



AACS LA, LLC

Evaluation of Proposed Digital Outputs and Secure Recording Technologies

A. Process and Procedure

AACS LA, LLC welcomes the addition of technologies for use with AACCS protected content. Any party desiring to obtain approval of digital output technologies on Table D1 (as AACCS Authorized Digital Outputs), or secure recording technologies on Table C1 (as AACCS Authorized Copying Methods) under the AACCS LA, LLC Compliance Rules may do so by submitting an application containing detailed information, sufficient to allow AACCS LA, LLC to evaluate all aspects of the technology and its associated license terms to determine suitability for receiving and maintaining the security of Digital Commercial Entertainment Content protected using the AACCS Technology.

Technology proponents are advised that the review process is intended to be objective and will be based on the criteria set forth in Section 2 below, but must also understand that the review of proposed technologies and their associated legal and enforcement mechanisms is a complex multi-disciplinary exercise that requires AACCS LA, LLC to exercise judgment in many instances.

To enable consideration an applicant must provide at least the minimum information set forth in Section 3 below. Applicants are invited to provide any additional relevant information which the applicant believes may assist the AACCS LA, LLC in evaluating the technology or its license terms. AACCS LA, LLC will consider, on a case by case basis, where appropriate reasonable requests for non-disclosure of certain information submitted in support of an application (*e.g.*, 3d party security review, information concerning volume of licensing, etc.).

All capitalized terms used herein have the same meaning as set forth in AACCS Approved Licenses.

B. Evaluation Criteria

AACS LA, LLC will evaluate all submissions in a reasonable, objective and non-discriminatory manner.

1. Decisions will be based on an assessment of the degree to which the proposed technology offering as a whole, including both technical and licensing aspects, will robustly maintain the security of Commercial Entertainment Content protected by the AACCS Technology after it is passed to the proposed technology, and will not compromise or interfere with the integrity or security of the AACCS Technology, taking into account the following criteria.

- a. the extent to which the technology will avoid impairing interoperability with respect to the exchange of AACCS Content among Licensed Products
- b. the extent to which the technology is licensed under agreements which implement requirements that provide a level of protection consistent with the requirements of the Compliance and Robustness Rules set forth in the most current version of the AACCS Adopter Agreement, including with respect to maintaining the protection of AACCS Content through authorized digital, analog and high definition analog outputs, and prohibiting unauthorized retransmission of AACCS Content over wide area networks and the Internet;
 - i. the extent to which if the technology so permits, the license agreement provides for a right of revocation or for renewability in appropriate circumstances;
 - ii. the extent to which legal recourse is potentially available in case of circumvention of the technology by persons other than licensees;
 - iii. the manner in which effective remedies and enforcement means are available, potentially including legal recourse on the part of persons other than the licensor, for breaches of the license agreement and associated compliance and robustness requirements;
- c. copy control information / usage rules that may be defined and mapped in Table C1 or Table D1 for the technology, and where the technology supports outputs to other secure technologies or permitted non-secure output technologies (*e.g.*, analog video outputs), the manner in which the technology carries forward the copy control information / usage rules;
- d. where the technology is proposed for approval as an AACCS Authorized Copying Method, the means by which the technology provides for security for the making of permissible copies;
- e. where the technology is proposed for approval as an AACCS Authorized Copying Method for recording to removable media, the means by which the technology provides that removable recorded media will maintain the required level of protection when played back on an implementation other than the implementation upon which the recording was made;
- f. where the technology supports outputs to other secure technologies, the extent to which the process and criteria for becoming an approved output ensure protection against reductions in security for AACCS Content or

compromise of or interference with the process and criteria applied by AACCS LA LLC for approving outputs to other secure technologies;

- g. the extent to which there is an appropriate process to manage changes to the technology or its licensing terms so that they do not diminish the protections afforded to AACCS Content, potentially including involvement of persons other than the licensor;
 - h. the extent to which the license provides, or the licensor commits, that future changes to the technology specification(s), or amendments to the license, including side letters or waivers, that would affect the license terms and conditions in effect at the time of approval by AACCS LA, will not diminish the protections afforded to AACCS Content, as described above;
 - i. the extent to which the license provides for analog output sunsets consistent with those of AACCS.
2. Applicants proposing their technologies for digital/view only output must, in addition, satisfy the following criteria:
- a. the technology must prohibit analog output of AACCS Content, and output to downstream digital outputs that in turn would allow analog output.
3. Applicants proposing technologies for approval as AACCS Authorized Copying Methods must, in addition, satisfy the following criteria:
- a. The candidate technology must not, now or in the future, impose any non-optional royalty, fee, or other consideration from a Content Producer, Content Provider or Managed Copy Service Provider attributable to the production of AACCS Licensed Content Products or the offering, authorization and making of copies of the content on such products as required under the terms of any AACCS Approved License, or from an AACCS Founder or AACCS-LA attributable to the administration and promulgation of any AACCS Approved License. Note that this requirement does not preclude a technology that is licensed in such a manner with respect to Content Producers or Content Providers from being used to make copies as a Content Owner Authorized Copying Method listed on Table C2 under the AACCS LA LLC Compliance Rules.
 - b. The candidate technology must, where a copy of content protected by the technology pursuant to the proposed Baseline Copy Authorization rights mapping is made at above 415k Resolution, provide a level of security for such copy that is comparable to that provided by AACCS.

- c. The candidate technology must, where a copy of content protected by the technology pursuant to the proposed Baseline Copy Authorization rights mapping is permitted to be Moved between devices, permit such Move only where the devices are determined to be within the same home or personal environment (i) by using localization methods of DTCP or other reasonable and similarly effective localization methods or (ii) by using reasonable and robust technical means, such as, without limitation, where both devices are under the control of an individual or a group of associated individuals, forming a household, where the devices are verifiable through reasonable and robust technical means to be under such control.¹
- d. The candidate technology must provide for enforcement of any copy control information / usage rules that may be defined and mapped in Table C1 for the technology.
- e. The candidate technology must, where a copy of content protected by the technology pursuant to the proposed Baseline Copy Authorization rights mapping is permitted to be Moved, restrict the destination of such Move
 - i. at above 415K Resolution to AACS Authorized Copying Methods designated on Table C1 as being authorized for copying at above 415K Resolution or technologies that are otherwise approved by AACS LA in writing for such purpose,
 - ii. at 415K Resolution or below is limited to technologies listed on Table C1 or technologies that are otherwise approved by AACS LA in writing for such purpose.

¹ For the avoidance of doubt, as used in AACS documents, including in this document (*e.g.*, in paragraphs 3(c) and 3(e), above) the word “Move” has a specific meaning, which is provided in the AACS Compliance Rules and, for convenience, set forth as follows: Move is a process by which:

- i. content that is usable by only a first device is effectively rendered unusable by that device and is rendered usable by only one other device, only in such manner that the content is never simultaneously usable by both devices; or
- ii. content that is usable by only a given device is effectively rendered unusable by that device and is rendered usable in association with only a single instance of Removable Storage Medium, only in such manner that the content is never simultaneously usable both by the device and in association with such instance of Removable Storage Medium (except where such instance of Removable Storage Medium is reinserted in such device to render such content useable in association with such Removable Storage Medium); or
- iii. content that is usable in association only with a first single instance of Removable Storage Medium is rendered unusable in association with that instance of Removable Storage Medium and is rendered usable in association with another single instance of Removable Storage Medium, only in such manner that the content is never simultaneously usable in association with both instances of Removable Storage Media; or
- iv. content that is usable in association only with a single instance of a given Removable Storage Medium is rendered unusable in association with that instance of Removable Storage Medium and is rendered usable by a single device, only in such manner that the content is never simultaneously usable both in association with the instance of Removable Storage Medium and by the device (except where such instance of Removable Storage Medium is reinserted in such device to render such content useable by such device).

For purposes of this definition, “usable” shall mean playable and (where applicable) movable; and “unusable” shall mean neither playable nor movable.

- f. The technology meets the criteria for inclusion on Table W.
4. In addition to the foregoing criteria, AACCS LA LLC will also take into account any evidence that may be provided of commercial acceptance as follows, provided that commercial acceptance, standing alone, cannot serve as a substitute for substantial satisfaction of the criteria above:
- a. the extent to which there is commercial support for the technology and licensing terms and conditions from AACCS Content Participants, Adopters;
 - b. evidence of support for the technology and licensing terms and conditions from:
 - i. major motion picture companies, including members of the MPAA, in the case of technology used to protect audiovisual works;
 - ii. major sound recording labels, including members of IFPI or the RIAA, in the case of technology used to protect only sound recordings;
 - iii. manufacturers interested in implementing both the proposed technology and AACCS; and
 - iv. approval as an output or recording method by other content protection licensing entities, providers, standards bodies or government agencies.
5. Technology proprietor must be willing to enter a letter in the form as attached. If a technology is approved for use with AACCS protected content, it will be added to the appropriate Sections of the Compliance Rules.

C. Elements of Submission

Applicants should specify whether they are proposing their technologies for digital output, secure recording, or both. Applicants should specify whether they are proposing their technology for digital/view only output. AACCS LA, LLC requests the submission of the following information to the extent available to assist in the evaluation according to the criteria set forth in Section 2 above.

1. License Information

Applicants should submit all relevant licensing information, including, where available, an executable adopter licenses and copies of agreements applicable to other relevant

parties such as content participants. The following essential license information should be provided:

- a. whether royalty and/or administrative fees would be applicable to AACS Content Participants and Adopters as a result of approval of the proposed technology where such AACS Content Participants and Adopters are not themselves implementing the technology;
- b. scope of use (*e.g.*, whether the technology is licensed for use for the purpose the applicant is submitting it; whether the technology may be used with content other than Digital Entertainment Content in a manner that may pose a risk to AACS protected content);
- c. any additional rights relevant to the criteria in Section 2 above granted to licensees or other parties, including any provisions concerning the ability to make changes to the technology or license terms that are related to protection of content, including information on process;
- d. any rules applicable to use of the technology by adopters or content participants (*e.g.*, encoding rules, proper use);
- e. ability to revoke technology implementations, including process and terms for such revocation;
- f. ability to renew technology implementations, including process and terms for such renewal;
- g. confidentiality obligations as they pertain to protection of content or cryptographic values used by the technology;
- h. remedies and other enforcement provisions, including termination;
- i. compliance and robustness requirements;
- j. process for approving downstream output technologies;
- k. any other licensing information that may be relevant to AACS LA's evaluation of the proposed technology.

2. Technology Information

Applicants should submit sufficient information to demonstrate the above criteria are met, and include relevant technical information, including:

- a. complete specifications (version 0.9 or higher) which should include:

- i. detailed block diagrams illustrating security architecture
 - ii. detailed information concerning algorithms used, and third party licenses (if any) applicable to the evaluation thereof or to the use thereof, to the extent such license terms pertain to security
- b. detailed information concerning how keys and other secrets are required to be protected during cryptographic calculations, and how the content protection elements of the technology are required to be protected from modification;
- c. detailed information concerning how key revocation is carried out;
- d. information on how the technology is designed to prevent or respond to potential attacks, including, if appropriate, threat analyses or information about commercial use and response to any attempts at circumvention.

3. Mapping And Rights And Restrictions Specific To AACCS

Applicants must submit a proposed rights mapping between AACCS and the proposed technology, together with any associated restrictions and obligations to be set forth in association with the proposed technology, as part of its listing on Table D1 or Table C1 of the AACCS Compliance Rules. In the case of a technology proposed for listing on Table C1 (as an AACCS Authorized Copying Method), the rights mapping must correspond to a Baseline Copy Offer including the associated Default Permissions, Restrictions, and Obligated Resolutions. In all cases, proposed rights mappings shall have the effect of maintaining rights equivalent to or more restrictive than those of the original AACCS content. Applicant should also describe any associated restrictions and obligations that will be added to the proposed technology's licensing terms and compliance rules to ensure compliance with AACCS Compliance Rules.

4. Commercial Acceptance

Applicants should submit information concerning commercial acceptance of the technology and its associated license terms by content owners and adopters. Applicants are also encouraged to submit information regarding acceptance of its technology as an approved output by other content protection licensing entities, providers, standards bodies or government agencies, as well as information regarding any rejection for or rescission of such approval(s), or any conditions imposed with respect to such approval(s).



[Date]

[Technology Owner]
[Address]
[Address]
[City, [State][Province], Country, Zip Code/Postal Code]

Dear:

RE: Notice of Approval & Approval Restrictions, Conditions and Processes

AACS has reviewed the request by [Technology Owner] for AACS LA to approve [MCOT] [Digital Output Technology] as an [AACS Authorized Copying Method] [AACS Authorized Digital Output] for listing on [Table C1] [Table D1] of the AACS Final Adopter Agreement. AACS has reviewed this request in accordance with the revised AACS Evaluation of Proposed Digital Outputs & Secure Recording Technologies, (hereinafter “AACS Evaluation Criteria”) which shall be posted on the AACS website shortly and is attached hereto.

Based on the information provided by [Technology Owner], and representations made to AACS by [Technology Owner] during the course of the review by AACS [Technology Information], AACS is prepared to grant approval to [MCOT] [Digital Output Technology] subject to the further restrictions, conditions and processes set forth in this Notice.

[Technology Owner] shall provide AACS with notice of any material change to the Technology Information.

[Technology Owner] shall make commercially reasonable and good faith efforts to investigate allegations of non-compliance with its license requirements, including but not limited to compliance and robustness rules (including without limitation as they implement the requirements of the AACS Evaluation Criteria) and, where it finds non-compliance as a result of such investigations, shall make commercially reasonable and good faith efforts to enforce such requirements with regard to the affected products.

[Technology Owner] further acknowledges and agrees that the restrictions, conditions and processes set forth [below shall apply to [MCOT] [in Sections 1, 3, and Appendix 1 shall apply to [Digital Output Technology]]. Capitalized terms not defined below shall have the same meaning as set forth in the AACS Approved Licenses.

1. **Certain Definitions.**

- 1.1 “Delist” means (a) with respect to an AACS Authorized Copying Method (as identified by the affected MCOT ID(s)), to cease to require an Authorization of a Managed Copy to such MCOT pursuant to the Mandatory MC Obligations and, accordingly, to move such MCOT from Table C1 to Table C2 of the Compliance Rules, and (b) with respect to

an AACS Authorized Digital Output, to prohibit Licensed Products Produced after the date of Delisting to pass any AACS Content through such Output, and accordingly, to remove such Output from Table D1 of the Compliance Rules and (c) in each case, to require that such MCOT or Output, as applicable, undergo the approval process in order to be reinstated on Table C1 or Table D1, respectively.

- 1.2 “Suspend” means, with respect to an AACS Authorized Copying Method (as identified by the affected MCOT ID(s)), (a) to cease to require an Authorization of a Managed Copy to such MCOT pursuant to the Mandatory MC Obligations, and, accordingly, to issue a notice that such MCOT has been suspended and require that such MCOT undergo the reinstatement process set forth below in order to be reinstated on Table C1, or (b) to otherwise restrict or condition the obligations with respect to such MCOT (including, without limitation, ceasing to allow the MCOT to Move Managed Copies).

2. **Suspension and Delisting of AACS Authorized Copying Methods.**

- 2.1 The following provisions apply to AACS Authorized Copying Methods (as identified by the particular affected MCOT IDs thereof), in each case only to the extent that they apply to Managed Copies (and not, for example, to any CCI Managed Copy Equivalents) or otherwise in relation to Managed Copy Authorizations and only for so long as the Mandatory MC Obligations are applicable to Content Participant or comparable managed copy obligations are applicable to any Fellow Content Participant or Third Party Content Provider.

2.2 Process for Suspension.

- 2.2.1 If AACS LA identifies on its own initiative or if there are allegations by an Arbitration Eligible Content Participant that there is credible evidence that consumers are exploiting a compromise or breach in such AACS Authorized Copying Method (including, without limitation, a compromise or breach constituting or arising out of a failure of the implementers of such AACS Authorized Copying Method to comply with the specifications, license terms or compliance rules applicable thereto or the failure by the applicable Output Licensor (as defined below) to enforce any of the foregoing) in order to make and/or distribute unauthorized copy(ies) of AACS Content or Managed Copy(ies) (including, without limitation, an unauthorized or noncompliant copy made in connection with permission or authorization for a Move), AACS shall undertake a review to determine if such credible evidence exists (the existence of such credible evidence, a “Suspension Eligible Condition”). Credible evidence of such exploitation may include, without limitation, a showing that a circumvention tool (e.g., software application) for such AACS Authorized Copying Method is readily available. Allegations provided by an Arbitration Eligible Content Participant shall be accompanied by a sworn affidavit setting forth in reasonable detail the grounds for such allegations. If AACS LA determines that such Suspension Eligible Condition does not exist, such decision by AACS LA shall be subject to arbitration in accordance with Section 2.4. If AACS LA determines that such Suspension Eligible Condition does exist, it shall initiate a review to determine whether or not to Suspend an AACS

Authorized Copying Method (“Suspension Review”). If an AACCS Authorized Copying Method has multiple MCOT IDs associated with it, the review of whether a Suspension Eligible Condition exists and the Suspension Review, including without limitation the evaluation of the Suspension Factors (as defined below), the application of the “safe harbors” described in Section 2.3, any resulting Suspension, and any arbitration over any of the foregoing shall be specific to those MCOT IDs alleged to be affected by such compromise or breach.

- 2.2.2 The initial phase of the Suspension Review by AACCS LA shall be a ninety (90) day correspondence period relating to the Suspension of the AACCS Authorized Copying Method at issue, during which period all affected parties shall be permitted to submit all credible evidence they deem relevant. Promptly upon the commencement of such initial phase of the Suspension Review, AACCS LA shall provide written notice thereof to all affected parties.

- 2.2.3 After the expiration of such ninety (90) day period, AACCS LA shall determine whether or not to Suspend the AACCS Authorized Copying Method and which Suspension limitation, restriction or condition remedy shall apply. The decision of AACCS LA as to whether to Suspend shall be made only based on a finding that a Suspension Eligible Condition exists and that the applicable Suspension remedy is appropriate considering the Suspension Factors set forth below in order to achieve a fair balance among the interests of content owners, consumers and product manufacturers; provided that AACCS LA shall not Suspend an AACCS Authorized Copying Method where it determines that a Suspension Eligible Condition exists if it also determines that a remediation plan proposed by the licensor of the applicable output technology (“Output Licensor”) to be implemented in accordance with a detailed implementation schedule (such a plan and schedule, if approved by AACCS LA, referred to herein as the “Approved Remediation Plan”) will remedy the breach or compromise in a manner AACCS LA finds sufficient to make Suspension unnecessary; and provided further that, in any event, diligent implementation of such Approved Remediation Plan is a continuing condition to an AACCS LA determination not to Suspend an AACCS Authorized Copying Method. The “Suspension Factors” are as follows:
 - (A) The number and percentage of consumers that are actively making and/or moving Managed Copies using the AACCS Authorized Copying Method at issue, and whether such consumers have an alternative AACCS Authorized Copying Method on their devices;

 - (B) The number and percentage of consumers that are likely to be able to use the compromise or breach, the number of unauthorized copies likely to be made or used, and how quickly this is likely to occur;

 - (C) Whether the Arbitration Eligible Content Participant(s) that initiated the Suspension review are continuing to voluntarily publish content to the applicable AACCS Authorized Copying Method (either in the AACCS

Technology environment (e.g. Managed Copies that are not made pursuant to Mandatory MC Obligations) or in other contexts (e.g. initial distribution)) even though such voluntary publication of content is subject to the same breach as is being evaluated pursuant to this Suspension process, and, in the case in which the AACS Authorized Copying Method under evaluation is an AACS Technology, additional weight, as determined by AACS LA (or, in the case of an arbitration pursuant to Section 2.4 below, the arbitrator), shall be given to this Suspension Factor;

- (D) Whether an effective remediation plan has been proposed, and the time period required to deploy the remedy;
- (E) If a remedy is proposed, but is not backwards compatible to be implemented in legacy devices, the extent of harm to Content Participants and other Adopters distributing uncompromised devices, given the time to upgrade, and the number of legacy devices that cannot be upgraded;
- (F) Whether the circumvention can be done by using general purpose tools;
- (G) Whether the Output Licensor has engaged in reasonable efforts (including, without limitation, as part of the initial design) to isolate effects of Suspension to a subset of products;
- (H) Whether the Output Licensor is following its breach management process (e.g., performing revocations, using other enforcement mechanisms);
- (I) Whether third party beneficiary rights are available to enforce the terms under which the MCOT technology is licensed;
- (J) Whether the breach or compromise affects the entire AACS Authorized Copying Method technology or one (1) or more implementations of the AACS Authorized Copying Method technology, and the relative numbers of those affected and not; and
- (K) Any other factors AACS LA or any member of AACS LA or the MCOT Licensor (or, in the case of an arbitration pursuant to Section 2.4 below, the arbitrator) deems relevant.

2.2.4 In the event that AACS LA (or, in the case of an arbitration pursuant to Section 2.4 below, the arbitrator) determines that the circumstances warrant Suspension of a particular AACS Authorized Copying Method, then the Suspension shall take effect according to the applicable time frame set forth below:

- (A) if the Output Licensor has submitted a remediation plan that is an Approved Remediation Plan, and the time period for remediation set forth in the Approved Remediation Plan has lapsed and the Approved

Remediation Plan has not been completed in all material respects as of such lapse, then AACCS LA shall notify the Output Licensor and Content Participant of such failure of the Approved Remediation Plan to be completed and Suspension shall occur thirty (30) days after such notice by AACCS LA;

- (B) if the Output Licensor has not submitted a remediation plan, then Suspension shall occur thirty (30) days after the date that AACCS LA determines to Suspend; or
- (C) if the Output Licensor has submitted a remediation plan that is not an Approved Remediation Plan, then AACCS LA (or, pursuant to an arbitration as set forth in Section 2.4 below, the arbitrator) shall set a time period for remediation (the “Suspension Delay”), the determination of which such Suspension Delay shall take into account the likely effectiveness of such plan, the time period asserted by the Output Licensor as required to deploy such plan and AACCS LA’s reasons for not accepting such plan or time period. During such Suspension Delay, AACCS LA and the Output Licensor shall work in good faith toward reaching agreement on an Approved Remediation Plan. If, by the expiration of the Suspension Delay, an Approved Remediation Plan is not agreed upon, then Suspension shall occur thirty (30) days after the expiration of the Suspension Delay. Under this subsection (C), the decision whether a plan submitted by the Output Licensor is an Approved Remediation Plan shall take into account, as an aggravating factor, the amount of time that has passed between the submission of the original remediation plan and the proposed date of approval of a plan as an Approved Remediation Plan. Remediation under such Approved Remediation Plan shall be subject to subsection (A) above.

2.3 Safe Harbor.

2.3.1 415K Resolution Stream Recording MCOT. Notwithstanding the foregoing provisions of this Section 2, an MCOT (for the avoidance of doubt, as identified by the applicable affected MCOT ID(s)) that provides only for Stream Recording (as defined below) at 415K Resolution or below (each, a “415K Output”), that has been submitted for approval for inclusion on Table C1 as of the Final CP License Date and that is subsequently approved for inclusion on Table C1, shall not be subject to Suspension if either of the following “safe harbor” standards is satisfied (to the extent applicable as noted below):

- (A) The Output Licensor has taken steps to prevent future harm such that Suspension will have no additional effect on reducing future harm.
- (B) For technologies with third party beneficiary rights with respect to material non-compliance, injunctive relief, change management, and revocation procedures that are the same or similar to those of AACCS

LA, the Output Licensor has submitted and complies with a mitigation plan that will mitigate future harm in a manner and on a timeline comparable to an effective mitigation plan that AACS LA would be able to adopt with respect to AACS Technology in the same circumstances, or in a manner or on a timeline that is better, where possible, in response to a similar breach, provided, however, that the safe harbor set forth in this subsection (B) shall not be available if AACS LA (or, in the case of an arbitration pursuant to Section 2.4 below, the arbitrator) determines that the harm to Content Participants and Content Providers if the MCOT is not Suspended will clearly outweigh the harm to device manufacturers if the MCOT is Suspended.

For purposes of this Section 2.3, “Stream Recording” shall mean recording of audiovisual content of AACS Content but not the interactivity layer.

2.3.2 AACS MCOTs. Notwithstanding the foregoing provisions of this Section 2, the MCOTs identified on Table C1 as “AACS Prepared Video” and “AACS Recordable Video” (each, an “AACS MCOT”) shall not be Suspended in the following circumstances:

- (A) AACS MCOTs that are 415K Outputs shall not be Suspended if either of the safe harbor standards set forth in Section 2.3.1 is satisfied (to the extent applicable as noted therein); and
- (B) AACS MCOTs that have a resolution of over 415K Resolution shall not be Suspended if the standard set forth in Section 2.3.1(A) is satisfied. Such AACS MCOTs are not subject to an exemption from Suspension based on the safe harbor standard set forth in Section 2.3.1(B) above, but, instead, in the determination of whether to Suspend such MCOT pursuant to Section 2.2.3 above, increased weighting shall be given to the Suspension Factor identified in Section 2.2.3(C).

2.3.3 All Other MCOTs, including HD. With respect to all other MCOTs, including without limitation those that support a resolution of over 415K Resolution, such MCOTs shall not be Suspended if the standard set forth in Section 2.3.1(A) is satisfied.

2.4 Arbitration. The following arbitration provisions shall apply to determinations relating to Suspension under this Section 2.

2.4.1 An arbitration pursuant to this Section (“MCOT Suspension Arbitration”) may be initiated, within thirty (30) days of the applicable decision of AACS LA, as follows:

- (A) If fifty percent (50%) or more of Arbitration Eligible Content Participants object to the AACS LA determination on (i) whether a Suspension Eligible Condition exists, (ii) Suspension or the applicable Suspension remedy, (iii) an Approved Remediation Plan, or (iv)

whether an Approved Remediation Plan has been successfully completed, any such Arbitration Eligible Content Participant can submit such issue to arbitration among AACS LA, the Output Licensor and Content Participants, as applicable; or

- (B) If the Output Licensor of the affected AACS Authorized Copying Method objects to (i) the Suspension or (ii) the Suspension Delay, the Output Licensor can challenge either in arbitration.

2.4.2 An MCOT Suspension Arbitration shall be conducted in accordance with the applicable provisions set forth in Appendix 1. In the event of an arbitration regarding AACS LA's decision to Suspend a given AACS Authorized Copying Method, the arbitrator shall be entitled to determine whether the Suspension shall be tolled during the pendency of the arbitration.

2.4.3 In any case, where

- (A) the same technology is used for both prerecorded format and recordable format versions of a copy protection/DRM system approved as an AACS Authorized Copying Method in its recordable form (e.g. AACS Technology), and
- (B) a breach similarly affects content protected by both prerecorded and recordable format versions of such technology, and
- (C) either (x) a given Content Participant continues to publish content of equivalent value (including by way of example types of content and windows of content release) in the prerecorded format version of the breached technology, unless Content Participant is using technology that is reasonably effective at restoring or maintaining the security of content ("Mitigating Technology"), which Mitigating Technology is not available with respect to the recordable format; or (y) Mitigating Technology is reasonably available to a given Content Participant with respect to both the recordable and prerecorded format version of the technology, and such Content Participant is only using such mitigating technology with respect to the prerecorded format;

then such Content Participant shall be barred from continuing in an arbitration to challenge an AACS LA decision not to Suspend the AACS Authorized Copying Method.

2.5 Consequence of Suspension. An AACS Authorized Copying Method that has been Suspended shall be marked as "Suspended", with the applicable Suspension remedy noted, on Table C1. At any time after Suspension but before Delisting, the Output Licensor may submit evidence to AACS LA that it or its licensees are deploying a remedy that will cure the compromise or breach in newly manufactured and distributed or updated implementations ("Cured Implementations"). AACS LA shall make a determination, within thirty (30) days after receipt of such evidence, as to whether the remedy cures the compromise or breach. If AACS LA determines that such remedy

cures the compromise or breach, then Cured Implementations of such AACS Authorized Copying Method shall be listed on Table C1 with a new MCOT ID(s). Content Participant's Mandatory MC Obligations shall apply only to such Cured Implementations listed on Table C1 according to the time frame set forth in Section 2.8 below.

- 2.6 AACS LA Determination to End Suspension. At any time after the affected AACS Authorized Copying Method has been Suspended, AACS LA may determine that such Suspended AACS Authorized Copying Method shall cease to be Suspended if: (i) the Output Licensor has taken steps adequate to address the compromise or breach in newly manufactured or updated implementations of the AACS Authorized Copying Method, within the time period allowed by the AACS Authorized Copying Method license or compliance rules; (ii) it is not likely that the scope of further harm from the compromise or breach will be significant, taking into account the number of people likely to be able to continue to use it and the number of further unauthorized copies likely to be made or used, and how quickly this is likely to occur; and (iii) the potential harm to Content Participants and Content Providers if the Suspension is ended is likely to outweigh the potential harm to Adopters and consumers if the AACS Authorized Copying Method ceases to be Suspended. Any such decision by AACS LA shall be subject to arbitration according to the same procedures as set forth in Section 2.4 above, but subject to the criteria of this Section 2.6.
- 2.7 AACS LA Determination to Delist. If the affected AACS Authorized Copying Method remains Suspended for a period of one hundred and eighty (180) days, AACS LA shall determine whether the AACS Authorized Copying Method shall be Delisted. The criteria for an AACS Authorized Copying Method being Delisted shall be that the Output Licensor has not identified and is not pursuing an effective remedy for the breach in newly manufactured or updated implementations of the AACS Authorized Copying Method, within the time period allowed by the AACS Authorized Copying Method license or compliance rules. An AACS Authorized Copying Method that has been Delisted may remain on Table C2 but shall be removed from Table C1 entirely and can only become an AACS Authorized Copying Method listed on Table C1 again by making a new submission for approval pursuant to the AACS LA's normal approval process for approving new proposed output technologies. If AACS does not determine that the AACS Authorized Copying Method shall be Delisted, then the AACS Authorized Copying Method shall remain Suspended until such time as: (x) there is an AACS LA determination for the AACS Authorized Copying Method to cease to be Suspended under Section 2.6; or (y) there is a subsequent determination to Delist the affected AACS Authorized Copying Method in accordance with this Section 2.7, provided that a vote on such determination may be called at the request of any Arbitration Eligible Content Participant no more often than once in any ninety (90) day period following a prior vote.
- 2.8 Notice of Action. AACS LA shall provide prompt notice to Content Participant, as well as on the AACS LA website to AACS licensees, of any Suspension of an AACS Authorized Copying Method, discontinuance of any Suspension with respect to an AACS Authorized Copying Method or a Cured Implementation thereof, any Delisting of an AACS Authorized Copying Method, and any reinstatement of an AACS Authorized Copying Method after Delisting. Content Participant's Managed Copy Obligations with

respect to a Suspended or Delisted AACS Authorized Copying Method shall cease to apply immediately upon such Suspension or Delisting, and, if such Suspension is discontinued or such AACS Authorized Copying Method is reinstated, Content Participant's Managed Copy Obligations with respect to such AACS Authorized Copying Method shall re-commence thirty (30) days after Content Participant's receipt of notice of such discontinuance or reinstatement.

3. Restriction, Condition, Suspension and Delisting in Connection with Changes to Output Technologies. The following provisions relating to changes in output technologies shall apply to the AACS Authorized Copying Methods (as identified by the affected MCOT ID(s)) as well as the AACS Authorized Digital Outputs (each, as used in this Section 3, a "Listed Output").

3.1 Prohibited Changes. "Prohibited Change" shall mean, with respect to an AACS Authorized Copying Method or an AACS Authorized Digital Output, a change to the specifications, license terms or compliance rules (including, without limitation, a change to the list of approved outputs) and, with respect to an AACS Authorized Digital Output, a Constructive Change (as defined below) to the specifications, license terms or compliance rules (including, without limitation, a Constructive Change to the list of approved outputs), in each case applicable to the particular Listed Output that:

3.1.1 has a material and adverse effect on such Listed Output's ability to robustly maintain the security of Digital Entertainment Content protected by the AACS Technology after it is passed to such Listed Output or that materially and adversely compromises or interferes with the integrity or security of AACS Technology; or

3.1.2 changes usage rules or the meaning of terms in the usage rules such that they are non-trivially less restrictive than at the time of AACS LA approval with respect to Digital Entertainment Content originally protected by AACS Technology after it is passed to such Listed Output, including a change or Constructive Change, as applicable, that enables a Managed Copy made to the Listed Output to be Moved (as defined in the Compliance Rules) other than as permitted in AACS LA's agreement with the Output Licensor (as an example, but not a limitation, a change or Constructive Change from expressing permitted use period for content from "30 days" to "one month" would not be considered to be a "non-trivial" change).

3.2 If AACS LA has received a notice from an Output Licensor of a Listed Output, or has otherwise taken notice, of a change made with regard to a Listed Output ("Change Notice") and such change was made other than in accordance with a Comparable Change Management Process (as defined below), or of a Constructive Change made with regard to an AACS Authorized Digital Output and such Constructive Change was made without the availability of a Comparable Third Party Beneficiary Enforcement Process (as defined below), then AACS LA shall review and decide whether the change or Constructive Change was a Prohibited Change and, if so, whether to take action to restrict, condition or Delist, or, with respect to AACS Authorized Copying Methods, Suspend such Listed Output (collectively, "Change Review"). Such review and determination shall be undertaken, within thirty (30) days after the Change Notice, in

accordance with, and subject to arbitration as set forth in, Sections 3.4, 3.5 and 3.6. For avoidance of doubt, where a change is made pursuant to the conclusion of a Comparable Change Management Process, or a Constructive Change is made pursuant to the conclusion of a Comparable Third Party Beneficiary Enforcement Process, AACCS LA shall not be entitled to Delist, Suspend, restrict or condition the use of a Listed Output pursuant to this Section.

3.3 For purposes of this Section 3, the following terms shall have the corresponding meanings set forth below:

3.3.1 “Constructive Change” shall mean, with respect to an AACCS Authorized Digital Output only, a pattern or repeated instances of failure to enforce compliance with specifications, license terms and/or compliance rules in effect at the time of AACCS LA’s approval of the AACCS Authorized Digital Output, which leads either to a significant number of implementers not complying or to a smaller number of implementers, including a single implementer, repeatedly breaching (i.e., multiple products/versions), in either case with repeated non-enforcement, and in either case thereby causing a constructive change to such specifications, license terms and/or compliance rules.

3.3.2 “Comparable Change Management Process” shall mean a process, pursuant to an available written agreement, by which changes to a technology or the rules or licenses associated with a technology are subject to a procedure in which at least certain eligible content companies are given meaningful opportunities to participate in evaluating proposed changes and to object to changes through arbitration or its equivalent where the Output Licensor decides to make changes notwithstanding content company input in the evaluation process, which process is either (i) Active or (ii) AACCS Acceptable.

3.3.3 “Comparable Third Party Beneficiary Enforcement Process” shall mean third party beneficiary rights, pursuant to an available written agreement, by which at least certain eligible content companies are given meaningful opportunities for redress (other than liquidated damages) with regard to the breaches of such agreement or the rules or licenses associated with a technology, which third party beneficiary rights are either (i) Active or (ii) AACCS Acceptable.

3.3.4 “Active” shall mean that a written agreement with respect to the change management process or third party beneficiary rights, as applicable, has been signed by at least two (2) entities that are AACCS Eligible Content Participants and, pursuant to such written agreement, such AACCS Eligible Content Participants have the then-present rights to exercise the applicable meaningful opportunities as set forth in Section 3.3.2 or 3.3.3 above.

3.3.5 “AACCS Acceptable” shall mean that (A) with respect to a change, the change management process provides for such participation opportunities that are as meaningful as, and not materially more burdensome than, those provided by AACCS LA in the applicable agreements, and (B) with respect to a Constructive Change, the third party beneficiary rights provide for opportunities for redress

(other than liquidated damages) of breaches that are as meaningful as, and not materially more burdensome than, those provided by AACS LA in the applicable agreements.

- 3.4 If, pursuant to the Change Review, AACS LA determines that the change was made in accordance with an Active or AACS Acceptable Comparable Change Management Process, or the Constructive Change was made in accordance with an Active or AACS Acceptable Comparable Third Party Beneficiary Enforcement Process, and is therefore not subject to action by AACS LA (“Non-Reviewable Change Decision”), then AACS LA shall provide notice of such determination to Qualified Content Participants (as defined below). In such event, a Qualified Content Participant may initiate arbitration to seek a ruling that such Non-Reviewable Change Decision was unreasonable, upon a finding of which the arbitrator shall provide reasonably detailed reasons for its decision and direct AACS LA to re-evaluate its Non-Reviewable Change Decision in light of such reasons. AACS LA shall undertake such re-evaluation, and notify the Qualified Content Participant of its determination, within thirty (30) days of the arbitrator’s decision. In the event that, upon such re-evaluation, AACS LA again makes a Non-Reviewable Change Decision, a Qualified Content Participant may continue the foregoing arbitration, in which event the arbitrator shall determine whether the Qualified Content Participant(s) initiating the arbitration have demonstrated by preponderance of the evidence that (x) the change management process is neither an Active or AACS Acceptable Comparable Change Management Process or the third party beneficiary rights enforcement process is neither an Active nor AACS Acceptable Comparable Third Party Beneficiary Enforcement Process, and (y) such change or Constructive Change is a Prohibited Change. For arbitrations initiated under the previous sentence, only upon prevailing on item (x) may such Qualified Content Participant(s) proceed to seek and obtain, in the same or a subsequent arbitration, a ruling on item (y). In the event that the arbitrator determines that the change or Constructive Change is a Prohibited Change, then within thirty (30) days after the arbitrator’s decision, AACS LA will undertake a further Change Review to determine whether to restrict, condition or Delist, or, with respect to AACS Authorized Copying Methods, Suspend such Listed Output, which such determination shall be in accordance with, and subject to arbitration as set forth in, Section 3.5. “Qualified Content Participant” means a Founder that is an Eligible Content Participant and that, within ninety (90) days after receiving notice that a particular AACS Authorized Copying Method has been added to Table C1 or a particular AACS Authorized Digital Output has been added to Table D1, has filed a letter from an officer of such Founder setting forth the reasons why the change management process and/or third party beneficiary rights enforcement process associated with such Listed Output is not AACS Acceptable. For approved Listed Outputs that later update their change management process and/or third party beneficiary rights enforcement process in an attempt to become AACS Acceptable, a similar letter process, with similar cutoff period, would apply.
- 3.5 If (i) AACS LA has made no decision on whether the change or Constructive Change is a Prohibited Change within thirty (30) days of receipt of the Change Notice (or such longer time as may be agreed by unanimous consent of the Founders), (ii) the decision by AACS LA, pursuant to the Change Review, is that the change or Constructive Change, as applicable, is not a Prohibited Change, (iii) the decision by AACS LA

pursuant to the Change Review, or the arbitrator pursuant to the provisions of Section 3.4, is that the change or Constructive Change, as applicable, is a Prohibited Change but AACS LA has determined not to Delist, Suspend, or restrict or condition the use of the Listed Output, or (iv) the decision by AACS LA pursuant to the Change Review, or the arbitrator pursuant to the provisions of Section 3.4, is that the change or Constructive Change, as applicable, is a Prohibited Change and AACS LA has determined that the use of the Listed Output should be restricted or conditioned but not Suspended or Delisted (each, a “Non-Suspension/Delisting Decision”), then AACS LA shall provide notice of such determination each Founder that is a Content Participant (“Founder Content Participant”). Any Founder Content Participant may initiate an arbitration proceeding, or continue an arbitration commenced pursuant to Section 3.4, to seek a ruling that the Non-Suspension/Delisting Decision was unreasonable, upon a finding of which the arbitrator shall provide reasonably detailed reasons for its decision and direct AACS LA to re-evaluate its Non-Suspension/Delisting Decision in light of such reasons. AACS LA shall undertake such re-evaluation, and notify the each Founder Content Participant of its determination, within thirty (30) days of the arbitrator’s decision. In the event that, upon such re-evaluation, AACS LA again makes a Non-Suspension/Delisting Decision, a Founder Content Participant may continue the foregoing arbitration proceeding, in which event the arbitrator shall determine:

- 3.5.1 in the case where AACS LA has made no decision (x) within thirty (30) days of receipt of the notice or advice of the change (or such longer time that may have been agreed by unanimous consent of all the Founders), whether the Founder Content Participant(s) initiating such arbitration have demonstrated by preponderance of the evidence that such change is a Prohibited Change and, if so, whether such Listed Output should be Delisted, restricted or conditioned, or, with respect to AACS Authorized Copying Methods, Suspended, or (y) within thirty (30) days of the provision of information by one or more Founders alleging that a Constructive Change that is a Prohibited Change has occurred, whether the Founder Content Participant(s) initiating such arbitration have demonstrated by preponderance of the evidence that a Constructive Change that is a Prohibited Change has occurred (based on the standard set forth above in relation to AACS LA’s consideration of whether a Constructive Change which is a Prohibited Change has occurred), and, accordingly, whether such Listed Output should be Delisted, restricted or conditioned or, with respect to AACS Authorized Copying Methods, Suspended;
- 3.5.2 in the case where AACS LA has decided that a change or a Constructive Change, as applicable, is not a Prohibited Change, whether the Founder Content Participant(s) initiating such arbitration have demonstrated by the preponderance of the evidence that such change or Constructive Change is a Prohibited Change and, if so, whether such Listed Output should be Delisted, restricted or conditioned or, with respect to AACS Authorized Copying Methods, Suspended;
- 3.5.3 in the case where AACS LA, or the arbitrator pursuant to the provisions of Section 3.4, has determined that a change or Constructive Change, as applicable, is a Prohibited Change but AACS LA has determined not to Delist, Suspend, or

restrict or condition the use of the Listed Output, whether the Founder Content Participant(s) initiating such arbitration have demonstrated by a preponderance of the evidence that the Prohibited Change should have resulted in Delisting, restriction or conditioning, or, with respect to AACS Authorized Copying Methods, Suspension, of the use of the Listed Output; and

- 3.5.4 in the case where AACS LA, or the arbitrator pursuant to the provisions of Section 3.4, has determined that a change or Constructive Change, as applicable, is a Prohibited Change and AACS LA has determined that the use of the Listed Output should be restricted or conditioned but not Suspended or Delisted, whether the Founder Content Participant(s) initiating such arbitration have demonstrated by a preponderance of the evidence that the Prohibited Change should have resulted in Delisting, restriction or conditioning, or, with respect to AACS Authorized Copying Methods, Suspension, of the use of the Listed Output different from that imposed by AACS LA.
- 3.6 If AACS LA, or the arbitrator pursuant to the provisions of Section 3.4, has determined that a change or a Constructive Change, as applicable, is a Prohibited Change and AACS LA, or the arbitrator pursuant to the provisions of Section 3.5, has, accordingly, taken action to Delist, restrict or condition, or with respect to AACS Authorized Copying Methods, Suspend, the use of a Listed Output (an “Output Restricting Decision”), the Output Licensor of that Listed Output may initiate an arbitration within thirty (30) days of receiving notice from AACS LA of the action to be taken. In such arbitration, the arbitrator shall determine whether the Output Restricting Decision was unreasonable, upon a finding of which the arbitrator shall provide reasonably detailed reasons for its decision and direct AACS LA to re-evaluate its Output Restricting Decision in light of such reasons. Within thirty (30) days of the arbitrator’s decision, AACS LA shall undertake such re-evaluation, and notify the Output Licensor and all Founder Content Participants of its determination. In the event that, upon such re-evaluation, AACS LA again makes an Output Restricting Decision, the Output Licensor of the affected Listed Output may continue the foregoing arbitration, in which event the arbitrator shall determine whether the Output Licensor has shown by a preponderance of the evidence that the change or Constructive Change was not a Prohibited Change or that the Listed Output should not have been Suspended, Delisted, restricted or conditioned as determined by AACS LA.
- 3.7 Any arbitration undertaken pursuant to this Section 3 shall be conducted in accordance with the applicable provisions set forth in Appendix 1.



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4.0 [Analog Output Sunset – as applicable see language at the end of document]

5.0 [Digital Only Token – as applicable, see language at the end of document]

ACKNOWLEDGED & AGREED:

MCOT owner

Effective Date:

APPENDIX 1

Output Suspension and Delisting Arbitration Procedures

The following provisions shall apply to an MCOT Suspension Arbitration pursuant to Section 2.4 and an arbitration undertaken pursuant to Section 3 above:

- (a) The arbitration shall be conducted by a panel of three (3) arbitrators, each of whom shall have a minimum of fifteen (15) years relevant experience and shall be selected by the American Arbitration Association from its National Panel of Commercial Arbitrators.
- (b) The arbitration shall be conducted in New York, N.Y. in accordance with the International Arbitration Rules of the American Arbitration Association. The arbitration shall be conducted in English.
- (c) The arbitrators may conduct the arbitration in such manner as it shall deem appropriate, including the imposition of time limits that it considers reasonable for each phase of the proceeding, but with due regard for the need to act, and make a final determination, in an expeditious manner. The arbitrators shall set a schedule to endeavor to complete the arbitration within one (1) month.
- (d) The arbitrators shall permit and facilitate such limited discovery as he or she shall determine is reasonably necessary, taking into account the needs of the parties and the desirability of making discovery as expeditious and cost-effective as possible.
- (e) The parties and the arbitrators shall treat the arbitration proceedings, any related discovery, documents and other evidence submitted to, and the decision of, the arbitrator as Confidential Information; provided, however, that AACS LA shall be entitled to access to all such information whether or not it is a party to such arbitration and shall be permitted to disclose information from such arbitration to the arbitrators to any subsequent arbitration under this subsection [(e)] when such information is relevant to the consistent resolution of such subsequent arbitration. In addition, and as necessary, the arbitrators may issue orders to protect the confidentiality of proprietary information, trade secrets and other sensitive information disclosed in discovery or otherwise during the arbitration.
- (f) The arbitrators shall make its determination of the issue(s) submitted to arbitration pursuant to Section 2.4 in accordance with the procedures and Suspension Factors as set forth in Section 2.2 and pursuant to Section 3 in accordance with the provisions of Section 3. The determination of the arbitrators shall be final and binding on the parties, except that whether the arbitrators exceeded their authority shall be fully reviewable by a court of competent jurisdiction. The parties agree that judgment upon any decision may be entered in a court of competent jurisdiction.
- (g) The arbitrators shall be compensated at his or her hourly rate, determined at the time of appointment, for all time spent in connection with the arbitration, and shall be reimbursed for reasonable travel and other expenses. The arbitrators shall determine all costs of the arbitration, including his or her fees and expenses, the costs of expert advice and other assistance engaged by the arbitrators, the cost of a transcript and the costs of meeting and hearing facilities. The arbitrators shall assess the losing Party or parties the costs of the arbitration set forth in this subsection (g).

Section 4 – as applicable
Additional Approval Condition & Notice
For AACCS Authorized Digital Outputs Analog Outputs

(4) Analog Output Sunset Conditions

[Technology Owner] acknowledges and agrees that to the extent [MCOT][Digital Output] allows AACCS content to be output through analog connections and does not provide for the sunset of such output connections at or before the dates specified for analog sunsets for the output of AACCS content directly, AACCS approval of such a technology is conditioned on the following:

(a) [MCOT] [Digital Output] shall be automatically removed from the applicable approved recording or output technology list for AACCS content on the dates set forth in the analog sunset provisions (after 2010 for HD and VGA analog outputs and after 2013 for all other analog outputs) unless such technology has provided for sunset dates on or before the AACCS sunset dates. The following Note shall be incorporated into the applicable table for recording or output technologies:

Note to Adopter: AACCS LA has provisionally approved XYZ outputs, with the condition that passing of Decrypted AACCS Content to XYZ by Licensed Products manufactured or sold after the sunset dates set forth in Section 1.7.1 and 1.7.3 of Part 2 of these Compliance Rules shall not be permitted if the XYZ license has not been revised to prevent the passing to analog outputs in XYZ licensed products manufactured or sold after such dates of content at resolutions not permitted under Sections 1.7.1 and 1.7.3 of Part 2 of these Compliance Rules to be passed to analog outputs with the understanding that XYZ licensor will seek to conform its compliance rules with to accommodate AACCS analog sunset dates.

(b) [Technology Owner] shall notify its licensees not later than 60 days following notice of AACCS approval of [MCOT] [Digital Output] that the AACCS approval is conditional such that the [MCOT] [Digital Output] will not be permitted as a secure recording or output technology for AACCS content on and after the analog sunset dates; and

(c) [Technology Owner] shall provide AACCS with reports on its progress toward adoption of analog sunset dates (applicable to at least AACCS originated content) on or before the dates set forth for direct output of AACCS content and shall include in such reports information concerning any significant comments received from such technology's licensees, such reports to be provided (i) on or before December 31, 2009 for HD and VGA analog outputs and (ii) on or before December 31, 2011 for all other analog outputs.

(d) [Technology Owner] shall inform AACCS of any final decision made by [Technology Owner] with regard to imposition of analog sunset dates, within 60 days of such decision regardless of when such decision is made.



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(5) Digital Only Token (“DOT”)

[Technology Owner] acknowledges and agrees that to the extent AACCS content contains the DOT such AACCS content will not be able to flow to [MCOT] [Digital Output] unless and until [Technology Owner] makes the required changes to support DOT. DTLA further agrees to notify its licensees of this limitation.