



NICE CONTRIBUTOR AGREEMENT

This NICE Contributor Agreement (“**Agreement**”) is entered into and made effective as of _____, 201_, by and between Scenera, Inc., acting as “**Agent**” for the Promoters, and the company that signed below as Contributor (“**Contributor**”). Capitalized terms shall have the meaning in the definition section below.

RECITALS

Whereas, the Promoters are in the process of developing a cloud based software API, hardware reference design, security and middleware specification for Network of Intelligent Camera Ecosystem (“**NICE**”),

Whereas, the Promoters plan to finalize the Initial Specification by the end of 2018 and plan to develop subsequent versions of the Specification over time,

Whereas, the Contributor desires that the Contributor and its Listed Subsidiaries have access to the draft Specification and may contribute to the Specification, and that the Contributor and Promoters may discuss the Specification and Suggestions with each other and Third Party Contributors.

AGREEMENT

Now therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Agent and Contributor agree on the following terms:

1) Definitions

- a) “**Adopter**” shall mean any entity that had signed an Adopter Agreement with the Agent for the NICE Publicly Licensed Specification, for so long as the adopter agreement is in effective. Adopter also includes an entity’s Affiliates.
- b) “**Affiliate**” any entity that is directly or indirectly controlled by, under common control with, or that controls the subject party. For purposes of this definition, control means direct or indirect ownership of or the right to exercise (a) greater than fifty percent (50%) of the outstanding shares or securities entitled to vote for the election of directors or similar managing authority of the subject entity; or (b) greater than fifty percent (50%) of the ownership interest representing the right to make the decisions for the subject entity; provided, however, that in each case such entity shall be deemed to be an Affiliate only so long as such ownership or control exists and is greater than fifty percent (50%).
- c) “**Developer**” shall mean software programmer or entity who uses NICE API and SDK to create application and service software for NICE compliant cameras, who had signed a Developer Agreement with the agent for the NICE Publicly Licensed Specification.
- d) “**Initial Specification**” shall mean v1.0 of the Publicly Licensed Specification.

- e) “**Listed Subsidiary**” means any entity that is i) directly or indirectly controlled by the Contributor and ii) who is listed on the signature page of this Agreement by Contributor.
- f) “**Necessary Claims**” means any claims of a patent or patent application, to the extent patent(s) issue on such application, that:
 - (a) now or at any future time during the term of this Agreement, are owned, controlled or licensable by Contributor or any of its Listed Subsidiaries throughout the world; and
 - (b) which are necessarily infringed in order to implement and comply with the Publicly Licensed Specification, where such infringement could not have been avoided by another non-infringing implementation of such Specification (a party claiming contribution of a Necessary Claim shall have the burden of proof to establish that a claim falls within the scope of this clause).
- g) “**Promoter**” means Scenera, Inc., Nikon Corporation, Sony Semiconductor Solutions Corporation, Wistron Corporation and Hon Hai Precision Industry Co., Ltd. and such additional Promoter as may be added from time to time.
- h) “**Publicly Licensed Specification**” means a Specification as approved by the Promoters and publicly released for licensing to Adopters.
- i) “**Specification**” means the specification for NICE and any subsequent versions or releases of the specification for NICE, and any related compliance test specification.
- j) “**Third Party Contributors**” means other contributors that have signed a contributor agreement for NICE with the Agent.
- k) “**Licensed Product(s)**” means a product that: (i) embody all applicable Publicly Licensed Specification; and (ii) is an implementation of all portions of the Publicly Licensed Specification required for a specific type of Licensed Product, and where such implementation has passed all applicable compliance testing procedures.

2) A. Specification. Following the signing of this Contributor Agreement, the Agent will provide Contributor with a copy of the draft of the Initial Specification. Contributor may share such draft of the Specification with its Listed Subsidiaries. The Agent may provide Contributor with draft versions of future Specifications from time to time. Subject to the terms and conditions of this Agreement, Contributor may, but shall have no obligation to, provide the Agent and/or Promoters with communications, comments or suggestions arising out of or relating to the Specification (collectively, the “**Suggestions**”). The Agent may, in their sole discretion, notify Contributor that the Promoters intend to incorporate any or all elements of Contributor's Suggestions into the Specification (a “**Contribution**”).

B. Necessary Claim Procedure. Within 90 days of notice from Agent to Contributor that a Suggestion will be a Contribution, Contributor will inform Agent of any Necessary Claims that Contributor or its Listed Subsidiaries have with respect to the Contribution. Inclusion of such Contribution in the Specification shall not be an acknowledgment of the validity of petition and the validity of petition shall be determined in accordance with Section 7 below.

3) License to Suggestions.

To the extent any Contribution, or any element thereof, is incorporated into Publicly Licensed Specification:

- a) Patent License to Agent. Contributor (on behalf of itself and any Listed Subsidiary) hereby grants to the Agent a non-exclusive, non-transferable (except upon the appointment of a successor to the Agent), non-sublicensable (other than to Adopters, Developers and Promoters), worldwide license under their Necessary Claims with respect to its Contributions solely to grant to Adopters, Developers and Promoters: a nonexclusive, nontransferable (except as set forth in agreements that grant licenses under this section), non-sublicensable, worldwide license under such Necessary Claims solely to make (including design and develop), have made (including have designed and have developed), use, import, and directly and indirectly, offer to sell, sell, lease, promote and otherwise distribute a Licensed Product or cloud service APIs. For the avoidance of doubt, the patent license to Necessary Claims set forth in this Contributor Agreement with respect to a Contribution shall not apply to (i) other patent claims within a patent that are not themselves a Necessary Claim, (ii) any use of the Necessary Claim other than with respect to Licensed Products, (iii) any part or function of a product in which a Licensed Product is incorporated that is not itself a Licensed Product and (iv) any optional or reference implementation example in a Publicly Licensed Specification that is not a mandatory or required element of a Publicly Licensed Specification.
 - b) License to Copyright to Suggestion. Contributor hereby grants to the Agent, a nonexclusive, nontransferable, non-sublicensable, worldwide license under its copyrights with respect to its Contributions to reproduce, distribute among other Promoters, display and create derivative works of any Specifications, solely for the purpose of developing Publicly Licensed Specifications under the terms of this Agreement.
 - c) Contributor represents and warrants that the Suggestions and the exercise of the license granted therein under this Section 3 will not infringe any third party copyright or violate any third party trade secret.
- 4) Title. All right, title and interest in and to the copyright to the Specification is and shall remain the sole and exclusive property of the Promoters.
- 5) Confidential Information.
- a) If Contributor desires any of its Suggestions to be considered confidential, it shall reduce such Suggestion to writing and mark the “confidential” in writing (“Confidential Suggestion(s)”). The Specification and Contributor’s communications to and from the Agent or Promoters regarding the Specifications, or management and administration of NICE consortium (regardless of marking) and any Suggestions (in this Section 5, including suggestions from Third Party Contributors) marked “confidential,” shall be collectively referred to as “**Confidential Information**.” Contributor shall not use any Confidential Information received from Agent, Promoters, or Third Party Contributors except to prepare Suggestions to the Specification. The Promoters shall not use Contributor's Confidential Suggestions except to evaluate such Suggestions for inclusion in the Specification; provided, however that the confidentiality obligation of the Agent and Promoters with respect to any Confidential Suggestion (in whole or in part) shall terminate immediately, and such Suggestion shall not be considered Contributor’s Confidential Information hereunder, if and when the Promoters incorporate such Suggestion (in whole or in part) into any version (including draft versions) of the Specification.
 - b) Restrictions. Neither party shall disclose Confidential Information received from the disclosing party to any third party nor use such Confidential Information for any purpose except as set forth in this Agreement; provided, however the following disclosures may be made solely for the

purpose of assisting in the preparation of Suggestions and the Specification (i) Promoters may disclose Confidential Suggestions to Agent, other Promoters, and to Third Party Contributors, (ii) Agent may disclose Confidential Suggestions to Third Party Contributors and to Promoters, and (iii) Contributor may disclose suggestions from Third Party Contributors, and Agent's and Promoter's Confidential Information provided hereunder, to Third Party Contributors and Contributor's own Listed Subsidiaries. The receiving party shall use the same degree of care in maintaining the confidentiality of the disclosing party's Confidential Information as it uses with respect to its own information that is regarded confidential and/or proprietary by such party, but in any case, shall at least use reasonable care. Each party agrees that it will restrict the access of all Confidential Information of the disclosing party to only those of its agents, employees and consultants who have need to be informed of such Confidential Information for the purposes for which such Confidential Information is provided, which persons will be bound to the receiving party by an agreement of confidentiality that contains substantially the same obligations as contained in this Agreement.

- c) Exceptions. Neither party shall be liable for any disclosure of Confidential Information or further restriction on use where: i) the same information was in the public domain at the time it was disclosed or later comes within the public domain, except through the acts or omissions of the receiving party; ii) the same information was rightfully known to the receiving party at the time of its disclosure; iii) the same information is approved for release by written authorization of the disclosing party; iv) the same information becomes known to the receiving party from a source other than the disclosing party without breach of an obligation of confidentiality; or v) the same information is independently developed by employees or representatives of the receiving party without access to the Confidential Information. A party may disclose Confidential Information pursuant to the order or requirement of a court, administrative agency, or other governmental body, provided, however, reasonable notice is given to the disclosing party prior to disclosure under such order or requirement in order to allow the disclosing party to take steps to protect the confidentiality of such information.
- 6) Term. This Agreement shall continue in effect until written notice of termination is given by either party hereto. Notwithstanding the foregoing, the duty of confidentiality under this Agreement shall continue for a period of five (5) years after the date of termination of this Agreement and with respect to Confidential Information that constitutes a trade secrets under applicable law shall continue for so long as the discloser treats such Confidential Information as a trade secret , and all licenses to any Suggestions shall remain in effect in perpetuity, regardless of whether such Suggestions were incorporated into the Specification.
- 7) Petition for Necessary Claim Royalties. Contributor understands that if Contributor determines that it or its Listed Subsidiary is the owner of any Necessary Claim, then Contributor may petition the Agent in writing for a share of future patent royalties, security fees or certificate fees collected from Adopters under the licensing of the Publicly Licensed Specification which includes Contribution. The Promoters, or an independent agent appointed by such Promoters, shall make the final determination regarding the validity of such petition, and a reasonable allocation of future royalties based on any Necessary Claims.
- 8) Promotion. The Contributor hereby agrees that the Agent and/or each of the Promoters may indicate to third parties that Contributor has signed this Agreement and is a Contributor to NICE. The Agent may make available a list of Third Party Contributors and the Contributor at the NICE website. The Agent may from time to time request Contributor's support of NICE marketing, but such marking support shall be at Contributor's sole discretion.
- 9) General.

- a) No Other Licenses. Except for the rights expressly provided by this Agreement, under this Agreement, no Contributor or Agent grants or receives, by implication, or estoppel, or otherwise, any rights under any patents or other intellectual property rights.
- b) No Warranty. All parties acknowledge that all information provided as part of the Specification and the Specification itself are all provided "AS IS" WITH NO WARRANTIES WHATSOEVER, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, AND THE PARTIES EXPRESSLY DISCLAIM ANY WARRANTY OF MERCHANTABILITY, NONINFRINGEMENT, FITNESS FOR ANY PARTICULAR PURPOSE, OR ANY WARRANTY OTHERWISE ARISING OUT OF ANY PROPOSAL, SPECIFICATION, OR SAMPLE.
- c) Limitation of Liability. IN NO EVENT WILL ANY PARTY HERETO BE LIABLE TO ANY OTHER FOR THE COST OF PROCURING SUBSTITUTE GOODS OR SERVICES, LOST PROFITS, LOSS OF USE, LOSS OF DATA OR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, OR SPECIAL DAMAGES, WHETHER UNDER CONTRACT, TORT, WARRANTY OR OTHERWISE, ARISING IN ANY WAY OUT OF THIS OR ANY OTHER RELATED AGREEMENT, WHETHER OR NOT SUCH PARTY HAD ADVANCE NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.
- d) Governing Law. This Agreement shall be construed and controlled by the laws of California applicable to agreements made and to be performed entirely in such jurisdiction.
- e) Jurisdiction. Any disputes, controversies or differences related to or arising out of this Agreement shall take place in arbitration with the International Chamber of Commerce Rules, and all parties irrevocably consent to jurisdiction of the ICC located in California.
- f) Notices. All notices hereunder shall be in writing and sent to the Agent or Contributor at such address as they have furnished for notice from the parties hereto. For purposes of this Section 9.f., written notice shall not include notice by electronic mail or by facsimile. Notices shall be deemed served when received by the addressee or, if delivery is not accomplished by reason of some fault of the addressee, when tendered for delivery. The Agent may give written notice of a change of address and, after notice of such change has been received, any notice or request shall thereafter be given to the Agent at such changed address. The Agent shall provide written notice within 30 days of any transfer of rights under this Agreement to any substitute agent or other person.
- g) Not Partners. This Contributor Agreement does not create a joint venture, partnership or other form of business association between the parties, or an obligation to buy or sell products implementing the Specification.
- h) Complete Agreement; No Waiver. This Agreement sets forth the entire understanding of the parties and supersedes all prior agreements and understandings relating hereto. No modifications or additions to or deletions from this Agreement shall be binding unless accepted in writing by an authorized representative of all parties, and the waiver of any breach or default will not constitute a waiver of any other right hereunder or any subsequent breach or default.
- i) No Rule of Strict Construction. Regardless of which party may have drafted this Agreement, no rule of strict construction shall be applied against any party. If any provision of this Agreement is determined by a court to be unenforceable, the parties shall deem the provision to be modified to the extent necessary to allow it to be enforced to the extent permitted by law, or if it cannot be modified, the provision will be severed and deleted from this Agreement, and the remainder of this Agreement will continue in effect.
- j) Compliance with Laws. Anything contained in this Agreement to the contrary notwithstanding, the obligations of the parties hereto shall be subject to all laws, present and future, of any government having jurisdiction over the parties hereto, and to orders, regulations, directions or requests of any such government.

- k) Authority. Each party hereby represents and warrants that it has the power and authority to bind itself and all of its Listed Subsidiaries to the obligations contained herein, including without limitation, the obligation to grant patents licenses as set forth in Section 3. Each party further represents and warrants that it has not and will not transfer patents having Necessary Claims for the purpose of circumventing the commitment to grant licenses contained in this Agreement. Any transfer by a Contributor or its Listed Subsidiaries to a third party of a patent having Necessary Claims shall be subject to the terms and conditions of this Agreement.
- l) Third Party Beneficiary: Agent and Contributor acknowledge and agree that Promoters shall be express third party beneficiaries to this Agreement.

In witness of their agreement, the parties have executed this Contributor Agreement below:

SIGNATURE BY AN AUTHORIZED REPRESENTATIVE OF EACH PARTY

Scenera, Inc., as Agent
 890 Robb Road
 Palo Alto, CA 94306

CONTRIBUTOR: _____

 (Address)

 (Address)

 (Signature of Authorized Representative)

 (Signature of Authorized Representative)

 (Date)

 (Date)

 (Printed Name)

 (Printed Name)

 (Title)

 (Title)

Listed Subsidiaries [to be filled out by Contributor]