10G Lab Use Agreement

Created: October 12, 2023 (v1.0)

1. Purpose

This CableLabs 10G "Lab Use Agreement" forms part of the Research & Collaboration Agreement Statement of Work ("SOW") between Company and CableLabs. It establishes the general policies, terms, and conditions under which Company participating in projects using the CableLabs 10G Lab and related facilities in order to advance the development of solutions and business models to unlock opportunities related to 10G technologies.

The CableLabs 10G Lab provides an interoperable platform to enable Company to conduct proof of concept and validate individual network functions and end-to-end solutions. This lab acts as a framework to demonstrate multi-access network over a common infrastructure. The lab's primary purpose is to demonstrate services that can seamlessly operate over multiple networks while using a shared infrastructure at multiple network edge locations. Company's use of the 10G Lab is further defined by the project's scope in the SOW.

USE OF THE 10G LAB IS FOR RESEARCH AND DEVELOPMENT PURPOSES, AND RESULTS ARE NOT GUARANTEED.

2. Definitions

2.1 **Agreement** means, collectively, this Lab Use Agreement and the SOW.

2.2 **Background IP** means IP developed prior to the start of the SOW project or after the start of the SOW project, but not in furtherance of such SOW project.

2.3 **Collaboration IP** means subject matter first conceived by or on behalf of a party's employees or third parties acting on such party's behalf, in each case in the course of activities conducted pursuant to the SOW (whether alone or jointly with others), but excludes Background IP.

2.4 **Confidential Information** means information disclosed by or on behalf of one party to the other party under this Agreement, and that is marked as confidential or would normally be considered confidential information under the circumstances. It does not include information that is independently developed by the recipient, is rightfully given to the recipient by a third party without confidentiality obligations, or becomes public through no fault of the recipient.

2.5 **IP** means all intellectual property rights worldwide, whether registered or unregistered, including such rights in (i) patents, (ii) inventions and invention disclosures (whether or not patentable), (iii) copyrights (including in code) and copyrightable works, (iv) trade secrets, know-how and confidential information, (v) trademarks and service marks, (vi) Internet domain names and (vii) data and databases; in each case of the foregoing, together with all applications or registrations.

2.6 **NCRPA** means the National Cooperative Research and Production Act, 15 USC 4301 *et seq*.

2.7 **Residuals** means information that is retained in the unaided memories of recipient who have accessed discloser's Confidential Information in accordance with this Agreement. Memory is unaided if the recipient has not intentionally memorized the Confidential Information to use or disclose it.

2.8 **Results** means anything developed by a party during, and in furtherance of, the SOW, including Collaboration IP.

2.9 **SOW** means the Research & Collaboration Agreement Statement of Work that references the Lab Use Agreement and specifies the project and deliverables under this Agreement.

3. Confidentiality

3.1 **Use**

3.1.1 A recipient of Confidential Information will only disclose it to employees, affiliates, agents, professional advisors, or third-party contractors who need to know it under the scope of work contemplated by this Agreement and who have an obligation to keep it confidential. The recipient will only use the Confidential Information to exercise rights and fulfill obligations under this Agreement while using reasonable care to protect the Confidential Information, unless granted additional rights under the SOW. The recipient may disclose Confidential Information when legally compelled by a court or other government authority. To the extent permitted by law, recipient will promptly provide the discloser with notice of all available details of the legal requirement and reasonably cooperate with the discloser's efforts to challenge the disclosure, seek an appropriate protective order, or pursue such other legal action, as the discloser may deem appropriate.

3.1.2 The recipient of Confidential Information under this Agreement may use Residuals for any purpose (including to acquire, develop, or maintain products and services), but this right does not represent a license, and neither party acquires any right, title, or interest in the other party's Confidential Information except for the limited use rights under this Agreement.

3.2 Due to the configuration of the CableLabs 10G Lab, Company may be required to share the 10G Lab with other users. Company, not CableLabs, has the responsibility for maintaining the confidentiality of the proprietary nature of Company's activities and test results.

3.3 In using the CableLabs 10G Lab, Company agrees that any and all information regarding the third party hardware and software in the 10G Lab including, without limitation, source code, object code, listings, printouts, flowcharts, algorithms, research materials, operational and performance specifications, evaluation results and notes may be the property of such third party and shall not be disclosed without the written consent of such third party unless such is not Confidential Information or is required by law for the limited purpose of meeting such legal requirement and so long as Company provides such third party with prompt written notice of such requirement, including all available details of the legal requirement, and reasonably cooperate with such third party in its efforts to challenge the disclosure, seek an appropriate protective order, or pursue such other legal action, as the discloser may deem appropriate.

4. Intellectual Property

4.1 General. IP WILL BE MANAGED ACCORDING TO THE SOW. COMPANY WILL DISCLOSE THE USE OF ANY THIRD PARTY IP USED UNDER THE SOW, AND WILL NOT ALTER OR REMOVE ANY OPEN SOURCE SOFTWARE COPYRIGHT NOTICES, DISCLAIMERS, OR OTHER NOTICES CONTAINED IN ANY THIRD PARTY OPEN SOURCE SOFTWARE.

4.2 Privacy and Security. It is CableLabs policy under this Agreement not to receive data that includes personally identifiable information ("PII"). All data provided to CableLabs under this Agreement will remove PII, for example through anonymization or aggregation. Transfer of data and databases will follow all privacy, data security, and data protection laws, directives, regulations, or rules in any jurisdiction applicable to the recipient's processing of PII, including the GDPR, CCPA, HIPAA, and LGPD. Relevant information about the basis of collection, limits of use, and any notice requirements will be disclosed to the recipient under this Agreement.

4.3 CableLabs Members. CableLabs is a nonprofit consortium and NCRPA-approved joint venture. Company understands that CableLabs was established for the purpose of research and development to promote innovation and disseminates that information to its Members according to the NCRPA and its bylaws.

5. Indemnification; Disclaimer; Limitation of Liability

5.1 Indemnification. Company shall indemnify and hold harmless CableLabs, its officers, directors, employees, consultants, agents, and affiliates, together with its members and their respective officers, directors, employees, consultants, and agents, from and against all judgments, orders, awards, claims, damages, losses, liabilities, costs and expenses, including, but not limited to, court costs and reasonable attorneys' fees ("Liabilities") arising under i) its use of the 10G Lab under this Agreement, except as directly caused by CableLabs' gross negligence or willful misconduct, and ii) alleging that the use of Company's products in the CableLabs 10G Lab, or any part thereof, infringe a copyright, trademark, patent, trade secret, or other intellectual property right of a third party. COMPANY USES THE 10G LAB AT ITS OWN RISK. Company shall not settle or compromise any Liabilities in which any relief other than the payment of money damages is sought against CableLabs (and will be paid by Company) unless CableLabs consents in writing to such compromise or settlement.

5.2 Disclaimer of Warranties. BACKGROUND IP, RESULTS, THE 10G LAB FACILITIES OR ANY MATERIALS ARE SUPPLIED "AS IS," EACH PARTY AGREES TO USE AT ITS OWN RISK, AND NEITHER PARTY MAKES ANY WARRANTIES TO THE OTHER OF ANY KIND, EXPRESS, STATUTORY, IMPLIED, OR OTHERWISE. EACH PARTY SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. COMPANY UNDERSTANDS AND AGREES THAT THE 10G LAB IS INTENDED FOR RESEARCH AND THEREFORE SOW PROJECTS ARE EXPERIMENTAL IN NATURE.

5.3 Limitation of Liability. IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES INCLUDING, WITHOUT ANY LIMITATION, DAMAGES WHICH REFLECT LOST BUSINESS OR LOST PROFITS, WHETHER DAMAGES OF THIS NATURE WERE FORESEEABLE OR NOT, AND EVEN IF THAT PARTY HAD BEEN ADVISED THAT DAMAGES OF THIS NATURE WERE POSSIBLE. Each party's total liability for damages arising under this Agreement will be limited $10,000 USD, which will not be aggregated with other SOWs.

5.4 Exclusions. The limitations of liability stated in this section shall not apply to claims for: (i) personal injury; (ii) death; (iii) damage to real property; (iv) breach of confidentiality; (v) breaches of IP license rights or obligations; or (vi) Company's indemnity obligations.

6. Insurance

During the term of the Agreement, each party will maintain, at its own expense, appropriate insurance coverage applicable to performance of the party's respective obligations under this Agreement, including general commercial liability, worker's compensation, automobile liability, cyber liability, and professional liability. Company will include a severability of interests and waiver of subrogation clause in favor of CableLabs in each of their insurance policies except for professional liability. Company's policies will apply to the full extent provided by the policies, but in no case will policy limits lower obligations or liabilities under this Agreement (including indemnities). Proof of insurance may be requested by CableLabs at any time.

7. Notice and Delivery

Company notices: the Company Project Lead or Company address as described in the SOW, with a courtesy copy sent to the alternative.
CableLabs notices: the associated SOW Project Lead as described in the SOW or the CableLabs address below, with a courtesy copy sent to the alternative; and
Materials shipped to CableLabs under this Agreement:

Attn: *[SOW Project Lead]*
c/o Cable Television Laboratories, Inc.
858 Coal Creek Circle
Louisville, CO 80027-9750
USA

A packing list of all equipment shipped should also be emailed to: se_mail@cablelabs.com.
Company assumes all expenses and liability for shipments to and from CableLabs.

8. Fees

The SOW indicates whether the project is non-reimbursable where each party bears its own cost of participation, or incur fees where the use of CableLabs' facilities, equipment, or services in the 10G Lab are invoiced against Company. Reservation of the 10G Lab will not be made without full payment of the Fees, if any, in advance of use of the 10G Lab. Fees will be refunded in full if written notice of cancellation is received more than fifteen (15) business days before the proposed use of the 10G Lab.

9. Lab Use Guidelines

9.1 Schedule and Access. CableLabs will provide the requested facility or equipment in the 10G Lab and appropriate personnel to operate the facility or equipment, as required, to complete the SOW project. The determination of the appropriate personnel, both in number, skill mix, and identity, shall be at the reasonable discretion of CableLabs. Physical and virtual access to the 10G Lab is determined in the SOW. When Company is at CableLabs' offices or 10G Lab, Company will follow all applicable OSHA safety regulations. Company will not make any alterations to the 10G Lab that are not preapproved by CableLabs.

9.2 Access Cards. CableLabs technical personnel will provide Company's employees access to the 10G Lab. Access Cards will be issued to individuals during their on-site visit(s). Access Cards are only valid for authorized times. Should a card be lost or stolen Company must notify its CableLabs representative immediately. There may be a replacement charge for each lost card. Company will also have access to break area and restrooms during scheduled on-site visit(s). Access to all other areas is not permitted due to the confidential nature of other CableLabs activities.

9.3 Operation of Equipment.

9.3.1 Subject to availability, and per the terms of the SOW, CableLabs-owned equipment may be available to Company. CableLabs technical personnel shall operate such equipment, control the environment, and manage administrative access unless otherwise approved by CableLabs. For virtual or remote access, CableLabs will also act as lab administrators on Company's behalf with VPN access. CableLabs will use reasonable efforts to accommodate all reasonable requests of Company for intended operation of the CableLabs-owned equipment; however, CableLabs reserves the right, in its sole discretion, to operate (or not operate) such equipment in accordance with Company requests. Any unusual requirements (including AC power specs) should be addressed in the SOW, otherwise Company is responsible for supplying its own equipment (for example, conversion equipment).

9.3.2 Company agrees to abide by the Rules of Conduct posted in the 10G Lab area. Facilities and equipment provided by CableLabs shall be returned in good working order. Any repairs required due to misuse will be charged to the Company at the total cost of repair, including shipping and handling fees.

9.3.3 Any equipment used or otherwise provided by Company that is planned to be connected to the CableLabs network must be free from all contaminants, viruses, worms, trap doors, back doors or other means or functions which detrimentally interfere with or otherwise adversely affect CableLabs' network, systems, or other property.

10. 10G Lab Resources

The CableLabs 10G Lab may include some or all of the following Lab Equipment and Capabilities, as described in the specific project SOW:

- Field-programmable gate arrays (FPGAs) for testing acceleration of workloads
- Signal & Spectrum Analyzer
- Traffic Generator
- GPUs (including NVIDIA Ampere A40)
- User Equipment Log Analyzer (Qualcomm Extensible Diagnostic Monitor)
- VIAVI TeraVM and TM500
- Coherent Optical Gear—Two "hub" side network switches with coherent optics support
- Server infrastructure with Kubernetes-based virtualization platform
- Mobile, DOCSIS, and PON network equipment and virtualized workloads

The 10G Lab interconnects cable and mobile architectures with containerized hardware, acting as a shared compute framework to demonstrate wireline-wireless convergence and edge computing over a common infrastructure. CableLabs controls the environment, and maintains administrative access to the infrastructure. Company may access remotely via a VPN connection and/or have on-site access as described and approved in the SOW.

If appropriate as determined by CableLabs, an orientation document may be provided upon arrival as well as a walk through of the lab environment. Company should discuss details with their CableLabs Project Lead identified in the SOW.

11. Exports

Company will Comply with Applicable Export, Import, Sanctions and Anti-Corruption Laws. Company acknowledges, represents and agrees:

11.1 The following commodities, software (including source code) and technology (hereinafter "items") are subject to United States ("U.S.") export laws and regulations, including but not limited to the U.S. Export Administration Regulations (EAR), and may require prior U.S. Government authorization before they may be exported, re-exported or transferred to subsequent end users or countries:

(1) U.S. origin items;

(2) items exported from the U.S. or transiting in the U.S.;

(3) items made outside of that U.S. that contain more than de minimis levels of controlled U.S. origin content; and,

(4) items that are direct products of U.S. origin technical data.

11.2 Commodities, software (including source code) and technology may also be subject to the export and/or import control laws and regulations of other countries.

11.3 The parties and items under this Agreement may also be subject to applicable embargoes, economic sanctions, and anti-corruption laws and regulations of the U.S. and other foreign jurisdictions, including but not limited to the Trading with the Enemy Act, International Emergency Economic Powers Act, the Foreign Assets Control Regulations, and the Foreign Corrupt Practices Act. Company represents that it will not export, re-export, import or otherwise transfer any items, or engage in any activities that are subject to applicable embargoes, economic sanctions or anti-corruption laws and regulations in furtherance of this Agreement unless and until it has complied in all respects with the applicable laws and regulations of the U.S. and other foreign jurisdictions and has obtained the appropriate authorizations from the relevant government authorities.

11.4 Company represents that it is not: (1) currently subject to any embargoes or economic sanctions of the U.S. or other jurisdictions; (2) owned or controlled by any individual or entity that is currently subject to any such embargoes or economic sanctions; or, (3) located in a country or territory that is currently subject to any such embargoes or economic sanctions.

12. Independent Contractors

The parties are independent contractors and not employees or agents of the other party. Neither party is a legal representative or agent of the other for any purpose and does not have the right or authority to incur, assume or create, in writing or otherwise, any warranty, liability or obligation, express or implied, in the name or on behalf of the other except as may be expressly described in the SOW. Company represents and warrants that Company has obtained and paid for all licenses, permits and registrations which may be required for their participation in activities contemplated by the SOW. This Agreement does not restrict either party from entering into any other agreements, whether or not related to analogous technology or activities.

13. General

13.1 Assignment. Neither party may assign any part of this Agreement without the written consent of the other, except to an affiliate where: (a) the assignee has agreed in writing to be bound by the terms of this Agreement; (b) the assigning party has notified the other party of the assignment; (c) the assignee is reasonably able to perform the scope of work under the SOW as well as the assigning party; and (d) the assigning party remains liable for obligations under this Agreement if the assignee defaults on them. Any other attempt to assign is void.

13.2 Signatures. The parties may sign this Agreement using counterparts and electronic copies as originals.

13.3 Force Majeure. Neither party will be liable for failure or delay in performance to the extent caused by circumstances beyond its reasonable control.

13.4 Jurisdiction and Venue. This Agreement shall be governed by the laws of, and resolved in, the State of Colorado without giving effect to the principles of conflicts of law.

13.5 Term and Termination. The term of this Agreement is defined in the SOW. The Agreement may be terminated by either party, at any time and for any reason, upon delivery of a thirty (30) day written notice to the other party. Termination will not affect the rights, nor relieve either party of their obligations, already accrued to the other Party or that is attributable to a period prior to such expiration or termination.

13.6 Survival. Sections 2 (Definitions), 3 (Confidentiality), 4 (Intellectual Property), 4.2 (Privacy and Security), 5 (Indemnification; Disclaimers; Limitation of Liability), 12 (Independent Contractors), all representations and warranties, and 13 (General) will survive any termination of this Agreement.

13.7 Severability. If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the remaining provisions shall not be affected or impaired.

13.8 Entire Agreement. This Agreement states all the terms agreed between the parties and supersedes all other agreements between the parties relating to its subject matter. The terms in this Lab Use Agreement will take precedence over conflicting terms in the SOW, unless the SOW expressly states that the SOW's terms take precedence. For clarity, any other SOW that incorporates these Lab Use Agreement terms forms a separate contract.

Version History

There are no previous versions as this is v1.0.

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CableLabs

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