AMENDED AND RESTATED
(November 2002)
JAVA LICENSE AGREEMENT

THIS AMENDED AND RESTATED JAVA LICENSE AGREEMENT (the "**Agreement**") is made effective as of the 8th day of August, 2000 ("**Effective Date**") by and between Sun Microsystems, Inc. ("**Sun**"), with offices located at 901 San Antonio Road, Palo Alto, CA 94303 USA, and Cable Television Laboratories, Inc. ("**CableLabs**"), with offices located at 400 Centennial Parkway, Louisville, Colorado 80027-1266 USA.

WHEREAS, CableLabs desires to license all or portions of one or more of Sun's Java™ technology specifications for possible inclusion by reference in CableLabs' OpenCable™ Specification (as defined below), and to license certain other related Sun code and test suites;

WHEREAS, Sun claims intellectual property rights in and to such Java technology specifications, code, and test suites;

WHEREAS, Sun is willing to make available for license by CableLabs, and such other parties as are defined in this Agreement, on fair, reasonable and non-discriminatory terms and conditions and only for certain limited and expressly stated purposes, all or a portion of one or more of Sun's Java™ technology specifications, and certain related Sun code and test suites;

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. DEFINITIONS.

1.1 "**Affiliate**" means any entity directly or indirectly owned or controlled by Sun, CableLabs or any other Vendor, wherein the term "control" shall mean voting control over greater than fifty percent (50%) of (i) an entity's common shares or (ii) the total number of board members sitting on the entity's board of directors.

1.2 "**Essential Patent Claims**" means claims of a patent or patent application, issued now or in the future, relating to inventions that are reasonably required for using, making, or distributing a CI, including any claims which cannot reasonably be designed around or which it would be commercially or technically impractical to design around. Notwithstanding the foregoing sentence, Essential Patent Claims do not include any claims other than those set forth above even if contained in the same patent as Essential Patent Claims.

1.3 "**Compliant Implementation**" or "**CI**" shall mean an Implementation that, as determined in accordance with Section 4: (i) implements all interfaces and functionality of the Sun-Licensed Java Specifications then referenced by the OpenCable Specification,

in satisfaction of the then current OpenCable Conformance Requirements; (ii) does not, pursuant to the licenses granted herein, modify, superset, subset (except as expressly permitted by Sections 2.1(b) and 3.1(b)), or extend the Sun Name Space or include additional packages, classes, or methods in the Sun Name Space; and (iii) conforms to the OpenCable Specification in satisfaction of the then current OpenCable Conformance Requirements.

1.4 **"Error Correction"** shall mean a correction of an error or "bug" in the Sun-Licensed Materials.

1.5 "**Implementation**" shall mean an implementation of the OpenCable Specification that includes references to the Sun-Licensed Java Specifications, developed by, for, or under authorization of CableLabs or any Vendor.

1.6 **"Incomplete Implementation"** means an implementation of an OpenCable Specification that includes references to the Sun-Licensed Java Specifications, where such implementation implements less than all the required interfaces and functionality of the Sun-Licensed Java Specifications.

1.7 "**Name Space**" shall mean designations for class, package, or interface names or declarations in a given specification, implementation, or set of APIs.

1.8 "**OpenCable Conformance Requirements**" shall mean the tests, test frameworks, test assertions, and associated rules and requirements promulgated by or on behalf of CableLabs for the purpose of determining that Implementations properly implement or conform the OpenCable Specification.

1.9 "**OpenCable Full Implementer**" shall mean a legal entity that has: (i) entered into a license agreement with CableLabs, in a form consistent with the obligations of a sublicensee of CableLabs under this Agreement; and (ii) confirmed in writing to CableLabs and any Vendor(s) supplying Incomplete Implementations to such entity both that such entity has entered into such license agreement with CableLabs and that any license granted by such Vendor(s) with respect to such Incomplete Implementations supplied to such entity is expressly limited in its scope to integration into and distribution as part of a Compliant Implementation by the OpenCable Full Implementer.

1.10 "**OpenCable Name Space**" shall mean designations for class, package, or interface names or declarations in the OpenCable Specification, Implementations thereof, or any other non-Sun Name Space. No designation in the Sun Name Space shall be considered part of the OpenCable Name Space.

1.11 "**OpenCable Specification**" shall mean any CableLabs specifications relating to interoperable systems for the delivery of advanced digital services for cable television systems, and any modifications thereto, as determined by CableLabs in its sole discretion.

1.12 "**Sun-Licensed Code**" shall mean those of Sun's programs set forth in *Exhibit A* hereto, in the form(s) set forth therein, and as otherwise modified pursuant to this Agreement.

1.13 "**Sun-Licensed Java Specifications**" shall mean the components of Sun's Java™ technology specifications ("**Java Specifications**") set forth in *Exhibit B* hereto, and as otherwise modified pursuant to this Agreement, to which Vendors are to be referred by the OpenCable Specification.

1.14 "**Sun-Licensed Materials**" shall mean the Sun-Licensed Test Suites and the Sun-Licensed Code.

1.15 "**Sun-Licensed Test Suites**" shall mean those tests, test rules, and associated materials, as delivered by Sun to CableLabs, that Sun reasonably believes to be necessary and sufficient for the testing of those portions of Implementations which correspond to the Sun-Licensed Java Specifications.

1.16 "**Sun Name Space**" shall mean designations for class, package or interface names or declarations referred to by the OpenCable Specification which appear to originate from Sun, such as package or class names which begin with "java.*", "javax.*" or "sun.com" or their equivalents in any subsequent class, interface, and/or package naming convention adopted by Sun through the Java Community Process, or any recognized successors or replacements thereof, but not including designations whose names begin with org.ocap, org.cablelabs, org.opencable, org.havi, org.davic, org.dvb, com.[Vendor], or [Vendor].com.

1.17 "**Vendor**" shall mean any individual, company, or other entity that wishes to implement or has implemented the OpenCable Specification or that engages in design or development activities, or activities relating to the use, manufacture, reproduction, sale, distribution, or support of specific applications, hardware or software products which implement the OpenCable Specification.

2. **GRANT OF LICENSES.**

2.1 **Sun-Licensed Java Specifications.**

(a) Subject to and conditioned upon CableLabs' compliance with the material obligations set forth in this Agreement, including this Section 2, Sun hereby grants to CableLabs, under any applicable intellectual property rights (excluding any patents, patent applications or trademarks) now or hereafter owned or licensable by either Sun or a Sun Affiliate, a limited, worldwide, non-exclusive, perpetual, irrevocable (unless this Agreement is terminated pursuant to Section 8.2), non-transferable (except in connection with a transaction of the type described in Section 12.1), royalty-free right and license, with the right to sublicense to Vendors, (i) to view and download the Sun-Licensed Java Specifications, subject to the terms of use attached hereto as Exhibit C ("Terms of Use"), to use, reproduce and distribute such specifications in conjunction

with the activities contemplated hereunder, and to implement such specifications (without extending or supersetting the Sun Name Space) in the form of CIs, and (ii) to use, make, reproduce, sell, distribute, import or transmit such CIs. The rights of CableLabs or any sublicensed Vendor under this Section 2.1(a) shall include the right to (i) use, make or reproduce Incomplete Implementations that are intended for delivery to an OpenCable Full Implementer; and (ii) sell, import, transmit or otherwise distribute Incomplete Implementations, but only to an OpenCable Full Implementer for subsequent integration and sale, importation, transmission, or distribution as part of a CI. Neither CableLabs nor an Incomplete Implementer must require such Full Implementer to integrate or distribute an Incomplete Implementation as part of a CI, nor shall such Incomplete Implementer be liable for such OpenCable Full Implementer's failure to do so. But, neither CableLabs nor such Vendor may authorize the Full Implementer to distribute CableLabs' or such Vendor's Incomplete Implementation unless it is integrated into and distributed as part of a CI. No license is granted hereunder with respect to Incomplete Implementations for any other purpose.

(b) At CableLabs' option, the license granted under this Section 2.1 shall extend to, and CableLabs may, at any time during the term of this Agreement, modify *Exhibit B* to reflect: (i) future versions of the set of packages set forth in *Exhibit B*, as described and subsetted therein; (ii) current complete or future complete (i.e., without subsetting) versions of any of the packages set forth in *Exhibit B*; (iii) such additional portions of current or future releases of the Java Specifications as may be agreed to in good faith by Sun and CableLabs, such agreement not to be unreasonably delayed or withheld; (iv) modifications to the packages set forth in *Exhibit B* as provided in Section 3.1 hereof, and/or (v), modifications, additions, or deletions to the Sun-Licensed Java Specifications to mirror changes in the DVB Project MHP Specification. In addition, CableLabs may remove one or more components of the Sun-Licensed Java Specifications (and may make any and all corresponding revisions to the OpenCable Conformance Requirements and Sun-Licensed test Suites) upon written approval from Sun, such approval not to be unreasonably withheld or delayed.

(c) Sun covenants that it shall provide CableLabs and Vendors with reasonable access to the Sun-Licensed Java Specifications at a URL designated by Sun, subject to the Terms of Use. Sun further covenants that it shall not add to or delete from the Sun-Licensed Java Specifications available at such URL except as expressly permitted by this Agreement or otherwise authorized by CableLabs. In the event that Sun breaches either of the foregoing covenants, and fails to remedy such breach within ten (10) business days after receiving written notice of such breach by CableLabs, Sun hereby grants to CableLabs at no charge a license to provide access to the Sun-Licensed Java Specifications to all Vendors at a URL designated by CableLabs, through a website maintained by or on behalf of CableLabs, *provided that* the terms of use thereof are materially the same as the Terms Of Use. Sun acknowledges that it asserts no trade secrets in and that no confidentiality obligations apply to the Sun-Licensed Java Specifications.

    2.2 **Sun-Licensed Code.** Subject to and conditioned upon CableLabs' compliance

with the material obligations set forth in this Agreement, including this Section 2, Sun hereby grants to CableLabs, under any applicable intellectual property rights (excluding trademarks) now or hereafter owned or licensable by Sun or a Sun Affiliate, a limited, worldwide, non-exclusive, perpetual, irrevocable (unless this Agreement is terminated pursuant to Section 8.2), non-transferable (except in connection with a transaction of the type described in Section 12.1), royalty-free right and license, including the right to sublicense to those Vendors engaged in the development, design, or integration (including related testing and/or technical support) of an Implementation, to: (a) modify the Sun-Licensed Code as reasonably required to enable its use as part of CableLabs' or a Vendor's Implementation; (b) compile the Sun-Licensed Code from source to executable and any intermediate code formats; and (c) use, make, reproduce, sell, distribute, import or transmit the Sun-Licensed Code in executable code form but only as part of CableLabs' or a Vendor's CI. CableLabs or any Vendor or sublicensee of a Vendor may extend (and their rights shall include the right to sublicense) to any person or entity the rights set forth in clause (c) above, with the right of such person or entity to sublicense further. CableLabs may not distribute the Sun-Licensed Code in source code format except to such Vendors as are set forth above (i.e., Vendors engaged in the development, design, or integration (including related testing and/or technical support) of an Implementation), and no Vendor shall be permitted to distribute the Sun-Licensed Code in source code form except to CableLabs or another such Vendor sublicensed hereunder. The rights of CableLabs or a Vendor under this Section 2.2 shall include the right to (i) use or reproduce the Sun-Licensed Code in executable format as part of an Incomplete Implementation that is intended for delivery to an OpenCable Full Implementer; and (ii) sell, import, transmit or otherwise distribute Incomplete Implementations, but only to an OpenCable Full Implementer for subsequent integration and sale, importation, transmission, or distribution as part of a CI. Neither CableLabs nor an Incomplete Implementer must require such Full Implementer to integrate or distribute an Incomplete Implementation as part of a CI, nor shall such Incomplete Implementer be liable for such OpenCable Full Implementer's failure to do so. But, neither CableLabs nor such Vendor may authorize the Full Implementer to distribute CableLabs' or such Vendor's Incomplete Implementation unless it is integrated into and distributed as part of a CI.

   2.3   Sun-Licensed Test Suites.

      (a)   Limited Grant. Subject to and conditioned upon their compliance with the material obligations set forth in this Agreement, including this Section 2, Sun hereby grants to CableLabs, and its contractors, pursuant to Section 2.8, under any applicable intellectual property rights (excluding trademarks) now or hereafter owned or licenseable by Sun or a Sun Affiliate, a limited worldwide, non-exclusive, perpetual, irrevocable (unless this Agreement is terminated pursuant to Section 8.3, with respect to CableLabs, or 8.5, with respect to a particular Vendor), non-transferable (except in connection with a transaction of the type described in Section 12.1), royalty-free right

and license to:

(i)   copy, distribute, and use the Sun-Licensed Test Suites only as part of the OpenCable Conformance Requirements and only for the purpose of testing whether an Implementation is a CI;

(ii)   grant sublicenses to those Vendors engaged in the development, design, integration, or manufacture (including related testing and/or technical support) of an Implementation to copy and use such Sun-Licensed Test Suites, only when and as incorporated into the OpenCable Conformance Requirements by CableLabs, solely for the purpose of enabling such Vendors to test and certify, or have tested and certified, whether an Implementation is a CI; and

(iii)   create the derivative work(s) of the Sun-Licensed Test Suites that result from removing a test in accordance with Section 3.1 or changing or modifying *Exhibit B* pursuant to Section 2.1(b).

The foregoing license includes the right for CableLabs and Vendors to test Incomplete Implementations that are intended for delivery to an OpenCable Full Implementer. No other license is granted hereunder with respect to testing Incomplete Implementations.

(b)   Additional Limitations. Neither CableLabs nor any Vendor that sublicenses the Sun-Licensed Test Suites (as part of the OpenCable Conformance Requirements) is licensed hereunder to:

(i)   distribute the Test Suites to any third party except to another Vendor sublicensed hereunder or to a contractor as provided in Section 2.3(a) or Section 2.8;

(ii)   create derivative works of the Sun-Licensed Test Suites except as provided in Section 2.3(a)(iii), or except as otherwise provided by law; disassemble or decompile binary portions of the Sun-Licensed Test Suites or otherwise attempt to derive the source code from such portions; or

(iii)   develop other test suites intended to validate compatibility with the Sun-Licensed Java Specifications.

2.4   Essential Sun Patent Claims. Sun hereby agrees not to bring against CableLabs or any Vendor any claim alleging that its designing, developing, using, making, having made, selling, importing, or distributing a CI infringes any Essential Patent Claims owned or licensable by Sun or a Sun Affiliate ("Sun Essential Patent Claims"), *provided that* the foregoing obligation of Sun shall lapse as to CableLabs or any Vendor (including its assignee or successor) if CableLabs or such Vendor initiates a claim:

(a)   against any other Vendor or against CableLabs alleging that its using, making, having made, importing, selling, or distributing a CI infringes any Essential

Patent Claims of CableLabs or the Vendor making such allegation;

(b) against Sun alleging that its using, making, having made, importing, selling, or distributing the Sun-Licensed Materials in the Immunized Field, directly or indirectly (i.e., contributory or by means of inducement), infringes any Essential Patent Claims of CableLabs or the Vendor making such allegation; or

(c) against Sun alleging that Sun, given its status as the copyright owner of the Sun-Licensed Java Specifications, has, because of activities based on such Sun-Licensed Java Specifications in the Immunized Field, induced any other entity to infringe the Essential Patent Claims of CableLabs or the Vendor making such allegation.

Any lapse of the foregoing obligation of Sun shall apply only as to the party bringing the claim (i.e., only as to CableLabs if CableLabs brings the claim and only as to the particular Vendor if such Vendor brings the claim). For purposes of the foregoing, "Immunized Field" means using, making, having made, importing, selling, or distributing (i) CIs under authorization of CableLabs or any Vendor or (ii) other digital television implementations of the Sun-Licensed Java Specifications in accordance with the DVB MHP, ATSC DASE and other similar digital television initiatives, provided that the foregoing clause (ii) shall not apply as to CableLabs or a Vendor (i.e., the immunity of CableLabs or such Vendor under this Section 2.4 with respect to CIs shall not lapse notwithstanding the bringing of a claim by CableLabs or such Vendor related to using, making, having made, importing, selling, or distributing such other digital television implementations of the Sun-Licensed Java Specifications in accordance with the DVB MHP, ATSC DASE and other similar digital television initiatives) if Sun initiates a claim against CableLabs or such Vendor for such using, making, having made, importing, selling, or distributing of such other digital television implementations of the Sun-Licensed Java Specifications in accordance with the DVB MHP, ATSC DASE and other similar digital television initiatives.

2.5   CableLabs Condition. CableLabs may, at its option, require that all or any Vendors, as a condition to the extension to Vendors of all or any licenses or other rights hereunder, agree not to bring any such claim.

2.6   Scope of Immunity. The grant of immunity set forth in Section 2.4 concerning Sun Essential Patent Claims shall: (i) extend to any distributors, customers, users or suppliers of a CI (including Vendors of Incomplete Implementations licensed under this Agreement), whether or not the immunity with respect to the Vendor of such CI may subsequently lapse; and (ii) be binding on any assignee or successor to the Sun Essential Patent Claims. If a Vendor incorporates a CI in a device which performs functions in addition to those required of a CI, the foregoing grant of immunity shall be limited to the CI and to the technology reasonably required for use thereof, and not to any additional technology.

2.7   Maximum Royalty. In any event, including, without limitation, the lapse or inapplicability of the grant of immunity in Section 2.4 above, Sun shall, at CableLabs'

request, offer licenses under the Sun Essential Patent Claims to any Vendors with respect to using, making, having made, importing, selling, or distributing any CI, subject to payment of a royalty on hardware devices embodying the CI, which royalty shall not exceed one dollar ($1) per hardware unit.

2.8 Use of Contractors. CableLabs and its sublicensees hereunder may provide the source code of the Sun-Licensed Materials to a contractor for the limited purpose of assisting the contractor in performing services for CableLabs or such sublicensees to design, develop, test, and certify CIs. Such contractor must have executed an agreement with CableLabs and/or its sublicensees that is consistent with the rights and obligations of CableLabs and/or its sublicensees under this Agreement with respect to such Sun-Licensed Materials.

2.9 No Other Grant. Each party agrees that this Agreement does not grant any right or license, under any intellectual property rights of the other party, or otherwise, except as expressly provided in this Agreement, that no other right or license is to be implied by or inferred from any provision of this Agreement or by the conduct of the parties, and that the Sun-Licensed Materials are to be used by CableLabs solely for the purposes specified in this Agreement.

3.SELECTION, EVALUATION, AND DELIVERY.

3.1 Sun-Licensed Test Suites.

(a) Delivery. Sun will provide, deliver, or otherwise make available to CableLabs the Sun-Licensed Test Suites, within seventy-five (75) days after December 29,2000. In addition, Sun shall deliver the current version of the relevant Java language and Java virtual machine Test Suites to CableLabs for evaluation purposes, but pursuant to a separate, mutually agreeable Evaluation Agreement to be executed by the parties.

(b) Evaluation. Upon receipt of the Sun-Licensed Test Suites, and at any time thereafter, CableLabs, or its appointed representative or group, may evaluate and test the Sun-Licensed Test Suites, and any particular tests included therein, to determine whether, with respect to Implementations which implement in their entirety the Sun-Licensed Java Specifications then referenced by the OpenCable Specification, any particular tests included as part of the Sun-Licensed Test Suites: (i) compel or arbitrarily favor the use of one or more particular Vendor's Implementations over other Implementation(s) as a CI; or (ii) test for interfaces, functionality, features, or capabilities that are not required by the Sun-Licensed Java Specifications that are referred to by the OpenCable Specification. At any time during this evaluation, CableLabs may request from Sun additional source code, documentation and other material relating to the Sun-Licensed Test Suites to assist CableLabs, or its appointed representative or group, in this evaluation, such material not to be unreasonably withheld or delayed by Sun. CableLabs, or its appointed representative or group, shall notify Sun of any concerns found with the Sun-Licensed Test Suites based on this evaluation. Sun agrees to use commercially reasonable measures to address any such concerns, such measures to

include, without limitation, (A) within ten (10) days of notification of such concerns, a written statement to CableLabs containing an acknowledgement of such concerns and an assessment of the complexity of such concerns, and (B) within thirty (30) of notification of such concerns, a written report to CableLabs including (1) a detailed description of Sun's position regarding such concerns, and (2) if Sun concurs with such concerns, a detailed report for resolving such concerns, including, without limitation, an assessment of the work that Sun will perform to correct the test and a proposed timetable for the performance of the work necessary to correct the test. Upon receipt of such report, or if such report is not received within such thirty (30) day period, CableLabs may, in its sole and reasonable discretion, elect to (x) accept Sun's proposal and work in good faith with Sun toward a solution to its concerns, or (y) delete the offending test(s) or set(s) of tests from the OpenCable Conformance Requirements after first providing Sun a written explanation for the deletion. For the avoidance of doubt, and without limitation of the generality of CableLabs' rights to determine the OpenCable Specification, CableLabs may revise the OpenCable Specification to re-describe in the Open-Cable Name Space those features or functions in the Sun Name Space that are implicated by the offending test(s) or set(s) of tests and make any and all corresponding revisions to the OpenCable Conformance Requirements.

(c)   Cessation of Effort. If CableLabs deletes a Sun-provided test(s) or set(s) of tests from the OpenCable Conformance Requirements in accordance with the process and criteria described in Section 3.1(b), and if Sun declines to respond in good faith to CableLabs' requests (whether initial or follow-on) concerning or ceases to make any meaningful efforts to correct a test that both parties acknowledge to be flawed for either of the reasons stated in Section 3.1(b), then CableLabs may, upon first giving 30 days notice to Sun of CableLabs' decision, incorporate into the OpenCable Conformance Requirements a substitute, functionally equivalent test or set of tests that resolves the aforementioned flaws. CableLabs agrees to license any such CableLabs provided substitute test to Sun on an AS IS basis, and, to the extent CableLabs has the right to do so, at no charge and without restriction.

(d)   Inclusion. Subject to the terms of this Agreement, if CableLabs refers to the Sun-Licensed Java Specifications as part of the OpenCable Specification, CableLabs agrees to incorporate the Sun-Licensed Test Suites as part of the OpenCable Conformance Requirements, except for those particular tests or set(s) of tests that have been deleted or dropped pursuant to Section 3.1(b) above or those particular test(s) or sets of tests that are directed to testing portions of the Java Specifications no longer referenced by the OpenCable Specification as a result of changes or modifications made to *Exhibit B* pursuant to Section 2.1(b). In addition, and except as expressly provided in Section 3.1(c), CableLabs agrees not to incorporate as part of the OpenCable Conformance Requirements any third-party test suites that are designed to test compliance with the Sun-Licensed Java Specifications, except for derivative works of the Sun-Licensed Test Suites that result from removing a test in accordance with this Section 3.1 or from such changes or modifications made to *Exhibit B.*

3.2   Sun-Licensed Code.

**(a)	Delivery**. Sun will provide, deliver, or otherwise make available to CableLabs the Sun-Licensed Code, within thirty (30) days after the execution of this Agreement.

**(b)	Evaluation**. Upon receipt of the Sun-Licensed Code, and at any time thereafter, CableLabs, or its appointed representative or group, may evaluate and test the Sun-Licensed Code, to determine (i) the completeness of the Sun-Licensed Code and (ii) whether the Sun-Licensed Code is suitable for implementation against the OpenCable Specification. CableLabs, or its appointed representative or group, may notify Sun of any concerns found with the Sun-Licensed Code based on this evaluation. Sun shall not have any obligation, however, to act in response to the expression of such concerns by CableLabs. Sun and CableLabs agree that use of the Sun-Licensed Code is not required by this Agreement.

4.	**CERTIFICATION.**

CableLabs agrees that, in order to certify an Implementation as a CI, a Vendor must successfully pass the Sun-Licensed Test Suites then included in the OpenCable Conformance Requirements. Subject to the foregoing, Sun acknowledges that CableLabs is solely responsible for devising, administering and determining the OpenCable Conformance Requirements, provided that CableLabs in so doing shall use procedures and requirements reasonably designed to preserve the meaning of the term "Compliant Implementation" or "C.I."

5.	**UPDATES; ERROR CORRECTIONS.**

5.1	**Updates.**

**(a)	Sun-Licensed Test Suites**. If the Sun-Licensed Java Specifications have been updated or revised in accordance with Section 2.1, and if Sun has promulgated tests that correspond to such updates or revisions (whether or not in response to such updates or revisions), then Sun shall make such tests available to CableLabs subject to the provisions of Section 3.

**(b)	Sun-Licensed Code**. In the event that CableLabs changes the OpenCable Specification in accordance with Section 2.1, Sun may not unreasonably withhold updates or revisions to the Sun-Licensed Code that correspond to such changes. In addition, Sun agrees to make available to CableLabs any and all updates and revisions to the Sun-Licensed Code to the extent that Sun makes such updates and revisions available to other licensees of the Sun-Licensed Code.

5.2	**Error Corrections.**

**(a)	Sun-Licensed Test Suites**. Sun agrees to use commercially reasonable measures to find appropriate and timely corrections for any errors found in the Sun-Licensed Test Suites, inform CableLabs of such corrections, and make such corrections

available to CableLabs under the terms and conditions of this Agreement, whether or not notice of such Error Corrections was provided by CableLabs.

(b) **Sun-Licensed Code**. Sun agrees to make available to CableLabs Error Corrections to errors found in the Sun-Licensed Code to the extent that Sun makes such Error Corrections available to other licensees of the Sun-Licensed Code.

5.3 **No Requirement of Use**. Nothing in this Agreement shall require CableLabs or any Vendor to use or otherwise incorporate into the Sun-Licensed Materials sublicensed by CableLabs or the OpenCable Conformance Requirements, respectively, any updates, revisions or other modifications to the Sun-Licensed Materials made available by Sun under this Section 5. CableLabs agrees to implement any Error Corrections in accordance with the procedures for implementing changes to the OpenCable Conformance Requirements established by CableLabs, *provided, however,* that the foregoing shall not require CableLabs to impose any duty on Vendors to implement any Error Corrections to the Sun-Licensed Code.

6.   USE OF THE "JAVA" NAME.

Notwithstanding anything to the contrary in this Agreement, nothing in this Agreement will preclude any party from referring to the word "Java" and other Sun trademarks in any manner otherwise permitted under applicable law (i.e., does not, under applicable law, require a license from Sun).

7.   OWNERSHIP.

7.1 **OpenCable Specification; Sun-Licensed Java Specifications.** All intellectual property rights in and to the OpenCable Specification shall be held by CableLabs. Except as expressly set forth herein, all intellectual property rights in and to the Sun-Licensed Java Specifications shall remain with Sun. Sun acknowledges and agrees that CableLabs shall have sole discretion and control over the definition, development, and evolution of those portions of the OpenCable Specification that do not reference the Sun-Licensed Java Specifications. CableLabs does not grant, and Sun does not obtain, under this Agreement, any rights in or to the OpenCable Specification, in any form, and any reference(s) to the Sun-Licensed Java Specifications in the OpenCable Specification shall not grant Sun, by implication or otherwise, any rights, licenses, or covenants in or to the OpenCable Specification.

7.2 **Sun-Licensed Materials.** Except as expressly set forth herein, all intellectual property rights in and to the Sun-Licensed Materials shall remain with Sun. Sun reserves all rights not expressly granted to CableLabs and Vendors under this Agreement.

8.   TERM, TERMINATION, AND CERTAIN REMEDIES.

8.1 **Term.** The Term of this Agreement shall begin on the Effective Date and shall continue indefinitely unless terminated pursuant to this Section 8.

8.2   Termination of Agreement by CableLabs. CableLabs shall have the right to terminate this Agreement for any reason or no reason upon thirty (30) days written notice to Sun of its intention to do the same. In addition, Sun acknowledges that CableLabs may, in its sole discretion, remove in its entirety the reference in the OpenCable Specification to the Sun-Licensed Java Specifications. Such removal shall constitute termination of this Agreement by CableLabs. Sun shall have no right to terminate this Agreement with respect to CableLabs, except as provided in Section 8.3, and with respect to particular Vendors, except as provided in Section 8.5.

8.3   Termination of Agreement by Sun.

(a)   Grounds for Termination. Subject to the provisions of this Section 8.3, Sun shall have the right to terminate this Agreement with respect to CableLabs only if CableLabs breaches this Agreement or (with respect to clause (v) below) acts outside its scope as follows, and if such breach or action is willful, in bad faith and material: (i) discloses the Sun-Licensed Test Suites in source code form in breach of Section 9; (ii) deletes, drops or substitutes for a test or set(s) of tests from the OpenCable Conformance Requirements in breach of Section 3.1(d); (iii) fails to incorporate the Sun-Licensed Test Suites as part of the OpenCable Conformance Requirements in breach of Section 3.1(d); (iv) repeatedly abuses the process described in Section 3.1(b) for resolving disputes concerning the Sun-Licensed Test Suites; or (v) uses the Sun-Licensed Test Suites outside the scope of the license granted in this Agreement and uses such unlicensed use of the Sun-Licensed Test Suites as the basis for a claim (in a public statement, in a contractractual representation or warranty to a third party, or in a repeated and uncorrected reprsentation or claim made to a third party) that a product other than an Implementation successfully passes such Sun-Licensed Test Suites.

(b)   Response to Notice. Upon receiving notice from Sun of such a breach or (with respect to Subsection 8.3(a)(v) above) outside-the-scope action specified in Subsection 8.3(a), CableLabs shall use commercially reasonable efforts to remedy such breach or action within sixty (60) days, except with respect to breaches or actions which reasonably require more than sixty (60) days to remedy, in which case CableLabs shall use commercially reasonable efforts to remedy as soon as practicable thereafter (the "CableLabs Remedy Period"). Notwithstanding the foregoing, CableLabs shall not have such remedy obligation if CableLabs believes that the alleged breach or (with respect to Subsection 8.3(a)(v) above) outside-the-scope action did not occur, did occur but was not in breach of or (with respect to Subsection 8.3(a)(v) above) outside the scope of the license granted in this Agreement, or was not material. In such event, CableLabs shall respond to Sun's notice under this Section 8.3(b) within a reasonable time, not to exceedthirty (30) days, indicating CableLabs' belief.

(c)   Process for Termination. In any event, Sun may terminate this Agreement with respect to CableLabs only if there has been a final determination by a court of competent jurisdiction that such a breach or (with respect to Subsection 8.3(a)(v) above) outside-the-scope action specified in Subsection 8.3(a) did occur and was material, that CableLabs failed to use commercially reasonable efforts to remedy within

the CableLabs Remedy Period, and that the breach, action or failure to remedy was willful and in bad faith. Notwithstanding the foregoing, if a court of competent jurisdiction makes a final determination that such breach or (with respect to Subsection 8.3(a)(v) above) outside-the-scope action specified in Subsection 8.3(a) did occur and was material and that CableLabs failed to remedy during the CableLabs Remedy Period, but that CableLabs did not act willfully and in bad faith in connection with the breach, action or failure to remedy, then, if the court determines that a remedy is practicable, the court shall establish a remedial period during which CableLabs shall nonetheless be obligated to use commercially reasonable efforts to remedy such breach or (with respect to Subsection 8.3(a)(v) above) outside-the scope action. If CableLabs fails then to remedy such breach or (with respect to Subsection 8.3(a)(v) above) outside-the-scope action within the remedial period set by the court therefor, Sun shall be entitled to terminate this Agreement as to CableLabs.

(d)   **Injunctive Relief.** Nothing in this Section 8.3 shall preclude Sun from seeking injunctive relief to stop a breach of this Agreement (or action with respect to the Sun-Licensed Materials provided hereunder that is outside the scope of the licenses granted in this Agreement) while seeking to terminate this Agreement with respect to CableLabs, but the foregoing shall not be understood to prevent CableLabs or any other interested party from arguing that injunctive relief is not appropriate under the circumstances.

(e)   **No Other Right to Terminate.** Except as specifically provided in this Section 8.3, or as set forth in Section 8.5 with respect to CableLabs to the extent acting as a Vendor, Sun shall have no right to terminate this Agreement with respect to CableLabs. The remedies set forth in this Section 8.3 are the sole remedies of Sun for a breach of this Agreement.

8.4   **Consequences of Termination.**

(a)   **By CableLabs.** Upon termination of this Agreement by CableLabs pursuant to Section 8.2, CableLabs shall have a period of one hundred eighty (180) days during which CableLabs shall make such revisions to the OpenCable Specification as are necessary to remove the reference in the OpenCable Specification to the Sun-Licensed Java Specifications permitted under this Agreement from the OpenCable Specification (a "Transition Period"). During such Transition Period, CableLabs shall comply in all material respects with the terms of this Agreement. Upon the completion of such Transition Period, CableLabs shall: (i) return to Sun all copies of the Sun-Licensed Materials and other Confidential Information of Sun (collectively "Sun Property") in CableLabs' possession or control; or (ii) permanently destroy or disable all copies of the Sun Property in CableLabs' possession or control, except as specifically permitted in writing by Sun, and (iii) provide Sun with a written statement certifying that CableLabs has complied with the foregoing obligations.

(b)   **By Sun**. Upon termination of this Agreement by Sun pursuant to Section 8.3, CableLabs shall promptly: (i) return to Sun all copies of the Sun Property in

CableLabs' possession or control; or (ii) permanently destroy or disable all copies of the Sun Property in CableLabs' possession or control, except as specifically permitted in writing by Sun; and (iii) provide Sun with a written statement certifying that CableLabs has complied with the foregoing obligations. All rights and licenses granted to CableLabs shall terminate upon such termination.

(c) **No Effect on Vendors, etc**. Notwithstanding termination of this Agreement as to CableLabs, any sublicense or other rights granted to any Vendor, or any of its sublicensees, distributors, end users, or other customers, shall remain in full force and effect. If this Agreement is terminated as to CableLabs, Vendors sublicensed hereunder may designate entities to be successors to CableLabs under this Agreement, and Sun shall not unreasonably withhold or delay its consent to such designation. Upon such designation and consent, the successors shall (unless otherwise agreed by Sun and such successors) succeed to the rights and obligations of CableLabs hereunder.

8.5 **Sun Remedies for Noncompliance as to Vendors.**

(a) **Suspension of License**. Except as provided in Section 8.5(b) with respect to certain breaches and/or actions as specified therein, if a Vendor (or CableLabs when, and only to the extent it is, acting as a Vendor, in which case the term "Vendor" as used in this Section 8.5 shall include CableLabs) (i) materially breaches any of its material obligations under its sublicense agreement with CableLabs concerning the Sun-Licensed Java Specifications or the Sun- Licensed Materials, or (ii) uses the Sun-Licensed Java Specifications or the Sun-Licensed Materials materially outside of the scope of the corresponding licenses granted herein, and if such Vendor fails within ninety (90) days of receiving notice from Sun to remedy the breach or (with respect to clause (ii) above) outside-the-scope actions (or with respect to breaches or actions which reasonably require more than ninety (90) days to remedy, fails to remedy the breach or actions as soon as practicable thereafter), then Sun may: (A) suspend the license and rights granted to such Vendor under this Agreement, solely with respect to Implementations of such Vendor in breach of or (with respect to clause (ii) above) outside the scope of this Agreement, and only until Vendor remedies the breach or (with respect to clause (ii) above) action in question; and (B) seek any remedies (including injunctive relief) against such Vendor available under applicable law with respect to such breaching or outside-the-scope Implementations during the period of non-compliance; provided, however, that any sublicensees, distributors, end users or other customers of such Vendor may continue to reproduce, use, make, reproduce, sell, import, distribute or transmit any CI already received from such Vendor as of the date on which such Vendor's licenses and rights hereunder were suspended or otherwise limited pursuant to this Section 8.5(a).

(b) **Termination**. Subject to the provisions of this Section 8.5(b), Sun shall have the right to terminate this Agreement with respect to a Vendor only if such Vendor breaches this Agreement or (with respect to clause (ii) below) acts outside its scope as follows, and if such breach or action is willful, in bad faith and material: (i) discloses the Sun-Licensed Test Suites in source code form in breach of Section 9; or (ii) uses the Sun-Licensed Test Suites outside the scope of the license granted in this Agreement and uses

such unlicensed use of the Sun-Licensed Test Suites as the basis for a claim (in a public statement, in a contractractual representation or warranty to a third party, or in a repeated and uncorrected reprsentation or claim made to a third party) that a product other than an Implementation successfully passes such Sun-Licensed Test Suites. Upon receiving notice from Sun of such a breach or (with respect to clause (ii) above) action outside the scope of the license granted in this Agreement, the Vendor shall use commercially reasonable efforts to remedy such breach or action within sixty (60) days, except with respect to breaches or actions which reasonably require more than sixty (60) days to remedy, in which case the Vendor shall use commercially reasonable efforts to remedy as soon as practicable thereafter (the "Vendor Remedy Period"). Notwithstanding the foregoing, the Vendor shall not have such remedy obligation if it believes that the alleged breach or (with respect to clause (ii) above) action outside the scope did not occur, did occur but was not in breach of or (with respect to clause (ii) above) outside the scope of the licenses granted in this Agreement, or was not material. In such event, the Vendor shall respond to Sun's notice under this Subsection 8.5(b) within a reasonable time indicating the Vendor's belief. In any event, Sun may terminate this Agreement with respect to a Vendor only if there has been a final determination by a court of competent jurisdiction that such a breach or (with respect to clause (ii) above) outside-the-scope action specified in this Section 8.5(b) did occur and was material, that the Vendor failed to engage in commercially reasonable efforts to remedy within the Vendor Remedy Period, and that the breach, action or failure to remedy was willful and in bad faith. Notwithstanding the foregoing, if a court of competent jurisdiction makes a final determination that such breach or (with respect to clause (ii) above) outside-the-scope action specified in this Section 8.5(a) did occur and was material and that the Vendor failed to remedy during the Vendor Remedy Period, but that the Vendor did not act willfully and in bad faith in connection with the breach, action or failure to remedy, then, if the court determines that a remedy is practicable, the court shall establish a remedial period during which the Vendor shall nonetheless be obligated to use commercially reasonable efforts to remedy such breach or (with respect to clause (ii) above) action outside the scope. If the Vendor fails then to remedy such breach or (with respect to clause (ii) above) action outside the scope within the remedial period set by the court therefor, Sun shall be entitled to terminate this Agreement as to the Vendor. Nothing in this Section 8.5 shall preclude Sun from seeking injunctive relief to stop a breach of this Agreement (or action with respect to the Sun-Licensed Materials provided hereunder that is outside the scope of the licenses granted in this Agreement) while seeking to terminate this Agreement with respect to the Vendor, but the foregoing shall not be understood to prevent the Vendor or any other interested party from arguing that injunctive relief is not appropriate under the circumstances. Except as specifically provided in this Section 8.5, Sun shall have no right to terminate this Agreement with respect to a Vendor.

8.6   No Liability for Expiration or Lawful Termination. Neither party shall have the right to recover damages or to indemnification of any nature, whether by way of lost profits, expenditures for promotion, payment for goodwill or otherwise made in connection with the business contemplated by this Agreement, due to the lawful termination of this Agreement. EACH PARTY WAIVES AND RELEASES THE OTHER

FROM ANY CLAIM TO COMPENSATION OR INDEMNITY FOR LAWFUL TERMINATION OF THE BUSINESS RELATIONSHIP UNLESS TERMINATION IS IN MATERIAL BREACH OF THIS AGREEMENT.

8.7   No Waiver. The failure of either party to enforce any provision of this Agreement shall not be deemed a waiver of that provision. The rights of Sun and CableLabs under this Section 8 are in addition to any other rights and remedies permitted by law or under this Agreement, *provided that* Sun shall have no right to terminate or seek relief under applicable law (including injunctive relief) with respect to the rights granted herein, except as expressly provided in this Section 8.

9.   NONDISCLOSURE.

9.1 Public Announcements.   Each of the parties agrees not to make any public announcements or engage in any advertising or promotion with respect to this Agreement without prior written approval of the other.

9.2   Confidential Information.   For the purposes of this Agreement, ''Confidential Information'' shall include the Sun-Licensed Materials, in source code form, as well as any similar materials related thereto that are claimed to be of value to Sun and are clearly marked as "Confidential" or a similar expression, and any materials that are claimed to be of value to CableLab that are similarly marked. This Agreement imposes no obligation upon the receiving party with respect to, and "Confidential Information" shall not be deemed to include, information which:

(a)   was in the possession of, or was known by, the receiving party prior to its receipt from the disclosing party, without an obligation owed to the disclosing party to maintain its confidentiality;

(b)   is or becomes generally known to the public without violation of this Agreement;

(c)   is obtained by the receiving party from a third party, without an obligation owed to the disclosing party to keep such information confidential; or

(d)   is independently developed by the receiving party (i.e., without use of the Confidential Information of the disclosing party).

9.3   Preservation of Confidentiality. CableLabs agrees that, except as permitted under Sections 2 and 3 hereof, it shall use reasonable care to keep the Confidential Information strictly confidential and not disclose it to any other person except to its employees and contractors (who under the terms of their employment by or contract with CableLabs are subject to an obligation not to disclose confidential information of CableLabs and its licensors) who have a "need to know" for the purposes of this Agreement. Sun shall take the same precautions with respect to Confidential Information of CableLabs.

9.4   Standard of Care. Each party shall protect the other's Confidential Information with the same degree of care as it normally uses in the protection of its own confidential and proprietary information, but in no case with any less degree than reasonable care.

9.5   Residual Knowledge. This Agreement is not intended to prevent those employees or contractors of CableLabs and its sublicensees to whom Confidential Information is disclosed pursuant to this Agreement from using Residual Knowledge subject to any applicable valid patents, copyrights, and semiconductor mask rights. Residual Knowledge means ideas, concepts, know how or techniques related to the disclosing party's technology that are retained in the unaided memories of the receiving party's employees or contractors who have had access to information. An employee's or contractor's memory will be considered unaided if the employee has not intentionally memorized the information for the purpose of retaining and subsequently using or disclosing it. The foregoing shall not constitute the grant of a right or license to use the Residual Knowledge from the source code for the Sun-Licensed Test Suites to develop test suites intended to be licensed commercially to validate compatibility with the Sun-Licensed Java Specifications (for purposes of clarification, Sun acknowledges and agrees that this exception to the use of Residual Knowledge shall not apply to the development of test suites as development tools that are only for internal use by CableLabs, Vendors, other sublicensees, or its or their contractors).

9.6   Sublicense Agreements. Any sublicense agreements entered into by CableLabs with Vendors pursuant to Sections 2.2 and 2.3 shall be no less protective of Sun's interests in Confidential Information than this Section 9.

10.   WARRANTIES; DISCLAIMER.

THE SUN-LICENSED MATERIALS ARE LICENSED "AS IS" AND ALL REPRESENTATIONS AND WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, ARE HEREBY DISCLAIMED.

11.   LIMITATION OF LIABILITY.

12.1 11.1SUBJECT TO SECTION 11.2 BELOW, IN NO EVENT SHALL ANY PARTY (INCLUDING CABLELABS, SUN, ANY CABLELABS MEMBER, OR ANY OTHER VENDOR) BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES IN CONNECTION WITH OR RELATING TO THIS AGREEMENT (INCLUDING LOSS OF PROFITS, USE, DATA, OR OTHER ECONOMIC ADVANTAGE), NO MATTER WHAT THEORY OF LIABILITY, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OR PROBABILITY OF SUCH DAMAGES. FURTHER, LIABILITY FOR SUCH DAMAGES SHALL BE EXCLUDED, EVEN IF THE EXCLUSIVE REMEDIES PROVIDED FOR IN THIS AGREEMENT FAIL OF THEIR ESSENTIAL PURPOSE. IN ANY EVENT, AND AGAIN SUBJECT TO SECTION 11.2 BELOW, THE

AGGREGATE LIABILITY IN CONNECTION WITH OR RELATING TO THIS AGREEMENT, WHETHER IN TORT, CONTRACT, OR OTHERWISE, SHALL BE LIMITED TO TEN THOUSAND DOLLARS ($10,000) FOR CABLELABS, THREE MILLION DOLLARS ($3,000,000) FOR CABLELABS MEMBERS, AND FIVE MILLION DOLLARS ($5,000,000) FOR OTHER VENDORS AND FOR SUN.

11.2 The foregoing limitations on liability (both nature of the claim and amount) shall not apply:

(a) in the case of such Vendors, to a claim against a Vendor arising from a disclosure by such Vendor of the Sun-Licensed Test Suites in source code form in breach of Section 9 or from the use by such Vendor of the Sun-Licensed Test Suites outside the scope of the license granted in this Agreement where such unlicensed use of the Sun-Licensed Test Suites is the basis for a claim (in a public statement, in a contractual representation or warranty to a third party, or in unauthorized, repeated and uncorrected representation or claim made to a third party) that a product other than an Implementation successfully passes such Sun-Licensed Test Suites, if (and only if) a court of competent jurisdiction makes a final determination that such breach or actions by the Vendor were willful, in bad faith and material, and then only to the extent the court finally determines that, if such limitations were to apply, it could not fashion an effective remedy for such breach or actions; and

(b) in the case of Sun, to a claim against Sun arising from a breach of Sections 3.1(a), 3.2(a) or 9 of this Agreement, if (and only if) a court of competent jurisdiction makes a final determination that such breach by Sun were willful, in bad faith and material, and then only to the extent the court finally determines that, if such limitations were to apply, it could not fashion an effective remedy for such breach or actions. The provisions of this Section 11 allocate the risks under this Agreement between the parties, and the parties have relied upon the limitations set forth herein in determining whether to enter into this Agreement.

12. ADDITIONAL TERMS.

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

12.2 Entire Agreement; Amendment. This Agreement, including Exhibits A through C, which are hereby incorporated into and made a part of this Agreement, constitutes the final, complete and exclusive statement of the agreement between the parties with respect to the subject matter hereof (i.e., the limited licenses and non-

assertion covenants set forth in Section 2 hereof, and the obligations associated therewith as set forth herein, with respect to implementations of the Sun-Licensed Java Specifications referenced by the OpenCable Specification), and supersedes any previous proposals, negotiations, agreements, letters of intent, arrangements or warranties, whether oral or written, made between the parties with respect to such subject matter. This Agreement may be modified only by mutual agreement in writing of the authorized representatives of the parties. Without limitation of the generality of the foregoing, nothing in any "click wrap," "shrink wrap" or other agreement shall limit or condition the licenses or rights granted to CableLabs, the Vendors, or other sublicensees with respect to the subject matter of this Agreement. Sun further acknowledges that CableLabs shall have the right to extend sublicenses to any Vendor to the extent expressly authorized by this Agreement, notwithstanding any prior agreement existing between such Vendor and Sun as of the Effective Date of this Agreement.

12.3   Equitable Relief. Subject to Section 8, in the event of an actual or threatened breach of this Agreement, the parties acknowledge and agree that the non-breaching party could not be adequately compensated for such a breach. Therefore, the non-breaching party will be entitled, without waiving any other rights and remedies and without obligation to post a bond, to such injunctive or equitable relief as may be deemed proper by a court of competent jurisdiction.

12.4   Force Majeure. If the performance of this Agreement or any obligation hereunder (other than the payment of money) is prevented, restricted or interfered with by any act or condition whatsoever beyond the reasonable control of the affected party, the party so affected will be excused from such performance to the extent of such prevention, restriction or interference.

12.5   Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of New York as applied to agreements made, entered into and performed entirely in New York and solely by New York residents.

12.6   Notices. All notices, requests and other communications under this Agreement must be in writing and delivered to the addresses set forth above or as otherwise provided by hand, certified mail (return receipt requested), or fax (provided that a hard copy of the facsimile transmission is mailed within three (3) days after transmission). Notices shall be deemed effective one (1) business day after being sent by a recognized overnight courier, three (3) business days after dispatch if by certified mail, and one (1) business day after confirmation of receipt of fax. If executive management of either party has actual knowledge that a breach of the Agreement has occurred, it shall notify the other party of such breach. The foregoing shall not constitute an admission by either party that such action is in breach of this Agreement.

12.7   Severability. If any provision of this Agreement is held to be invalid or unenforceable for any reason, the remaining provisions will continue in full force without being impaired or invalidated in any way, and the parties agree to replace any

invalid provision with a valid provision which most closely approximates the intent and economic effect of the invalid provision.

12.8   Third Party Beneficiaries. The parties acknowledge that:(i) the parties intended as beneficiaries of the rights, licenses, covenants, limitations, and other terms and conditions granted by Sun under this Agreement are CableLabs and Vendors; and (ii) the party intended as the beneficiary of the limitations and other obligations set forth herein in association with such rights, licenses and covenants is Sun.

12.9   No Waiver. No term or provisions hereof shall be deemed waived, and no breach excused, unless such waiver or consent is in writing and signed by the party claimed to have waived or consented. The waiver by either party of a breach of any provision of this Agreement will not operate or be interpreted as a waiver of any other or subsequent breach.

12.10   Relationship of the Parties. Nothing in this Agreement should be construed to create a partnership, agency, joint venture, or employer-employee relationship between or among any of the parties, including the third party beneficiaries. Neither party has the authority to assume or create any obligation, express or implied, on behalf of the other.

12.11   Exercise of Rights. The parties and acknowledge and agree that the licenses, covenants and other rights granted hereunder include the right of the grantees to have such rights exercised on their behalf (e.g., a license to make includes the right to have made, a right to reproduce includes the right to have reproduced, etc.). In addition, the parties acknowledge and agree that, to the extent the distribution or transmission of CIs or Sun-Licensed Code in executable form may be deemed a public performance, public display, broadcast or exercise of another exclusive right of a rights holder, the right to distribute or transmit hereunder shall include the right to publicly perform, publicly display, broadcast or exercise such other right.

12.12   No Effect on or of Applicable Law Rights. Nothing in this Agreement shall limit or condition any right that CableLabs, any Vendor, or any other sublicensees may have under applicable law or under any other agreement with Sun.

IN WITNESS WHEREOF, the undersigned have caused this amended Agreement to be executed by their respective authorized representatives.

CABLE TELEVISION LABORATORIES, INC.   SUN MICROSYSTEMS, INC.

By: _____   By: _____

Title: _____   Title: _____

Date: _____   Date: _____

EXHIBIT A
SUN-LICENSED CODE

Sun Java Byte Code Verifier in Java and/or C/C++ language source code form

Sun Class File Parser in Java and/or C/C++ language source code form

EXHIBIT B

Sun-Licensed Java Specifications

The following API signatures constitute the Sun Licensed Java Specification referenced by the OpenCable Software Specification (v. ___) pursuant to the Amended and Restated Java License Agreement ("Agreement", and to which this document is Exhibit B). In most cases the granularity of this list is at the level of Java packages (as specified in "The Sun Specifications for DVB" ISBN 1-892488-25-6), in which case the entire package is listed. With respect to the OEM Personal Java^{TM} Application Environment v. 1.2a Specification, however, the description is more precise indicating specific elements in the Java package that are included within the Sun-Licensed Java Specifications.

Java TV API version 1.0 specification
      javax.tv.graphics   javax.tv.locator
      javax.tv.media   javax.tv.net
      javax.tv.service   javax.tv.service.guide
      javax.tv.service.navigation   javax.tv.service.selection
      javax.tv.service.transport   javax.tv.util
      javax.tv.xlet

Java Media Framework API version 1.0 specification
      javax.media   javax.media.protocol

Java Secure Socket Extension version 1.0.2 specification
      javax.net   javax.net.ssl
      javax.security.cert

The OEM Personal Java Application Environment version 1.2a specification
      java.awt   java.awt.event
      java.awt.image   java.io
      java.lang   java.lang.reflect
      java.math   java.net
      java.rmi   java.security
      java.security.cert   java.security.spec
      java.util   java.util.zip

The contents of these packages are as specified in the sections of the PJAE 1.2a specification entitled "JAE 1.1.8 API Specification" and "JAE 1.1.8 API Constants", except for:

The package java.security
The package java.security.spec
The package java.security.cert
The class java.lang.SecurityManager
The method java.awt.Toolkit.createImage(java.lang.String)

The method java.awt.Toolkit.createImage(java.net.URL)
The method java.awt.Toolkit.getImage(java.lang.String)
The method java.awt.Toolkit.getImage(java.net.URL)
The class java.io.FilePermission
The class java.io.SerializablePermission
The class java.lang.RuntimePermission
The class java.util.PropertyPermission
The class java.net.SocketPermission

These elements are as specified or Personal Java in the "The OEM Specification for the Personal JavaTM Application Environment (PJAE) Version 1.2a."

The exact elements for the PJAE packages are as set forth in Appendix 1 to this Exhibit B.

EXHIBIT C
Terms of Use

READ THESE TERMS OF USE CAREFULLY BEFORE DOWNLOADING THE SUN-LICENSED JAVA SPECIFICATIONS. BY CLICKING ON THE ACCEPT BUTTON BELOW, YOU ARE ACCEPTING AND AGREEING TO ABIDE BY THESE TERMS OF USE. IF YOU ARE AGREEING TO THESE TERMS OF USE ON BEHALF OF A COMPANY, YOU REPRESENT THAT YOU ARE AUTHORIZED TO BIND THE COMPANY TO THE TERMS OF USE. IF YOU DO NOT AGREE TO ANY OF THE TERMS OF USE, CLICK ON THE REJECT BUTTON AND EXIT NOW.

I acknowledge that I may view, download, use and reproduce the Sun-Licensed Java Specifications from this site only for the purposes of evaluation, except that if I or the company I represent has an agreement with CableLabs concerning the OpenCable Specification, my rights and obligations with respect to the Sun-Licensed Java Specifications shall be as set forth therein. No license is granted hereunder for any other purpose.

ACCEPT LICENSE   REJECT LICENSE AND EXIT