2.
- 4.3. **Hybrid.** The interfaces between Hardware and Software portions of Service Provider’s facilities shall be designed so that the Hardware portions comply with

the level of protection that would be provided by a pure Hardware implementation, and the Software portions comply with the level of protection, which would be provided by a pure Software implementation.

- 4.4. **Operation.** Service Provider's facilities shall be operated in a manner that implements all of the characteristics set forth in Section 1 of this Exhibit E. Service Provider's facilities shall be implemented in a manner as to be able to generate regular audit reports to assess compliance to these robustness rules as stated in Section 5. The physical security and operation policies, standards and procedures of the Service Provider facilities shall be taken into account when determining whether or not Service Provider facilities meet this requirement, when these documents are made available for inspection as required by Section 3.3 of the Agreement.

## 5. Level of Protection

**Threats that must be met.** Service Provider shall implement a security policy, standards and procedures, as specified in Sections 3.4 and 3.5 that meet, as a minimum, the threats listed below or reduce the risk caused by these threats to an acceptable level according to the applicable elements of then current industry standards as would be applied by an independent audit. Prior to the initiation of any AACS Online Service and thereafter as provided below, Service Provider shall retain a qualified independent information security professional that is certified as a CISSP to perform an audit and certify that Service Provider has implemented policies and procedures sufficient to reduce the threat risk to an acceptable level as determined by such security audit. Following the initiation of its service, Service Provider shall have audits conducted as described above (a) whenever it makes material modifications to the system or facilities used for its system, including any move of the system from one location to another (including a material move within the same physical location), or any material change to the hardware or software security aspects of the AACS Online Service, and (b) on other occasions as part of Service Provider's regular audit schedule. In relation to any audit it has conducted, Service Provider shall provide AACS LA with a summary of the audit findings, including the credentials of the security professional, which summary shall be prepared by the retained security professional, for every audit conducted pursuant to this Agreement.

The list of threats below is not an exhaustive list and Service Provider should consider additional threats that might apply in their context.

- Unauthorized physical access to any system components.
- Destruction of any or all system component(s) by accident or design.
- Maintain secure infrastructure which prevents disconnection from routers, disc drives.
- Modification or interruption of power supplies and network connections.
- Eavesdropping on local networks, for example using a protocol analyzer.
- Unauthorized access via a console or a network terminal.
- Man in the middle attacks.

Destruction of key material.  
Installation of eavesdropping tools on system components.  
Improper or unauthorized creation, modification or deletion of user accounts.  
Improper or unauthorized creation, modification or deletion of database contents.  
Improper or unauthorized creation, modification or deletion of database access controls.  
Faults in vendor's software operating systems or applications.  
Misconfiguration of vendor's software.  
Exploitation of input control (buffer overflows) to undermine availability and escalate privilege.  
Unauthorized acquisition of plaintext.  
Unauthorized modification of operational log files.  
Obtaining unauthorized access by misrepresentation ("social engineering").  
Reduce the effects of and recover quickly from denial of service or similar attacks that impede the consumers ability to complete an on line transaction.

## **6. ADVANCE OF TECHNOLOGY**

Although an implementation of a Service Provider facility when designed may meet the above standards, subsequent circumstances may arise which, had they existed at the time of design of a particular Service Provider facility, would have caused such a facility to fail to comply with these Robustness Rules ("New Circumstances"). If Service Provider has (a) actual notice of New Circumstances, or (b) actual knowledge of New Circumstances (the occurrence of (a) or (b) hereinafter referred to as "Notice"), then as quickly as reasonably possible, but in no event later than six (6) months if a software upgrade is required and twelve (12) months if a hardware upgrade is required, Service Provider shall cease operation of Service Provider's facilities that are not Compliant with the Robustness Rules in view of the then-current circumstances and shall only operate an AACS Online Service and maintain a Service Provider facility that is compliant with the Robustness Rules in view of the then-current circumstances, whether these be new or upgraded Service Provider facilities. Notwithstanding the foregoing, Service Provider shall not be required to cease operation of or upgrade its facilities for a period of thirty-six (36) months following Service Provider's commencement of operation of such facilities, provided that such facilities were fully Compliant at the time such operation commenced.

## APPENDIX 1

### Secrecy Required and Integrity Required

In addition to those items listed as Secrecy Required on the table below, intermediate data items that are derived from such Secrecy Required items shall also be treated as Secrecy Required. Examples include but are not limited to  $K_{vu}$ , also known as the Volume Unique Key and which is derived from the Media Key and the Volume ID as defined in the Specifications, and the random/pseudorandom number generator constants  $k$  and  $S$ , as defined in the Specifications.

<b>Secrecy Required*</b>	Device Keys
	Sequence Keys
	Drive Private Key
	Host Private Key
	Media Keys
	Media Key Variant
	Title Keys
	$C_{mfg}$
	Data Key
	Bus Key
	MCS Private Key
	PVAS Private Key
	Algorithms described in specifications marked Confidential, including “ <i>HD-DVD and DVD Pre-recorded Book Confidential Part for CE System</i> ” and “ <i>HD-DVD and DVD Pre-recorded Book Confidential Part for PC-based System</i> ”
<b>Integrity Required**</b>	AACS LA Public Key
	AACS LA Content Cert Public Key
	MCS Public Key
	PVAS Public Key
	Device Binding Nonce
	Pre-recorded Media Serial Number
	Prepared Video Serial Number
	DRL or individual components thereof, when being stored in non-volatile storage by a Licensed Product as required in the Specifications
	CRL, or individual segments thereof, when being stored in

	non-volatile storage by a Licensed Product as required in the Specifications
	MKB when being stored in non-volatile storage by a Licensed Product as required in the Specifications
	Partial MKB, or individual components thereof, when being stored in non-volatile storage by a Licensed Product as required in the Specifications

\* Note: KCD is not Secrecy Required, but is subject to the robustness requirements of the Adopter Agreement, Exhibit E, Part 2, Section 7.11.

\*\* Note: Volume ID, Media ID, and Binding Nonce are not Integrity Required but are subject to the robustness requirements of the Adopter Agreement, Exhibit E, Part 2, Section 7.10.

For review only -  
Not for execution

## Appendix 2

### **AACS Online Service Provider Recommended Practices Addendum**

AACS intends this Addendum as a description of the elements and levels of service that an AACS Online Service Provider should consider adopting. This Addendum is offered as a guide that Service Providers and Content Participants/Content Providers can use to help set the parameters for establishing a relationship to fulfill Online Transaction functions, including but not limited to Managed Copy authorization functions.

**IMPORTANT NOTE TO SERVICE PROVIDERS:** The following Recommended Practices do not serve as a substitute for the provisions of the AACS Online Service Provider Agreement, including without limitation the Specifications, Compliance Rules and Robustness Rules. **Compliance with the following Recommended Practices neither substitutes for nor fulfills Service Provider's obligations to comply fully with all the terms and conditions of the AACS Online Service Provider Agreement.** Furthermore, Service Providers need to be aware that these Recommended Practices should not be viewed as static. Information technology is constantly changing and with it the type and levels of threats to security. As a result, improved measures should be implemented over time to address evolving threats.

#### **Managed Copy Service – Service Level:**

- 24x7x365 availability is generally expected; contract delivery time should ideally be at least 99.9% but no less than 99.5%.
- Scheduled maintenance times should be consistent with consumer-facing IT industry best practices.
- Maintenance times, when the service is not available, should be communicated in advance to consumers by posting an advance notice of such maintenance times on the home page or opening page of AACS Online Service. Maintenance should be conducted at the lowest traffic times when consumer demand for the service is at its lowest.
- Service Provider should employ industry standard best practices to (i) maintain session persistency and, (ii) achieve session recovery.

#### **Backup and Restore:**

- Policy-based backups should be performed and maintained. Restore procedures should be in place and tested. IT best practices should be followed to allow operations to be restored in the event of a machine failure or a catastrophic event.

#### **General Architecture:**

- The MCS should adhere to the Web Services Interoperability Organization Basic Profile version 1.1, and Basic Security Profile version 1.0. The MCS should

support multiple languages and multiple currencies.

- Service Provider should ensure it can deploy the appropriate skill sets and skill levels with respect to software or technology provided by third party vendors.
- Service Provider should install transaction volume monitoring software and take action if expected levels are significantly exceeded.

#### **Security Practices:**

- The MCS server should be physically located in a secure facility where security is maintained 24 hours a day.
- Physical security should be provided for all system components.
- Service Provider should ensure that all employees with access to the MCS server, database contents and the user accounts must sign and comply with appropriate confidentiality and security procedures agreements.
- Access to MCS server, database contents and user accounts and related electronic information should be tightly controlled through the use of passwords and other security mechanisms.
- As many cryptographic elements of the MCS as possible should be implemented in hardware.
- Network connections should be secured through the utilization of industry standard encryption technology, particularly while transferring and storing sensitive information.
- A firewall should be maintained at all logical demilitarized zones (“DMZs”) and Internet connection points.

#### **Interface to Payment Systems and Financial Transactions:**

- The MCS should be able to accommodate payments by credit cards, debit cards and vouchers. Payments will need to flow to Content Participant/Providers. Transaction fees should be accommodated. The application code and middleware used for this part of the application should be well documented and based on widely available software products.
- Some Content Participant/Providers may desire to use Internet payment systems such as PayPal™. The payment part of the transaction should be done in the consumer’s national currency and national language to the extent that generally available payment systems support this.

- The MCS should comply with the Payment Card Industry Data Security Standard (“PCIDSS”).
- The MCS should validate that financial transactions have completed properly.
- The MCS should be able to recover from an aborted or broken transaction.
- The MCS should implement industry standard best policies and practices for addressing and handling refund requests.
- The MCS should implement industry best practices for reconciling payments and transactions.
- The MCS should implement industry best practices for disbursing payments and information on transactions to Content Participant/Providers on a periodic basis.

**Privacy:**

- The MCS should implement industry best practices with respect to protecting consumer privacy and consumer information.

**Consumer Ease of Use:**

- The MCS should be designed to accommodate novice web users.
- The MCS should perform appropriate client authentication depending on the type of transaction.
- Managed Copy Offers and transactions should be simple and straightforward. All other parts of the transaction, such as payment information, should also be simple and straightforward.

**Content Participant/Provider Interface:**

- The MCS should provide a Content Participant/Provider interface that allows Content Participant/Providers to construct and update their Managed Copy Offer Database, a database created by the Service Provider pursuant to the Specifications and the Compliance Rules for use by each Content Participant or Content Provider that contains offer details and description, including but not limited to MCOT information, pricing information and technical information. This should be clear and easy to understand and to use, since some Content Participant/Providers may have non-technical people using this interface to structure and update the copy offers.
- The MCS and Content Participant/Provider should consider constructing the Managed Copy Offer Database in a manner or format that will be compatible with or easily exportable to the AACS Default Managed Copy Authorization Service in the event that use of the AACS Default Managed Copy Authorization Service is desired as a back-up.



- The MCS should provide a default offer presentation interface.
- The MCS should support both the HTML and the application-based offer rendering options described in the Specifications.
- The interface should allow Content Participant/Providers to define and update their offer lists, including each offer's associated metadata such as availability windows, geographical-based restrictions on making each offer, as well as the optional render URIs associated with offers. Service Provider should be aware that Managed Copy offers for a particular title may vary according to geographic location, timing and other parameters. Therefore, the MCS should be able to accommodate offers that have a variety of qualifications and offers that can be modified dynamically.
- The MCS should support secure web-based transactions to permit Content Participant/Providers to accomplish the above updates to their offers.

**Managed Copy Transaction Data Base:**

- Provision should be made, and protocols established, to allow the information contained in the Managed Copy Transaction Data Base readily to be transmitted to or accessed by each respective Content Participant/Provider in compliance with all applicable laws foreign or domestic concerning the storage and transfer of personally identifiable information.

**Risk Register:**

- Service Provider is encouraged to maintain a listing of the risks ("Risk Register") that are met by the controls as set forth in the Robustness Rules in Exhibit E and implemented by the Service Provider. Service Provider should ensure the Risk Register is kept up to date.