

CONTENT HOSTING SERVICES AGREEMENT

This Content Hosting Services Agreement, including the Order Form, the Metadata Feed, and the exhibit attached hereto and incorporated by reference herein ("the Agreement"), is entered into as of July 7, 2008 (the "Effective Date") by and between the United States Department of Commerce, a government agency with offices located at 1401 Constitution Avenue N.W., Washington, DC 20230 ("Provider") and Google Inc., a Delaware corporation, and its affiliates ("Google").



DEFINITIONS

"Block" means the Usage Policy available in the Content Management Tools for Provider to specify that a Video Match be blocked from playback on the YouTube Website and/or Google Video in the Territories designated by Provider.

"Content Management Tools" means certain tools and systems intended to assist Provider in the identification and management of Works on the YouTube Website and Google Video and that enables Provider to set usage policies for those Works.

"Google AdSense Partner Sites" means the websites of those affiliates and syndication partners who have contracted with Google to receive the Google product and who, in connection with such video content syndication relationship with Google, display multimedia content, which may include Provider Content, and Monetized Content so enabled through the usage of the AdSense syndication flag, and related advertising.

"Google Software" means the content preparation software that may be used by Provider under the terms and conditions of this Agreement.

"Google Services" means the YouTube Website and other Google websites, products and services, including those made available for syndication.

"Google Video" means the Google branded video destination with its main U.S. homepage at <http://video.google.com>.

"ID File" means the unique binary data that describes a Work and is used for the automatic identification of that Work. ID Files may be provided by Provider to Google or created by Google using the Reference Files and/or Provider Content.

"Limit Distribution Flag" means the feature that Provider may enable with respect to any video of Provider Content, Tracked Content or Monetized Content intended to prevent display of such content and videos in Google Services that are specifically optimized for or targeted to distribution via mobile devices or television. Notwithstanding the foregoing, the limit distribution flag does not prevent users from accessing the YouTube Website (and any Provider Content, Tracked Content or Monetized Content displayed therein) via mobile devices, television sets or monitors or other devices with the aid of a standard web browser.

"Metadata Feed" means an XML feed (further described in Exhibit A) or other method specified by Google used by Provider to supply necessary information about Provider Content.

"Monetize" means the Usage Policy available to Provider in the Content Management Tools for Provider to license to Google in the Territories pursuant to this Agreement a Video Match.

"Monetized Content" means a Video Match designated as Monetize by Provider.

"Playback Pages" is a page or pages on the YouTube Website where users will be able to playback at no cost the selected Provider Content, Monetized Content and Tracked Content, and to view more detailed information relating to the foregoing. Playback Pages in Google Services may be revised or modified by Google in its sole discretion.

"Provider Channel" means that page of the YouTube Website that is dedicated to the Provider Content, and whose look and feel is largely controlled by Provider subject to the YouTube Website templates.

"Provider Content" means the audiovisual content received by or made available to Google from or by Provider via the delivery means described in Exhibit A and as set forth and described in the Metadata Feed or Google-provided interface to the Metadata Feed, and all data and information contained within or provided to Google by Provider in association with such content, including but not limited to all information provided in the Metadata Feed or Google-provided interface to the Metadata Feed, text, images, closed captioning, metadata, and compositions and sound recordings of any music, and any copies that Google makes of any or all of the foregoing. Provider may designate additional content for hosting, indexing and displaying to users by providing to Google additional content and Metadata Feeds via approved delivery methods. Any such added content shall be considered "Provider Content" and subject to the terms and conditions of this Agreement.

"Provider Site" is the Provider web site(s) located at the URL(s) designated in the Metadata Feed (and any successor site(s) thereto).

"Reference Files" means the Works provided by Provider to Google by those means set forth in Exhibit A.

"Territories" means the territories designated by Provider in the Metadata Feed, Google-provided interface to the Metadata Feed or the Content Management Tools with respect to each item of Provider Content and Monetized Content.

"Track" means the Usage Policy available in the Content Management Tools allowing Provider to take no action with respect to a Video Match in the Territories selected by Provider..

"Tracked Content" means a Video Match designated as Track by Provider.

"Usage Policy" means Monetize, Track, or Block, or such other policies as may be made available by Google from time to time.

"User Video" means any video submitted to the YouTube Website and/or to Google Video by a user.

"Video Match" means (a) User Videos determined by the Content Management Tools to match an ID File, and (b) User Videos claimed by Provider to contain a Work using the search functionality that may be offered by the Content Management Tools.

"Work" means audio and audiovisual works owned or controlled by Provider.

"YouTube Embed" is the Google Service that Provider may enable with respect to each video of Provider Content and Monetized Content that will permit display of such videos within the YouTube Video Player on third party websites and in Google Services in addition to the YouTube Website.

"YouTube Video Player" is one or more computer program players made available to users which is used or useful in the transmission, performance and/or playback of multimedia content so that the digital data that embodies the audio or audiovisual recording concerned can be perceived by and communicated to a user of such computer program when used in conjunction with the aid of a machine or device.

"YouTube User Account" is a user account or accounts that Provider creates on the YouTube Website and with which Provider Content will be associated. Such YouTube User Account will provide various functionalities to, by way of example and not limitation, permit Provider to manage the display of Provider Content on YouTube.

"YouTube Website" means the Google Service known as YouTube located at <http://www.youtube.com>, including all mirror and derivative sites, all replacements or successor versions thereof, and all international versions thereof.

1. LICENSES AND CONTENT DELIVERY.

1.1 **Content License.** Provider hereby grants Google a non-exclusive, limited right (but not the obligation) and license to host, cache, route, transmit, store, copy, modify (as described herein), distribute, perform, display, reformat, excerpt, analyze, create algorithms based on and otherwise use the Provider Content and Monetized Content in order to (i) host the Provider Content and Monetized Content on Google's servers; (ii) index the Provider Content and Monetized Content; (iii) display, perform and distribute the Provider Content and Monetized Content, in whole or in part, in Google Services and/or in the YouTube Video Player in the Territories (subject to Section 1.2.4 in the case of Provider Content and Section 4.3 in the case of Monetized Content); and (iv) make continuing improvements to Google Services. The foregoing includes all necessary rights to use of the compositions and sound recordings of any music included in the Provider Content and Monetized Content in order to host, index, display, perform and distribute the Provider Content and Monetized Content (except for the necessary rights and permissions for the public performance in the United States of the musical compositions embodied in Provider Content and Monetized Content), and the right to modify the Provider Content and Monetized Content to the extent technically necessary to index and display (in whole or in part) the Provider Content and Monetized Content.

1.2 Mechanisms for Provider to Control Distribution and Display of Content. Provider may limit the display and distribution of Provider Content and Monetized Content in the following ways.

1.2.1 YouTube Embeds Turned Off: Provider may disable YouTube Embeds for (i) any and all Provider Content videos and (ii) for all Monetized Content (and as soon as commercially available, on a per video basis for Monetized Content), via the Metadata Feed or Google provided interface to the Metadata Feed. If YouTube Embeds are turned off for any video, then such video will not be available for display (i) in any Google Service except the YouTube Website or those Google Services targeted to or optimized for display via mobile devices or television (unless Provider has turned the Limit Distribution Flag "on"), or (ii) on third party websites (unless Provider has made such video available for syndication on Google AdSense Partner Sites). For the avoidance of doubt, YouTube Embeds are default "on".

1.2.2 Limit Distribution Flag Turned On: Provider may enable the Limit Distribution Flag for any and all Provider Content videos and Monetized Content via the Metadata Feed or Google provided interface to the Metadata Feed. If the Limit Distribution Flag is turned on for any video, then such video will not be available for display in Google Services that are specifically optimized or targeted for distribution via mobile devices or television. Notwithstanding the foregoing, the limit distribution flag does not prevent users from accessing the YouTube Website (and any Provider Content or Monetized Content displayed therein) via mobile devices, television sets or monitors or other devices with the aid of a standard web browser.

1.2.3 AdSense Syndication Turned Off: Provider may disable display on Google AdSense Partner Sites for any and all Provider Content videos and Monetized Content via the Metadata Feed or Google provided interface to the Metadata Feed. If display on Google AdSense Partner Sites is turned off for any video, then such video will not be available for display on Google AdSense Partner Sites. Notwithstanding the foregoing, even if display on Google AdSense Partner Sites is turned off for a video, that video may still appear on that Google AdSense Partner Site via YouTube Embed, if Provider has not disabled YouTube Embed for that video.

1.2.4 Territories and IP Restrict. Provider may specify in the Metadata Feed or Google-provided interface to the Metadata Feed the Territories for each individual item of Provider Content. As further set forth in Section 4.3, Provider may designate a Block Usage Policy in specific Territories to Video Matches. Google will use commercially reasonable efforts to restrict access to playback of Provider Content and Monetized Content to those IP addresses as received by Google that correspond to the Territories. Notwithstanding the foregoing, Google does not guarantee that its efforts to limit or prevent such access will in every instance be effective.

1.2.5 **Metadata Feed Controls.** It is understood and agreed that to the extent there are any conflicts between (i) the Metadata Feed, or any metadata or rules indicated by Provider in the Content Management Tools, and (ii) any terms in this Agreement, the information in (i) of this section shall control.

- 1.3 **Brand Features License.** For each and all trademarks, trade names, names, designs and logos ("**Brand Features**") of Provider, including all of the foregoing pertaining to the Provider Content ("**Provider Brand Features**"), that Provider delivers to Google, Provider grants to Google a limited, non-exclusive, worldwide, royalty-free license to use those Brand Features and Provider Brand Features in connection with the Provider Content and Monetized Content and in order to fulfill its obligations under this Agreement. Subject to Provider's prior written approval, Google may also use Brand Features and Provider Brand Features for use in presentations, marketing materials, financial reports, press releases and customer lists (which includes without limitation customer lists posted on Google's web sites and screen shots of Provider Content contained in Google Services).
- 1.4 **Reservation of Rights.** Except for the licenses granted hereunder, (i) as between Google and Provider, all rights, title and interest (including without limitation all intellectual property rights) in and to the Provider Content, Monetized Content, Reference Files and ID Files provided by Provider to Google, and Provider Brand Features shall remain with Provider in accordance with and subject to applicable law, (ii) as between Google and Provider, all rights, title and interest (including without limitation all intellectual property rights) in and to Google Services (except for the Provider Content, Reference Files and ID Files provided by Provider to Google, and Monetized Content contained in the foregoing), Google Software, Content Management Tools, related information and files, other Google systems, technology, and any Google Brand Features shall remain with Google in accordance with and subject to applicable law, and (iii) neither party grants, and the other party shall not acquire, any right, title or interest (including, without limitation, any implied license) in or to any Brand Features of the other party. All use by Google of Provider Brand Features (including any goodwill associated therewith) shall inure to the benefit of Provider. As between Google and Provider, Google has the sole right and decision making authority with respect to the design, appearance, functionality, hosting, performance, and maintenance of the YouTube Website, and all other Google Services.
- 1.5 **Provider Content Delivery and YouTube User Account.** During the Term, Provider will deliver to Google the Provider Content in the manner specified in Exhibit A. Provider shall create a YouTube User Account(s) with which delivered Provider Content shall be associated. Provider shall not deliver to Google any Provider Content comprised substantially of third party materials unless Provider is the exclusive licensee of online distribution rights for the underlying material. If a third party provides Google with a claim of ownership of any material contained within Provider Content or Monetized Content, then: (a) the Provider Content or Monetized Content may be blocked from the YouTube Website and the YouTube Video Player, (b) payments accruing to Provider pursuant to Section 4 may be

suspended or cancelled, and (c) if Provider disputes the third party claim, Provider will participate in a procedure to resolve the dispute.

2. **CONTENT TAKEDOWNS.**

2.1 **Provider Takedowns.** Provider may delete any Provider Content from Google Services at any time by means of the YouTube User Account(s) or by information provided in the Metadata Feed. Provider may apply a different Usage Policy at any time during the Term. In the event that any Provider Content, or Video Matches formerly designated Monetized Content or Tracked Content which have been changed to Blocked Content, continue to appear in Google Services more than forty-eight (48) hours after Provider has successfully initiated removal of Provider Content through the Metadata Feed or the YouTube User Account or has changed a Usage Policy to Block via the Content Management Tools, Provider shall notify Google of the URL of such material by sending an email to partner-takedownrequest@youtube.com, or such other address as Google may designate and Google will use commercially reasonable efforts to remove such material display in the designated Territories within twenty (20) days of confirmed receipt of such notice.

2.2 **Google Takedowns.** While Google does not intend, and does not undertake, to monitor the Provider Content, Tracked Content or the Monetized Content, if Google is notified by Provider or otherwise becomes aware and determines in its sole discretion that (A) the Provider Content, Tracked Content or the Monetized Content, or any portion thereof or the Provider Brand Features: (i) violates the intellectual property rights or any other rights of any third party, (ii) violates any applicable law or is subject to an injunction, (iii) is pornographic, obscene or otherwise violates Google's hosting policies or other terms of service as may be updated by Google from time to time in its sole discretion, (iv) is being distributed by Provider improperly, or (v) may create liability for Google, or (B) the display of the Provider Content, Tracked Content or the Monetized Content is impacting the integrity of Google servers (i.e., users are unable to access such content or otherwise experience difficulty), Google may withdraw from, not display or cease displaying that Provider Content, Tracked Content and/or the Monetized Content in Google Services with no liability to Google.

3. **HOSTING, SERVING, STORING, INDEXING AND SUPPORT.**

3.1 **Hosting, Serving, Storage, and Indexing.** Except as set forth in Section 2.2 above and provided that Provider is in compliance with its obligations hereunder, Google shall store Provider Content and Monetized Content on servers hosted or controlled by Google and host at the direction of Provider, Provider Content and Monetized Content in Google Services.

3.2 **Provider Channel and Playback Page.** Google shall make available to Provider a Playback Page for Provider Content and a Provider Channel that prominently displays the Provider Brand Features and contains a collection of Provider Content.

- 3.3 **Tech Support, User Requests, Assistance.** Google will respond to user technical support requests regarding Google Services. Each party will provide on-going assistance to the other party with regard to technical, administrative and service-oriented issues relating to the utilization, encoding, transmission and maintenance of the Provider Content and Monetized Content as such party may reasonably request.
4. **CONTENT IDENTIFICATION AND MANAGEMENT.**
- 4.1 **Reference Files and ID Files.** Provider shall deliver to Google the Reference Files or ID Files created using the Google Software. If Provider provides Reference Files and/or Provider Content, Google will create corresponding ID Files. Provider will provide metadata associated with each Reference File, Provider Content or ID File (such as title, description, Usage Policy, and Territory for each Usage Policy). Provider will cooperate with Google to resolve technical and other issues relating to the ingestion, encoding, prioritization, utilization, and maintenance of the Reference Files, as Google may reasonably request with the goal of ensuring the proper functioning and scaling of the Content Management Tools. Provider will ensure that the metadata delivered to Google is accurate and current. Provider may delete any Reference Files and Google will delete the corresponding ID Files. Google will store the Reference Files on secure servers and apply commercially reasonable measures to protect Reference Files from unauthorized access. Provider shall not deliver Reference Files for Works that are substantially comprised of materials owned by a third party unless Provider is the exclusive licensee of online distribution rights for the underlying material.
- 4.2 **Grant and Limitation of Rights.** (a) Google grants Provider a non-exclusive, non-transferable, royalty-free, limited license to use the Content Management Tools and the Google Software solely for the purpose of creating ID Files and identifying and managing Works on the YouTube Website and Google Video. By submitting Reference Files, Provider Content and/or ID Files, Provider grants Google a non-exclusive, nontransferable, royalty-free limited license to store, copy (including the right to make temporary cache and storage copies), modify or reformat, excerpt, analyze, use to create algorithms and binary representations, and otherwise use those files in connection with the Content Management Tools. (b) Provider shall not sell, lease, lend, convey, modify, adapt, translate, prepare derivative works from, decompile, reverse engineer, disassemble or attempt to derive source code from the Google Software, Content Management Tools, any other Google technology, user interface techniques, software, materials, or documentation. If Provider has marked Reference Files as "reference only" in the Metadata Feed, Google shall not publicly display, publicly perform or otherwise distribute the Reference Files in any Google Service, including but not limited to the YouTube Website. In the event Provider has not marked Reference Files as "reference only", then such Reference Files shall be considered "Provider Content" and subject to the applicable terms and conditions of this Agreement. Except for the licenses granted above, all of Provider's intellectual property rights in the Reference Files and ID Files provided by Provider to Google remain with Provider and all of Google's intellectual property rights in the YouTube Website, Google Video, Google Software, the Content Management Tools and related information and files remain with Google.

- 4.3 **Content Management Tools and User Video Matches.** The Content Management Tools will compare User Videos against the ID Files to identify Video Matches, if any, and apply the Usage Policies assigned by Provider. The Content Management Tools may also provide Provider the capability to perform text searches for User Videos that may contain the Works and assign Usage Policies. Provider shall select the Monetize, Track, or Block Usage Policy for each match, or other usage policies as Google may make available from time to time. Provider may select another Usage Policy at any time during the Term. Google's implementation of the Usage Policies set by Provider will be Google's sole obligation or liability with respect to Video Matches. If any particular ID File has not yielded any Video Matches within a reasonable time or is not updated or verified by Provider, or if it yields erroneous results, Google may remove such ID File from the Content Management Tools and Google will notify Provider of such removal. Provider shall not make false claims on User Videos or otherwise abuse the Content Management Tools. False claims or abuse may lead to termination of this Agreement by Google. Notwithstanding the foregoing, as of the Effective Date, only the Block Usage Policy will be applied to Video Matches on Google Video unless and until Google makes the other Usage Policies available for Google Video. If Provider selects the Monetize Usage Policy or the Track Usage Policy for Video Matches on Google Video, Google will instead apply the Block Usage Policy unless and until such other Usage Policies are available. If a third party provides Google with a claim of ownership of any material contained within Provider Content or Monetized Content, then: (a) the Provider Content or Monetized Content may be blocked from the YouTube Website and the YouTube Video Player, (b) payments accruing to Provider pursuant to Section 6 may be suspended or cancelled, and (c) if Provider disputes the third party claim, Provider will participate in a procedure to resolve the dispute.
- 4.4 **Disputes.** Google may establish reasonable procedures to resolve claims that a Video Match was wrongfully Blocked by the Content Management Tools or monetized by Provider due to error, mistake, or otherwise, and Provider will cooperate with Google to resolve such disputes. If, during the course of evaluating whether Provider has rights to specific content, Provider reviews content designated as private by the user, Provider will not disclose the content to any third party except as necessary for this process or a judicial proceeding.
5. **ADVERTISING.** Provider acknowledges and agrees that Google may serve advertising in any and all Google Services, including but not limited to the display of ads on the Playback Pages, and within the YouTube Video Player in conjunction with the display or playback of Provider Content and Monetized Content. Such ads may appear in the style and format that may be offered by Google and as may be modified from time to time by Google.

Provider has the right to designate Provider Content through the Metadata Feed as "Track Only," and Google will not serve advertising against Provider Content so designated. Provider acknowledges that Google may serve advertising against any Provider Content that is not designated by Provider through the Metadata Feed as Track Only.

Provider shall not include any promotions, sponsorships or other advertisements (except for those promoting its own products or services) as part of Provider Content. If any such ads are included as part of Provider Content, Google may elect not to serve advertisements that would be subject to the revenue share in Section 6.1 below or to remove any such Provider Content from display to end users entirely.

6. PAYMENTS, REPORTING, NONQUALIFYING ADS, TAXES.

6.1 Ads Revenue Share.

6.1.1 **“Ad Revenues”** means recognized revenues from ads provided by Google or an approved third party and displayed or streamed in or on the YouTube Video Player and on Playback Pages with the streaming of Provider Content and Monetized Content. Except for ads on AdSense Partner Sites, Provider shall receive 55% of Ad Revenues recognized by Google (or its pro-rata share of 55% if there are multiple claimants to Monetized Content). For ads on AdSense Partner Sites, Provider shall receive at least 30% of Ad Revenues recognized by Google (or its pro-rata share of at least 30% if there are multiple claimants to Monetized Content).

6.2 **Payment Terms.** Recognized revenues shall not include those items listed in Section 6.4 or any taxes. Payments to Provider shall be sent by Google within approximately sixty (60) days after the end of any calendar month. Payments to Provider shall be made either by check or (if by wire transfer) pursuant to the wire transfer instructions specified on the Order Form. Google reserves the right to retain all other revenues derived from Google Services including without limitation any revenues from ads that may appear on any search results pages. The number of queries, impressions of and clicks on ads, as reported by Google, shall be the number used in calculating payments hereunder, if any.

6.3 **Reporting.** Within thirty (30) days of the end of each month, Google shall provide Provider with usage reports in the form generally made available to providers at that time which reports shall contain at least monthly playbacks and total revenue generated for Provider Content submitted through the Metadata Feed and for Monetized Content, and shall also provide the Territories in which each such video is played.

6.4 Non-Qualifying Ads.

6.4.1 Google shall not be liable for any payment based on:

6.4.1.1 any amounts which result from invalid queries, or invalid clicks on ads, generated by any person, bot, automated program or similar device, including, without limitation, through any clicks or impressions:

- (i) originating from Provider’s IP addresses or computers under Provider’s control, or
- (ii) solicited by payment of money, false representation or request for users to click on ads;

6.4.1.2 ads delivered to users whose browsers have JavaScript disabled;

6.4.1.3 ads benefiting charitable organizations and other placeholder or transparent ads that Google may deliver;
6.4.1.4 Google advertisements for its own products and/or services;
6.4.1.5 clicks co-mingled with a significant number of invalid clicks described in 6.4.1.1 above, or
6.4.1.6 as a result of any breach of Section 4.3, Section 6.5 or Section 7 of this Agreement by Provider.

6.4.2 Google reserves the right to withhold payment or charge back Provider's account due to any of the reasons listed in 6.4.1 pending Google's reasonable investigation. Provider agrees to cooperate with Google in its investigation of any of the foregoing.

- 6.5 **Prohibited Acts.** Provider shall not, and shall not authorize or encourage any third party to directly or indirectly generate queries, impressions of or clicks on any ad(s) or to obtain access to Provider Content through any automated, deceptive, fraudulent or other invalid means, including but not limited to through repeated manual clicks, the use of robots or other automated query tools and/or computer generated search requests, and/or the fraudulent use of other search engine optimization services and/or software. Google reserves the right to investigate, at its own discretion, any activity that may violate this Agreement, including but not limited to any use of a software application to access ads or any engagement in any activity prohibited by this Agreement.
- 6.6 **Taxes.** Google shall be responsible for any taxes relating to payments it makes under this Agreement other than taxes based on Provider's income. If Google is required to deduct or withhold taxes from any payments made to Provider and remits such taxes to the local taxing jurisdiction, then Google shall duly withhold and remit such taxes and shall pay to Provider the remaining net amount after the taxes have been withheld.
- 6.7 **Miscellaneous Payment Information.** Except as otherwise agreed to, for purposes of providing Provider payment under this Agreement, Google may create an account for Provider, where Provider will be able to access information about advertising revenue payments to Provider. Provider understands and agrees that this account is made available to Provider for this purpose only, and that the account may not be used for any other purpose unless expressly agreed to otherwise by Provider and Google. To ensure proper payment, Provider is solely responsible for providing and maintaining accurate contact and payment information associated with its account. For U.S. taxpayers, this information includes without limitation a valid U.S. tax identification number and a fully-completed Form W-9. For non-U.S. taxpayers, this information includes without limitation a fully-completed Form W-8 or other form, which will likely require a valid U.S. tax identification number, as required by the U.S. tax authorities. All payments made in connection with this Agreement are exclusive of taxes imposed by governmental entities of whatever kind and imposed with respect to the transactions for services provided under this Agreement. Any bank fees related to returned or cancelled checks due to a contact or payment information error or omission may be deducted from the newly issued payment.

7. REPRESENTATIONS AND WARRANTIES. Each party represents and warrants that it has full power and authority to enter into the Agreement and that upon execution and delivery hereof, this Agreement shall constitute the valid and binding obligations of the party. Provider represents and warrants (A) it has and will maintain throughout the Term all rights, authorizations and licenses that are required in order for (i) it to fully perform its obligations hereunder, (ii) it to grant the rights and licenses granted herein, (iii) Google to use the Provider Content, Monetized Content, Reference Files, File IDs provided to Google by Provider, and Provider Brand Features as permitted herein, and (iv) Provider to designate the Usage Policies, and (B) the Provider Content, Monetized Content, the Provider Brand Features and/or Google's authorized use thereof do not infringe any third party right, including but not limited to rights arising from contracts between Provider and third parties, copyright, trademark, trade secret, moral rights, privacy rights, rights of publicity, or any other intellectual property or proprietary rights.

8. DISCLAIMERS. THE PARTIES MAKE NO WARRANTIES OTHER THAN THE EXPRESS WARRANTIES STATED IN THIS AGREEMENT. THE PARTIES DISCLAIM ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO (i) IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT (ii) WARRANTIES AS TO THE QUALITY OR PERFORMANCE OF THE MATERIALS, INFORMATION, GOODS, SERVICES, TECHNOLOGY AND/OR CONTENT PROVIDED UNDER OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO THE DELIVERY OR AVAILABILITY OF ANY ADVERTISEMENTS, AND ANY LIMITATIONS ON USER ACCESS TO OR USE OF CONTENT; AND (iii) WARRANTIES AS TO THE PERFORMANCE OF COMPUTERS, TECHNOLOGY, NETWORKS OR ADS (INCLUDING BUT NOT LIMITED TO ALL WARRANTIES REGARDING POSITIONING, LEVELS, QUALITY OR TIMING OF (A) AVAILABILITY AND DELIVERY OF ANY IMPRESSIONS, CREATIVE, OR TARGETS; (B) CONVERSIONS OR OTHER RESULTS FOR ANY ADS OR TARGETS; (C) THE ACCURACY OF ANY PROVIDER DATA (E.G., REACH, SIZE OF AUDIENCE, DEMOGRAPHICS OR OTHER PURPORTED CHARACTERISTICS OF AUDIENCE); AND (D) THE ADJACENCY OR PLACEMENT OF ADS). GOOGLE MAKES NO WARRANTY THAT GOOGLE SERVICES WILL BE UNINTERRUPTED, TIMELY OR ERROR-FREE OR THAT THE RESULTS OR INFORMATION OBTAINED FROM USE OF GOOGLE SERVICES WILL BE ACCURATE OR RELIABLE.

9. Provider Liability

The liability of Provider and its obligations to Google resulting from any breach by Provider of any of the provisions of this Agreement or any claim arising from this Agreement will be determined under the Federal Tort Claims Act, the Tucker Act, or any other applicable Act of Congress.

10. LIMITATION OF LIABILITY. EXCEPT FOR (I) BREACHES BY PROVIDER OF ITS REPRESENTATIONS AND WARRANTIES UNDER SECTION 7, (II) PAYMENT OBLIGATIONS UNDER SECTION 6 AND (III) BREACHES OF CONFIDENTIALITY UNDER SECTION 12.1: (x) NEITHER PARTY HERETO SHALL BE LIABLE TO THE OTHER FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, LIQUIDATED, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES OR PENALTIES INCLUDING, BUT NOT

LIMITED TO, LOSSES OF BUSINESS, REVENUE OR ANTICIPATED PROFITS AND (y) NEITHER PARTY'S TOTAL AGGREGATE LIABILITY FOR ANY CAUSE OF ACTION ARISING OUT OF OR RELATED TO THIS AGREEMENT MAY EXCEED THE NET AMOUNT SUCH PARTY HAS ACTUALLY RECEIVED AND RETAINED (AFTER ACCOUNTING FOR ALL DEDUCTIONS, AND OTHER OFFSETS PROVIDED FOR UNDER THE AGREEMENT) FROM ADVERTISING SALES AS PROVIDED FOR UNDER THIS AGREEMENT DURING THE SIX (6) MONTHS IMMEDIATELY PRECEDING THE DATE ON WHICH SUCH CLAIM ARISES. THE LIMITATIONS OF LIABILITY SET FORTH IN THIS SECTION 10 WILL APPLY REGARDLESS OF THE CAUSE OF ACTION UNDER WHICH SUCH DAMAGES ARE SOUGHT, WHETHER FOR BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR OTHER TORT, WHETHER OR NOT THE PARTIES WERE OR SHOULD HAVE BEEN AWARE OR ADVISED OF THE POSSIBILITY OF SUCH DAMAGE, AND REGARDLESS OF WHETHER ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE. The parties agree that (i) the mutual agreements made in this Section reflect a reasonable allocation of risk and (ii) that each party would not enter into the Agreement without these limitations on liability.

11. TERM AND TERMINATION.

11.1 **Term.** This Agreement will commence on the Effective Date and shall continue thereafter for a period of one (1) year unless terminated earlier as provided for in this Agreement (the "Initial Term"). This Agreement will automatically renew for additional one (1) year terms unless either party gives at least thirty (30) days written notice prior to the end of the then-current term of its intent not to renew (the Initial Term and all renewal terms, collectively, the "Term").

11.2 **Termination.** Either party may terminate this Agreement: (a) immediately upon written notice to the other party if (i) the other party files a petition for bankruptcy, becomes insolvent, or makes an assignment for the benefit of its creditors, or a receiver is appointed for the other party or its business, or (ii) the other party breaches Section 12.1 of this Agreement (Confidentiality); or (b) with thirty (30) days prior written notice for any other breach, if such breach is not cured within the notice period. Google may terminate this Agreement immediately upon written notice to Provider if Provider breaches its representations and warranties in Section 7(A) or 7(B) of this Agreement. Either party may terminate this Agreement for convenience with thirty (30) days prior written notice. Upon any termination of this Agreement, Google shall use commercially reasonable efforts to cease display of Provider Content to users within thirty (30) days of the effective date of termination.

12. GENERAL.

12.1 **Confidentiality.** Disclosure of confidential and/or proprietary information or data disclosed hereunder, including the existence and terms of this Agreement and any information provided pursuant to this Agreement, shall be governed by the confidentiality provisions of the Non-Disclosure Agreement which has been executed by the parties prior to or concurrently with this Agreement, with an effective date of May 8, 2008 (the "NDA"). The confidentiality provisions of the NDA are hereby incorporated by reference into this Agreement. Provider shall

not issue any public announcement regarding the existence or terms of this Agreement without Google's prior written approval.

- 12.2 **Assignment.** Neither party may assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of the other party, which shall not unreasonably be withheld; provided, however, that Google may assign this Agreement, in whole or in part, without consent to an affiliate. Any attempted assignment, delegation or transfer in derogation hereof shall be null and void. This Agreement shall be binding upon the successors and permitted assigns of both parties.
- 12.3 **Notices.** Unless provided for to the contrary in this Agreement, any and all notices or other communications or deliveries required or permitted to be made under this Agreement shall be in English and in writing and (a) if sent to Google to: Google Inc., 1600 Amphitheatre Parkway, Mountain View, CA, 94043, with a copy to Attn: Legal Department at the same address and (b) if sent to Provider to the address set forth in the Order Form. Notice will be deemed given (i) upon receipt when delivered personally or by overnight courier (signature required upon receipt), (ii) upon verification of receipt of registered or certified mail or (iii) upon verification of receipt via facsimile, provided that such notice is also sent simultaneously via first class mail. Contact information shall be updated in writing as necessary to ensure that each party has current information regarding all such contacts.
- 12.4 **Miscellaneous.** The parties hereto are and shall remain independent contractors, and nothing herein shall be deemed to create an agency, partnership, or joint venture between the parties hereto. This Agreement does not affect any right that either party would have had, or shall have, independent of the Agreement including but not limited to rights under the U.S. Copyright Act or analogous laws in other jurisdictions. Neither party shall be liable for failing to perform or delaying performance of its obligations resulting from any condition beyond its reasonable control, including but not limited to, governmental action, acts of terrorism, earthquake, fire, flood or other acts of God, labor conditions, power failures, and Internet or other network disturbances. If any provision of this Agreement shall be adjudged by any court of competent jurisdiction to be unenforceable or invalid, or if compliance with any provision in this Agreement is inconsistent with any court order imposed directly on a party to this Agreement, that provision shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and remain enforceable between the parties. The failure of either party to act in the event of a breach of this Agreement by the other shall not be deemed a waiver of such breach or a waiver of future breaches. This Agreement supersedes any other prior or collateral agreements, whether oral or written, with respect to the subject matter hereof. This Agreement sets forth the entire understanding and agreement between the parties and, except as otherwise set forth herein, may be amended only in a writing signed by both parties. This Agreement shall be construed as if jointly drafted by the parties. This Agreement will be governed by and interpreted and enforced in accordance with the laws of the United States of America. In the absence of federal law, the laws of the State of California will apply. The Order Form and any exhibits and attachments to this Agreement are hereby made a part hereof and incorporated by reference herein. This

Agreement may be executed in one or more counterparts and delivered by facsimile, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument. The provisions of Sections 1.4, 6.4.2, 8, 9, 10, 11.2, and 12 shall survive any expiration or termination of this Agreement.

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties as of the dates indicated below.

Google Inc.

BY: _____
NAME: _____
TITLE: _____
DATE: _____

Executed in Santa Clara County, California

United States Department of Commerce

BY: *Janitor Sarver*
NAME: JANITOR SARVER
TITLE: DIRECTOR OF SPEECHWRITING/WEBMASTER
DATE: 10/25/2008





Google Inc.
 1600 Amphitheatre
 Parkway
 Mountain View, CA
 94043
 Tel: (650) 253-4000
 Fax: (650) 249-0178
 Legal Fax: (650) 623-
 1806

Content Hosting
 Services Agreement
 ORDER FORM

Google SPD Mgr:
 Google SPD Director:
 Google Sales Engineer:
 Google Legal Contact:

PROVIDER TO COMPLETE THIS SECTION

PROVIDER (FULL LEGAL NAME):		Jenifer SARVER	
	Corporate Contact:	Provider Operations Contact	Currency: US Dollar <input checked="" type="checkbox"/> Other <input type="checkbox"/>
Attention:		Jenifer SARVER	
Title:		Director of Speechwriting	
Address: City, State: Postal Code: Country:		14th & Constitution NW Washington, DC 20007	
Phone:		202.482.5035	
Fax:		202.482.5768	
Email:		JSARVER@DOC.GOV	

Effective Date:	JULY 7 2008
Initial Term:	one year — 7/7/08 — 7/7/09

This Order Form shall be governed by and is incorporated by reference into the Content Hosting Services Agreement between Google and Provider ("CHSA"). All capitalized terms used herein shall have the meanings stated in the CHSA, unless stated otherwise.

EXHIBIT A

PROVIDER CONTENT, REFERENCE FILES, ID FILE AND METADATA FEED DELIVERY SPECIFICATIONS

PROVIDER CONTENT AND REFERENCE FILES AND ID FILE DELIVERY

Provider shall deliver Provider Content, ID Files and Reference Files in a format, resolution, and bitrate designated by Google to Google's SFTP servers, by web upload, or by an alternative delivery method specified or agreed by Google. The Parties will exchange SSH keys for access to SFTP servers. Provider shall designate the Provider account with which Provider Content, ID Files and Reference Files shall be associated. Google may modify the required delivery formats and/or destination address at any time upon notice to Provider. Provider agrees to comply with such modified specifications for any subsequent delivery of Provider Content, ID Files or Reference Files.

METADATA FEED

Provider shall deliver metadata via an XML Metadata Feed pursuant to specifications provided by Google, or by such other method as Google may specify during the Term. Provider acknowledges that the Content Management Tools require the provision of certain metadata to effectively identify and manage Provider's Works, if any, on the YouTube Website. The provision of incomplete, inaccurate, or improperly formatted metadata may result in the failure of the Content Management Tools to function as intended.

The most current version of the metadata specification will be available from Google during the Term.

The metadata shall be relevant to the video and shall include, at a minimum, the following information for all video and audio Reference Files or ID Files and Provider Content:

- Tags, titles, and descriptions
- Territories for applying Monetize, Block and Track Usage Policies

The metadata **shall not** include any third party promotions or other advertisements.