

Terms and Conditions for the Licensing of AFC and Tellabs Access Products before May 10, 2006

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3. Term

This Agreement is effective from the date that the Software was first shipped to you and shall continue in effect until terminated, as provided herein. The term of each license shall expire at such time as Customer discontinues use of the applicable Software. Tellabs shall have the right to terminate Customer's license if Customer fails to pay any and all required purchase price and license fees, fails to pay any associated Service Support Agreement (SSA) fees if applicable, or attempts a transfer or assignment of a license or the Software other than as expressly permitted herein. You may terminate this Agreement at any time by destroying the Software, together with all copies, and related documentation and providing written notice of termination to Tellabs. This Agreement will also terminate automatically and without notice if you fail to comply with any term or condition of this Agreement. Within thirty (30) days after termination or upon notice of termination, you shall permanently delete the Software from all hardware, destroy the documentation and media, and provide Tellabs with a certified statement from a duly authorized representative that all copies of the Software and documentation have been destroyed.

4. Tellabs' Rights; Certification

No title to or ownership of the Software or any of its parts, nor of any applicable rights therein such as patents, copyrights and trade secrets, are transferred to Customer. You acknowledge that the Software is and shall remain the sole and exclusive property of Tellabs or its licensors at all times. By accepting this Agreement, you do not become the owner of the Software, but you do have the limited right to use the Software in accordance with the terms of this Agreement. From time to time upon the request of Tellabs, but no more than once per year, you agree to certify in writing that the Software is at all times being used in full compliance with the terms and conditions of this Agreement. Tellabs reserves the right to change any term of this Agreement at any time without notice to you.

5. Limited Warranty

Tellabs will replace the media on which the Software and documentation are recorded without charge if Tellabs, in good faith, determines that such media is defective and has not been subjected to misuse, neglect or accident. For any breach of this limited warranty, Tellabs' exclusive obligation and your exclusive remedy is to return the media to Tellabs within ninety (90) days from the date you received it for replacement.

6. Warranty Disclaimers; Liability Limitations.

(a) EXCEPT AS SPECIFICALLY SET FORTH IN SECTION 5 ABOVE, TELLABS MAKES NO WARRANTY OR REPRESENTATION WITH RESPECT TO THE SOFTWARE, DOCUMENTATION OR MEDIA AND AS SUCH THEY ARE LICENSED "AS IS." (b) THE WARRANTY AND REMEDY PROVIDED ABOVE ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO INFRINGEMENT, QUALITY AND THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND ANY STATEMENTS OR REPRESENTATIONS MADE BY ANY OTHER PERSON OR FIRM ARE VOID. (c) IN NO EVENT WILL TELLABS OR ANY OTHER PARTY (INCLUDING ANY THIRD PARTY SOFTWARE LICENSORS) WHO HAS BEEN INVOLVED IN THE CREATION, PRODUCTION OR DELIVERY OF THE SOFTWARE OR DOCUMENTATION BE LIABLE FOR ANY SPECIAL, DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES WHETHER ARISING IN AN ACTION OF CONTRACT, TORT, OR OTHER LEGAL THEORY, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, LOSS OF DATA, LOSS OF REVENUES OR BUSINESS OR GOODWILL, OR THE INABILITY TO USE THE SOFTWARE OR DOCUMENTATION, EVEN IF TELLABS OR SUCH OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL TELLABS' LIABILITY FOR ANY DAMAGES OR LOSS TO YOU OR TO ANY THIRD PARTY FOR ANY CAUSE WHATSOEVER, REGARDLESS OF THE FORM OF ACTION (IN CONTRACT OR TORT) EXCEED THE AMOUNT ACTUALLY PAID BY YOU FOR THE SOFTWARE AND DOCUMENTATION THAT CAUSED THE DAMAGES OR ARE THE SUBJECT MATTER OF THE CAUSE OF ACTION.

7. Indemnification

You shall indemnify, defend and hold Tellabs, its subsidiaries and affiliates and their respective officers, employees and agents harmless from and against any claims, causes of action, judgments, damages, costs, liabilities and expenses (including but not limited to reasonable attorney's fees) arising out of or in connection with any claims or actions related to your use of the Software under this Agreement.

8. One Year To Bring Action

No action arising out of any breach of this Agreement or transactions contemplated by this Agreement may be brought by you more than one year after the cause of action has accrued. For purposes of this Agreement, a cause of action will be deemed to have accrued when you know or reasonably should have known of the breach or claimed breach.

9. Governing Law; Venue

This Agreement is governed by, and interpreted exclusively in accordance with, the laws of the State of California, without regard to the conflict of laws principles contained therein. The application of the United Nations Convention for Contracts for the International Sales of Goods is hereby expressly excluded. Any terms or conditions of this Agreement found to be unenforceable, illegal, or contrary to public policy in any jurisdiction will be deleted, but will not affect the remaining terms and conditions of the Agreement. Any legal action or proceeding relating to this Agreement shall be

instituted exclusively in a state or federal court in San Francisco, California. It is expressly agreed that Tellabs may seek injunctive relief and/or specific performance in an appropriate court of law, in addition to money damages.

10. Assignment

You may not sell, assign, lease, sublicense or transfer any of your rights, duties, or obligations under this Agreement without the prior written consent of Tellabs. This Agreement shall inure to the benefit of and be binding upon each party and its permitted successors and assigns.

11. No Waiver

No delay or failure by Tellabs to exercise or enforce any right or provision of this Agreement shall be considered a waiver thereof or a waiver of Tellabs' right to exercise or enforce any right or provision thereafter. Any waiver must be in writing and signed by the party intending to be bound, in order to be legally valid and binding. No waiver of any right set forth herein shall constitute a waiver of any other right contained herein, or a continuing or subsequent waiver of the same right in the future.

12. Confidential Information

You acknowledge that the Software is confidential and proprietary information ("Confidential Information"). You agree to protect the Confidential Information of Tellabs by using at least the same degree of care to prevent unauthorized disclosure or use thereof, as you use to protect your own Confidential Information of like nature but in no event less than reasonable care. You further agree that you will not disclose, directly or indirectly, any item of Confidential Information to any other party, without the prior written consent of Tellabs, except to those who need to know the same in the performance of their duties and have agreed to be bound by the confidentiality provisions of this Agreement. You are specifically prohibited from publishing any results of any tests (benchmark or otherwise) run on the Software in any manner.

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You agree that you will comply fully with the export control laws and regulations of the United States Government with respect to the sale, resale or any other disposition of the Software and any other technical data and information supplied by Tellabs. Accordingly, you hereby give the assurance that you shall not export, directly or indirectly, any product, Software, or other technical data furnished by Tellabs, or the direct product thereof, if such act is prohibited by U.S. export control laws and regulations or any other applicable legal authority.

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15. Survival

All of the terms and conditions set forth herein which, by their nature, should survive the term of this Agreement, shall continue in force and effect following any expiration or termination, including but not limited to Sections 6, 7, 9, 12 and 13.

16. Entire Agreement

This Agreement constitutes the entire agreement between you and Tellabs regarding the subject matter contained herein and supersedes any other license agreement you have with Tellabs for the Software. No employee, agent, representative or affiliate of Tellabs has authority to bind Tellabs to any oral representations or warranty concerning the Software except as set forth herein. Any written representation or warranty not expressly contained in this Agreement will not be enforceable.

If you have any questions regarding this Agreement, please contact Tellabs' Law Department by e-mail through the Tellabs Web site at www.tellabs.com or by telephone at (707) 794-7700.

North America

Tellabs
One Tellabs Center
1415 West Diehl Road
Naperville, IL 60563
U.S.A.
+1 630 798 8800
Fax: +1 630 798 2000

Asia Pacific

Tellabs
3 Anson Road
#14-01 Springleaf Tower
Singapore 079909
Republic of Singapore
+65 6215 6411
Fax: +65 6215 6422

Europe, Middle East & Africa

Tellabs
Abbey Place
24-28 Easton Street
High Wycombe, Bucks
HP11 1NT
United Kingdom
+44 871 574 7000
Fax: +44 871 574 7151

Latin America & Caribbean

Tellabs
1401 N.W. 136th Avenue
Suite 202
Sunrise, FL 33323
U.S.A.
+1 954 839 2800
Fax: +1 954 839 2828