

CERTIFICATION MARK LICENSE AGREEMENT

This Certification Mark License Agreement (“**Agreement**”), by and between SpireSpark International, Inc., an Oregon corporation (the “**SpireSpark**”), and the undersigned licensee and its Affiliates (as defined below) (collectively referred to as the “**Licensee**”), is entered into as of the day on which the latter of Parties’ signature has been executed (the “**Effective Date**”).

RECITALS

- A. WHEREAS, the Digital Living Network Alliance, a nonprofit Oregon corporation (“**DLNA**”), is the owner of the Marks (as defined below);
- B. WHEREAS, DLNA will or has dissolved its business effective January 31, 2017, has engaged SpireSpark to provide testing and certification administration services, and has granted to SpireSpark a license to use the Marks and the right to grant sublicenses to use the Marks;
- C. WHEREAS, SpireSpark is willing to license such marks to licensees that have tested a product either (a) on or prior to January 31, 2017 in accordance with the DLNA Certification and Logo Program or the DLNA Software Certification Program, or (b) on or after February 1, 2017 in accordance with a certification program provided by SpireSpark (either, a “**Certification Program**” and collectively, the “**Certification Programs**”);
- D. WHEREAS, the Certification Programs require(d) review and testing of Licensee’s product for conformance with DLNA’s specification(s) as set forth in DLNA Networked Device Interoperability Guidelines (the “**Test Plan Document**”).
- E. WHEREAS, Licensee’s product is in accordance with the applicable specifications outlined in the Test Plan Document (the “**Certified Product(s)**”), and SpireSpark wishes to grant Licensee certain limited rights to use the Marks (defined below), subject to the terms and conditions of this Agreement.

NOW, THEREFORE, the parties agree as follows:

1. Definitions.

1.1 “**Affiliate**” means any entity that directly or indirectly controls Licensee via beneficial ownership of more than fifty percent (50%) of the voting power or equity in Licensee (“control”), or any entity that directly or indirectly is controlled by Licensee or is under common control with Licensee, so long as such control exists.

1.2 “**Confidential Information**” means various trade secrets and confidential information of the parties, including without limitation, marketing plans, technical information, know-how, ideas, designs, drawings, specifications, techniques, programs, systems, and processes.

1.3 “Marks” means the certification marks, as set forth more specifically in Exhibit A.

2. License Grant. Subject to and conditioned upon Licensee’s compliance with this Agreement, SpireSpark grants to Licensee, and Licensee accepts, a limited, worldwide, non-exclusive, non-transferable, non-sublicensable, non-assignable, royalty-free, revocable sublicense to use the Marks: (i) on its Certified Product for purposes of placing the Marks on Licensee’s Certified Product and/or on packaging and marketing materials related to the Certified Product; (ii) on the Certified Product’s user interface, if applicable; and (iii) on any portion of Licensee’s website that is directly related to the Certified Product. No other right, title, or license is granted hereunder.

3. No Challenge of Ownership Interests. Licensee acknowledges DLNA’s exclusive rights to the Marks and all goodwill associated therewith, and acknowledges that any and all use of the Marks inures to the sole benefit of DLNA and its successors and assigns. Licensee shall not challenge DLNA’s exclusive ownership rights in and to the Marks, nor take action inconsistent with DLNA’s rights in the Marks. Licensee shall not adopt, use, apply to register and/or register as its own trademark(s) any word(s) or design(s) confusingly similar to or that dilute(s) the Marks for any product and/or service.

4. Proper Usage of the Marks.

4.1 Usage Manual. Licensee’s use of the Marks shall be in strict accordance with the DLNA® Certification Mark Usage Guidelines (the “Usage Guidelines”) available at <https://spirespark.com/dlna/marks-and-messaging>, which may be reasonably updated from time to time by SpireSpark. SpireSpark will notify Licensee of any updates to the Usage Guidelines, and Licensee shall comply with the updated Usage Guidelines within sixty (60) days of receiving notice of such updates.

4.2 Licensee’s Brand and Third-Party Brands. Licensee agrees Licensee will only use the Marks on and in connection with Certified Products that also display Licensee’s own source-indicating trademark(s) on such Certified Products and that do not display any third-party trademarks or logos; provided, however, that SpireSpark agrees the Certified Products may also bear third-party certification marks. In the event Licensee desires to place a third-party trademark on Certified Products, which Certified Products will be marketed, sold, and distributed by such third party, Licensee agrees that Licensee will follow and comply with the procedure for OEM transfer, as defined and described in the Certification Program documentation. In the event Licensee desires to place a third-party trademark on Certified Products, which Certified Products Licensee will market, sell, and distribute, Licensee represents and warrants that Licensee has the right to use the third-party trademark on and in connection with the Certified Products.

4.3 Positive Usage. Licensee shall display the Marks only in a positive manner. Licensee will not use the Marks or any other DLNA trademarks in any way that disparages DLNA, SpireSpark, their products or services, or in any manner which would diminish or otherwise damage DLNA’s or SpireSpark’s goodwill, including, but not limited to, uses which could be deemed to be obscene, pornographic, excessively violent, or otherwise in poor taste or unlawful, or which purpose is to encourage unlawful activities.

4.4 Attribution. Licensee shall attribute to DLNA ownership of the Marks as set forth in the Usage Guidelines.

4.5 No Alteration or Modification. Licensee may not alter or modify the Marks or allow others to do so, except that Licensee may proportionally resize the Marks in accordance with the Usage Guidelines. The license rights granted herein are applicable only to the Marks depicted in Exhibit A; use of any artwork or graphic files from any other source is prohibited.

5. Quality Control and Right to Review and Inspect.

5.1 Manufacturing Processes. The Certified Product(s) that Licensee produces and that are marked with the Marks under this Agreement shall be substantially identical to the Certified Product that was approved and registered pursuant to the Certification Program. Further, Licensee covenants, represents and warrants that the Certified Products meet the applicable requirements set forth in the Test Plan Document.

5.2 Review and Inspection. To ensure compliance with Licensee's obligations hereunder, SpireSpark has the right to review and inspect Licensee's promotional materials and Certified Products to ensure compliance with this Agreement, in SpireSpark's sole discretion. Licensee shall cooperate fully in providing SpireSpark access to (or assisting SpireSpark in gaining access to) Licensee's documents, materials and Certified Products, including providing SpireSpark with up to two (2) commercially available samples of the Certified Product, at SpireSpark's request. To the extent SpireSpark's right to review and inspect Licensee's promotional material and Certified Products under this Section 5.2 requires access to third party Confidential Information, SpireSpark acknowledges and agrees that all such third party Confidential Information shall be subject to SpireSpark's confidentiality obligations as set forth in Section 6 below.

5.3 Compliance with Laws. Licensee shall comply with all applicable laws and regulations in its advertising, promotion, display and use of the Marks.

6. Confidentiality.

6.1 Use Restrictions and Non-Disclosure Obligations. During the term of this Agreement, SpireSpark and Licensee may have access to and become acquainted with Confidential Information of each other. Except as otherwise provided for herein, neither party shall: (i) use Confidential Information for any purpose without the prior written authorization of the other; or (ii) disclose Confidential Information to any other person or entity without the prior written authorization of the other.

6.2 Exceptions. The confidentiality obligations imposed by this Agreement shall not apply to: (i) information that becomes part of the public domain through lawful means and without breach of any confidentiality obligation; (ii) information subsequently and rightfully received by either SpireSpark or Licensee from third parties without any obligation of confidentiality; (iii) information that was known to and reduced to writing by the SpireSpark or Licensee prior to the Effective Date of this Agreement; (iv) information that is independently developed by Licensee or SpireSpark without use of or reference to any Confidential Information of the Disclosing Party; (v) information required to be disclosed by compulsory judicial or administrative process or by law or

regulation; and (vi) information that is the subject of a written permission to disclose between Licensee and SpireSpark.

6.3 Return of Materials. Upon either party's request, or upon the termination of this Agreement, all materials containing Confidential Information shall be returned to the disclosing party. The obligations concerning Confidential Information set forth herein shall survive the termination of this Agreement.

7. Protection of Interest.

7.1 Notification of Unauthorized Use. In the event Licensee: (i) becomes aware of any unauthorized use of the Marks by a third party or a third party licensee; or (ii) has an objectively reasonable belief that the use of the Marks by a third party licensee is noncomplying, Licensee shall promptly notify SpireSpark in writing, and shall provide reasonable cooperation, at SpireSpark's expense, in any enforcement of SpireSpark's rights against such third party or a third party licensee. Licensee has no right to and shall not commence any action or claim to enforce the Marks.

7.2 Third-Party Challenge. In the event that a third party challenges Licensee's use of the Marks, Licensee shall immediately notify SpireSpark in writing. Licensee shall not enter into any discussions, negotiations, or settlements, or any other action pertaining to said challenge without the express written consent of SpireSpark. SpireSpark or the Licensee may immediately terminate this Agreement in the event that a challenge to the Marks is brought against Licensee, by providing written notice thereof to the other party. Licensee agrees to cooperate fully with SpireSpark, at SpireSpark's expense, in the event such a challenge is brought.

7.3 Violation of Agreement. Should Licensee violate this Agreement, Licensee shall have thirty (30) calendar days to correct such violation following written notice from SpireSpark (the "Cure Period"). Should Licensee fail to correct such violation within the Cure Period, then this Agreement will immediately terminate upon written notice from SpireSpark.

8. Disclaimers by SpireSpark.

8.1 Mark Disclaimer. THE MARKS ARE PROVIDED "AS-IS" AND WITHOUT ANY REPRESENTATION OR WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED. DLNA AND SPIRESPARK EXPRESSLY DISCLAIM ALL EXPRESS, IMPLIED, AND OTHER REPRESENTATIONS AND WARRANTIES REGARDING THE MARKS, INCLUDING WITHOUT LIMITATION ANY AND ALL IMPLIED WARRANTIES OF TITLE, OWNERSHIP, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT OR OF THE VALIDITY OR REGISTRATION OF DLNA'S OR SPIRESPARK'S RIGHTS IN THE MARKS, IN ANY COUNTRY; AND DLNA AND SPIRESPARK DISCLAIM ANY AND ALL SUCH WARRANTIES AND ALL OTHER WARRANTIES THAT MIGHT OTHERWISE BE IMPLIED BY APPLICABLE LAW. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, DLNA AND SPIRESPARK EXPRESSLY DISCLAIM ANY REPRESENTATION OR WARRANTY OF OWNERSHIP OF ANY REGISTRATIONS, APPLICATIONS, OR COMMON LAW RIGHTS IN THE MARKS IN ANY COUNTRY OR TERRITORY. NEITHER DLNA NOR SPIRESPARK NOR ANY OF DLNA'S OR SPIRESPARK'S DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, OR REPRESENTATIVES WILL HAVE ANY LIABILITY

WHATSOEVER TO LICENSEE OR ANY THIRD PARTY FOR ANY INTELLECTUAL PROPERTY INFRINGEMENT CLAIM BASED ON OR RELATING TO LICENSEE'S OR ANY THIRD PARTY'S USE OF THE MARKS OR MANUFACTURE, PROMOTION, ADVERTISING, DISTRIBUTION, OR SALE OF CERTIFIED PRODUCTS OR OTHER PRODUCTS.

NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS AGREEMENT, DLNA AND SPIRESPARK AND EACH OF THEIR DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, AND REPRESENTATIVES EXPRESSLY DISCLAIM ANY RESPONSIBILITY TO OBTAIN, MAINTAIN, PERFECT, ENFORCE, OR DEFEND THE MARKS OR REGISTERED RIGHTS IN THE MARKS, IN ANY COUNTRY.

8.2 Manufacturing Disclaimer. The Marks may be only used in connection with Certified Products. If a Certified Product displays the Marks, it means that a representative sample of the Certified Product met the Certification Program's requirements as set forth in the Test Plan Document. DLNA AND SPIRESPARK MAKE NO REPRESENTATIONS OR WARRANTIES THAT THE CERTIFIED PRODUCTS MEET THE REQUIREMENTS SET FORTH IN THE TEST PLAN DOCUMENT OR THAT THE USE OF THE CERTIFIED PRODUCTS WILL BE ERROR FREE, ACCURATE, OR UNINTERRUPTED.

9. Licensee's Covenants, Representations and Warranties and Indemnification.

9.1 Licensee's Covenants, Representations and Warranties. In addition to Licensee's covenants, representations, and warranties set forth elsewhere in this Agreement, Licensee covenants, represents and warrants that Licensee's Certified Product is substantially identical to the manufactured Certified Product that Licensee will sell or sells or otherwise distributes to distributors, retailers, wholesalers, end users, consumers, or other third parties.

9.2 Licensee's Indemnification of SpireSpark. Licensee agrees to indemnify SpireSpark and DLNA for, from and against all loss, cost, liability and expense incurred by SpireSpark and/or DLNA that arise out of a claim: (i) regarding the inaccuracy or violation of any of the representations, warranties or covenants contained in this Agreement; (ii) concerning Licensee's use of the Marks not in accordance with the terms of this Agreement; (iii) concerning Licensee's marketing, advertising, promotion, endorsement, sale, or distribution of any products and/or platform (including software); or (iv) arising out of Licensee's Certified Product(s); provided, however, that in no case shall Licensee be required to indemnify SpireSpark or DLNA regarding the validity or invalidity of or the infringement by the Marks so long as Licensee uses the Marks in accordance with the terms of this Agreement. SpireSpark agrees to provide Licensee with prompt notice of any such claims and shall provide Licensee with reasonable assistance (at Licensee's expense) in the defense or settlement of such claims.

10. Limitation of Damages.

NEITHER DLNA NOR ANY PARTY HERETO WILL BE LIABLE TO THE OTHERS UNDER ANY CAUSE OF ACTION, WHETHER IN CONTRACT, TORT, OR OTHERWISE, FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR ENHANCED DAMAGES, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; PROVIDED, HOWEVER THAT THE FOREGOING LIMITATION OF LIABILITY

SHALL NOT APPLY TO OR IN ANY WAY LIMIT LICENSEE'S INDEMNIFICATION OBLIGATIONS SET FORTH IN THIS AGREEMENT.

11. Term and Termination.

11.1 Term. The term of this Agreement shall extend from the Effective Date until terminated pursuant to this Agreement.

11.2 Termination. The parties agree that, in addition to other rights of termination set forth herein, this Agreement may be terminated upon thirty (30) days advance written notice by Licensee.

11.3 Effect of Termination. Upon cancellation, expiration or termination of this Agreement (the "**Termination Date**"), all rights granted under this Agreement shall immediately and automatically terminate. Upon the Termination Date, Licensee shall: (i) immediately cease all use of the Marks in connection with Certified Products and all advertising and promotional material, packaging, and other documents and materials related to the Certified Products; and (ii) immediately cease all other uses of the Marks; provided, however, that Licensee will have sixty (60) calendar days from the Termination Date to sell any Certified Products that were manufactured prior to the Termination Date.

12. Additional Provisions.

12.1 No Assignment by Licensee. Licensee may not assign this Agreement without the prior written consent of SpireSpark, which consent shall not be unreasonably withheld.

12.2 Choice of Law and Jurisdiction. The validity, construction and performance of this Agreement shall be governed by U.S. federal law and the laws of the State of Oregon, without reference to conflict of laws principles. The parties further acknowledge and agree that any non-contractual cause of action that either party may assert, including but not limited to trademark infringement, trademark dilution, passing off false designation of origin, unfair competition and other non-contractual causes of action, will be governed by U.S. federal law and the law of the State of Oregon. Any dispute arising out of this Agreement shall be brought in, and the parties consent to personal and exclusive jurisdiction of and venue in, the state and federal courts within Multnomah County, Oregon.

12.3 Equitable Relief. Licensee recognizes and acknowledges that the breach of any of its covenants, agreements, undertakings, terms or conditions hereunder may cause SpireSpark and/or DLNA irreparable damage, which cannot be readily remedied by monetary damages in an action at law, and may, in addition thereto, constitute a violation of DLNA's and/or SpireSpark's trademark rights and rights under the laws of unfair competition. In the event of any default or breach by Licensee, including any action by Licensee that could cause some loss or dilution of DLNA's and/or SpireSpark's goodwill, reputation, or rights in the Marks, DLNA and/or SpireSpark shall be entitled to seek an immediate injunction in addition to any other remedies available, to stop or prevent such irreparable harm, loss, or dilution.

12.4 Representation as to Authority. The parties to this Agreement represent and warrant that they have the sole right and exclusive authority to execute this Agreement and that they have not

sold, assigned, transferred, conveyed, or otherwise disposed of any interest, right, claim or demand, or portion thereof, relating to any matter in this Agreement.

12.5 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, such determination shall not affect the validity of the remaining provisions. However, if SpireSpark determines in its discretion that the court's determination causes this Agreement to fail in any of its essential purposes, it may immediately terminate the Agreement by providing written notice thereof to Licensee.

12.6 No Waiver. The failure of any party to enforce at any time one or more of the provisions of this Agreement shall in no way be construed to be a present or future waiver of such provisions, nor in any way affect the ability of any party to enforce each and every such provision thereafter.

12.7 Relationship of the Parties. No agency, partnership, joint venture, franchise, or employment is created between the parties as a result of this Agreement. Neither party is authorized to create any obligation, express or implied, on behalf of the other party.

12.8 Binding Effect. This Agreement will be binding upon and inure to the benefit of the undersigned and any and all Affiliates of Licensee, and any permitted successors and/or permitted assigns of either party.

12.9 No Endorsement. Licensee shall make no claims or indications that SpireSpark endorses its products or services, except that Licensee may use the Marks to indicate that its Certified Products conform to the specifications in the Test Plan Document.

12.10 Notices. All notices, consents, requests and demands to or upon the respective parties hereto ("Notice") must be in writing (including e-mail) and delivered to a part at the address set forth below its signature hereto, or such updated address as such party may designate by providing Notice of hereunder. Notice will be effective upon receipt.

12.11 Third Party Beneficiary. DLNA is a third party beneficiary to this Agreement.

12.12 Entire Agreement. This Agreement and any Attachments thereto constitute the entire agreement between the parties concerning the subject matter hereof and supersedes all proposals, oral or written, all negotiations, conversations, and/or discussions between the parties relating to the License.

(Signatures follow)

IN WITNESS WHEREOF, the parties, by their duly authorized representatives, have executed this Agreement.

SPIRESPARK

LICENSEE

SpireSpark International, Inc.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Address for Notices:

Address for Notices:

SpireSpark International, Inc.
PO Box 2270
Tualatin, Oregon 97062

EXHIBIT A

1. Licensed Certification Marks



a.

*This DLNA CERTIFIED mark can be used on any Certified Products, regardless of the level of certification.

b. DLNA CERTIFIED

*This word mark is for use solely for textual descriptions of a Certified Product. The DLNA CERTIFIED & Design mark shown in 1(a) above should be used whenever possible.



c.

*This DLNA CERTIFIED 2.0 & Design mark can only be used on Certified Products that have been certified as compliant with the DLNA 2.0 Certification Test Plan version 1.0 or later

d. DLNA CERTIFIED 2.0

*This word mark is for use solely for textual descriptions of a Certified Product that has been certified as compliant with the DLNA 2.0 Certification Test Plan version 1.0 or later. The DLNA CERTIFIED 2.0 & Design mark shown in 1(c) above should be used whenever possible.



e.

*This DLNA CERTIFIED 3.0 & Design mark can only be used on Certified Products that have been certified as compliant with the DLNA 3.0 Certification Test Plan version 1.0 or later.

f. DLNA CERTIFIED 3.0

*This word mark is for use solely for textual descriptions of a Certified Product that has been certified as compliant with the DLNA 3.0 Certification Test Plan version 1.0 or later. The DLNA CERTIFIED 3.0 & Design mark shown in 1(e) above should be used whenever possible.

Rev. 1/26/17