

WIRELESS USB CONTRIBUTORS AGREEMENT

This Wireless USB Contributors Agreement (“Contributors Agreement”) is entered into by and between the Promoters (as defined below) and the contributing party set forth below (“Contributor”).

Contributor’s Name

City

State

Zip

Contact Name

Telephone

Fax

The parties hereto hereby agree as follows.

RECITALS

Whereas, the Promoters have begun drafting a specification for a wireless universal serial bus (“Wireless USB”);

Whereas, Contributor wishes to review and comment upon preliminary drafts of the Wireless USB specification that are circulated by the Promoters for the purpose of formulating the Final Specification (as defined below), and the Promoters wish to include the Contributor in those portions of their deliberative process in which Contributor has specific expertise; and

Whereas, the Promoters and Contributor desire to have the following conditions apply to this Contributors Agreement;

Now, therefore, in consideration of the mutual promises and conditions contained herein, the Promoters and Contributor agree as follows:

1. DEFINITIONS

1.1 “Adopter” means any entity that has executed a copy of the Wireless USB Adopters Agreement and delivered it to the Secretary.

1.2 “Affiliate” means 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 more than fifty percent (50%).

1.3 “Contributions” means submissions proposing additions to or modifications of the Draft Specification.

1.4 “Compliant Portion” means only those specific portions of products (hardware, software or combinations thereof) that implement and are compliant with the Final Specification (as applicable to such portions), provided that such portions are within the bounds of the Scope.

1.5 “Draft Specification” means all versions of the document entitled “Wireless USB Specification” and all comments thereto provided by any Promoter or Contributor that are to be considered for inclusion in the Final Specification by the Promoters.

1.6 “Final Specification” means the Wireless USB Specification as adopted and published by the Promoters. For purposes of this definition, the Final Specification shall not include any implementation examples unless such implementation examples are expressly identified as being included as part of the limited patent license in the Final Specification as adopted.

1.7 “Necessary Claims” means claims of a patent or patent application that (a) are owned or controlled by a party or its Affiliates now or at any future time during the term of this agreement; and (b) are necessarily infringed by implementing those portions of the Final Specification within the bounds of the Scope, wherein a claim is necessarily infringed only when it is not possible to avoid infringing it because there is no commercially reasonable non-infringing alternative for implementing such portions of the Final Specification within the bounds of the Scope. Notwithstanding the foregoing sentence, Necessary Claims do not include any claims (x) other than those set forth above even if contained in the same patent or patent application as Necessary Claims; (y) that read solely on any implementations of any portion of the Final Specification that are not within the bounds of the Scope; or (z) that, if licensed, would require consent from, and/or a payment of royalties by the licensor to unaffiliated third parties.

1.8 “Promoters” means each company that has executed a Wireless USB Specification Promoters Agreement.

1.9 “Scope” means the protocols, signaling characteristics, connection methods, firmware descriptors and device and driver architectures solely to the extent disclosed with particularity in the Final Specification where the sole purpose of such disclosure is to enable products to interoperate, interconnect or communicate as defined within the Final Specification. Notwithstanding the foregoing, the Scope shall not include (a) any enabling technologies that may be necessary to make or use any product or portion thereof that complies with the Final Specification, but are not themselves expressly set forth in the Final Specification (e.g., semiconductor manufacturing technology, compiler technology, object oriented technology, basic operating system technology, etc.); or (b) the implementation of other published specifications developed outside of this Agreement, but referred to in the body of the Final Specification (for example, existing “wired” USB specifications, or specifications published by IEEE or the WiMedia Alliance); or (c) any portions of any product and any combinations thereof the purpose or function of which is not required for compliance with the Final Specification.

1.10 “Secretary” means the party identified by the Promoters as the secretary for the Final Specification.

1.11 “Trademarks” shall have the meaning assigned in Section 5.

2. COMPLIANCE WITH ANTITRUST LAWS

Contributor and the Promoters are committed to fostering open competition in the development of products and services based on the Final Specification. Contributor and the Promoters understand that in certain lines of business they are or may be direct competitors and that it is imperative that they and their representatives act in a manner which does not violate any state, federal or international antitrust laws and regulations. Without limiting the generality of the foregoing, Contributor and the Promoters acknowledge that this Contributors Agreement prohibits any communications regarding costs, prices, quantity or quality of production levels, methods or channels of distribution, markets, customers, exclusion of competitors or any other topic which may be construed as a violation of antitrust laws. Accordingly, Contributor and each Promoter will counsel its representatives who participate in any activities under this Contributors Agreement on the importance of limiting the scope of their discussions and communications to the topics that relate to the purposes of this Contributors Agreement, whether or not such discussions and communications take place during formal meetings, informal gatherings, or otherwise.

3. SUBMISSIONS TO PROMOTERS

Contributor understands that all submissions it makes to the Promoters with regard to Draft Specifications shall be governed by the following:

3.1 Contributor Participation in Specification Development Process.

(a) Non-Confidentiality of Contributor Submissions. Contributor agrees that any Contributions shall be deemed to be made on a non-confidential basis and that the Promoters shall be free to use these submissions for any purpose and disclose such submissions to each other and any third parties.

(b) Limited Disclosure Obligation. Contributor agrees to make a good faith effort to promptly disclose to the Secretary the existence of patents or patent applications that may contain Necessary Claims, to the extent any of its individual representatives participating in work committees actually become aware of such patents or patent applications, and must also identify the portion or portions of the Final Specification that such Contributor believes may infringe such Necessary Claims. Issued patents and published patent applications must be identified by patent number. Contributor will not be required, nor have a duty, to conduct any patent search of its own patents or patent applications or of patents or patent applications owned by a third party

3.2 Copyrights.

(a) License to Contributions. Contributor hereby grants to each Promoter and its Affiliates and to each other Contributor a license under its copyrights in its Contributions to reproduce, distribute, display, perform, and create derivative works of any Draft Specification or derivative work thereof.

(b) Copyrights In Final Specification. Effective as of the adoption of the Final Specification, Contributor, on behalf of itself and its Affiliates, hereby conveys to each Promoter a non-exclusive, undivided, and equal ownership in the copyrights in the Final Specification, subject to the underlying copyright ownership rights of the Contributions of Contributor. Each Promoter and its Affiliates may exercise any and all rights of copyright ownership and sublicense such rights in the Final Specification as if such rights were solely owned by such Promoter and without permission of the Contributor and without any duty to account. Additionally, effective as of the adoption of the Final Specification, Contributor, on behalf of itself and its Affiliates, hereby grants to the USB Implementers Forum, Inc. (“USB-IF”) a worldwide, non-exclusive, non-transferable, royalty-free copyright license, with right to sublicense, to use, reproduce, publicly perform, publicly display, and distribute the Final Specification, in whole or in part.

(c) Copyright License. Effective as of the adoption of the Final Specification, each Promoter, on behalf of itself and its Affiliates, hereby grants to Contributor and its Affiliates a nonexclusive, royalty-free, non-transferable, non-sublicenseable, worldwide, perpetual copyright license to the Final Specification to reproduce the Final Specification as necessary in order to exercise the patent rights granted in Section 3.4(a), provided that all reproductions thereof shall include any copyright notices and disclaimers contained in the Final Specification.

3.3 Limited Patent Licensing Obligation in Contributions. Effective upon adoption by the Promoters of the Final Specification, for any Contributions made by Contributor, Contributor, on behalf of itself and its Affiliates, hereby agrees that it will grant to any Promoter, other Contributor or Adopter, and their respective Affiliates (collectively in this Section 3.3 “Licensee”), a non-exclusive, world-wide license under its Necessary Claims reading on such Contributions, to make, have made, use, import, sell, offer to sell, and otherwise distribute and dispose of Compliant Portions; provided that such license need not extend to any part or function of a product in which a Compliant Portion is incorporated that is not itself part of the Compliant Portion. Such license shall be granted on reasonable and non-discriminatory (RAND) terms, provided that such license grant may be conditioned upon the Licensee’s grant of a reciprocal license binding Licensee.

3.4 Patent Licenses Regarding Final Specification.

(a) To Contributor. Effective upon adoption by the Promoters of the Final Specification, each Promoter (except for any Promoter that has timely withdrawn from the Wireless USB Specification Promoters Agreement as provided for in Section 9 thereof), on behalf of itself and its Affiliates, hereby agrees that they will grant to Contributor and its Affiliates, (collectively in this Section 3.4(a) “Licensee”) a nonexclusive, worldwide license under their Necessary Claims solely to make, have made, use, import, sell, offer to sell and otherwise distribute and dispose of Compliant Portions; provided that such li-

cense need not extend to any part or function of a product in which a Compliant Portion is incorporated that is not itself part of the Compliant Portion. Such license shall be granted on reasonable and non-discriminatory (RAND) terms, provided that such license grant may be conditioned upon Licensee's grant of a reciprocal license binding Licensee.

(b) By Contributor. Effective upon adoption by the Promoters of the Final Specification, without timely withdrawal as provided for in Section 6.1, Contributor, on behalf of itself and its Affiliates, hereby agrees that it will grant to any Promoter, other Contributor or Adopter, and their respective Affiliates (collectively in this Section 3.4(b) "Licensee"), a non-exclusive, world-wide license under its Necessary Claims solely to make, have made, use, import, sell, offer to sell, and otherwise distribute and dispose of Compliant Portions; provided that such license need not extend to any part or function of a product in which a Compliant Portion is incorporated that is not itself part of the Compliant Portion. Such license shall be granted on reasonable and non-discriminatory (RAND) terms, provided that such license grant may be conditioned upon the Licensee's grant of a reciprocal license binding Licensee.

3.5 Non-Circumvention. Contributor agrees that neither it nor its Affiliates will transfer, and have not transferred, and that neither it nor its Affiliates will grant exclusive licenses, and have not granted exclusive licenses, to patents having Necessary Claims, in either case for the purpose of circumventing Contributor's obligations under this Agreement.

4. CONFIDENTIALITY

4.1 Draft Specification. Until the Promoters adopt the Final Specification and make it generally publicly available, Contributor will maintain all versions and revisions of the Draft Specifications ("Confidential Material") in confidence with at least the same degree of care that it uses to protect its own confidential and proprietary information, but no less than a reasonable degree of care under the circumstances and will not use, disclose or copy the Confidential Material except as necessary for its employees with a need to know to evaluate and comment thereon. Contributor shall mark any copies it makes "confidential," "proprietary" or with a similar legend and shall reproduce all copyright notices and disclaimers therein. Unless the parties agree otherwise, this obligation of confidentiality will expire upon the earlier of (x) two (2) years from the date of disclosure to Contributor; or (y) adoption and publication of a Final Specification.

4.2 Press Release. Contributor agrees that any of the Promoters may make a press or other public announcement regarding its activities as a Promoter and may include the identity of Contributor in such announcement.

5. TRADEMARKS

5.1 Nonassert. Contributor agrees, on behalf of itself and its Affiliates, not to assert against any Promoter, Adopter or any other Contributor, or their respective Affiliates, any trademark, trade name, or similar rights it may have now or hereafter in the names "Universal Serial Bus", "USB", "Wireless USB" or "WUSB" (collectively "Trademarks").

5.2 No Obligation to Use Trademarks. Neither Contributor nor its Affiliates are obligated to use any of the Trademarks on any product, advertising, or on any other material in any manner.

5.3 Use of the Trademarks. Contributor agrees, on behalf of itself and its Affiliates, that, to the extent it uses the Trademarks, it shall only use the Trademarks to label and promote products in which all included features and functions reasonably capable of being implemented as Compliant Portions have been so implemented. Neither Contributor nor its Affiliates shall use or adopt any trademarks for any product, service or specification likely to cause confusion with the Trademarks.

6. WITHDRAWAL

6.1 Conditions and Procedure for Withdrawal. A Contributor may withdraw from this Agreement at any time by written notice to the Secretary. The timing of such withdrawal will determine the effect on such Contributor's licensing obligations as specified in Section 6.2 below.

6.2 Effect of Withdrawal.

(a) Withdrawals which Terminate Patent Licensing Obligation Regarding Final Specification. If Contributor: (i) withdraws prior to adoption of the Final Specification or no later than three (3) weeks following its receipt of notice of adoption of the Final Specification:

- (1) with respect to such Contributor, the entirety of Sections 1 (definitions), 3.1(a) (non-confidentiality of contributions), 3.2(a) (copyright license to contributions), 3.2(b) (copyrights in Final Specification), 3.3 (limited patent license in contributions), 4 (confidentiality), 5.1 (trademark nonassert) and 7 (general) shall continue in full force and effect; and
- (2) all other rights, licenses, obligations, terms and conditions of this Agreement shall terminate with respect to such withdrawing Contributor, including without limitation those set forth in Sections 3.2(c) (license to publish final specification), 3.4(a) and 3.4(b) (patent licenses regarding final specification).

(b) Other Withdrawals which do not Terminate Patent Licensing Obligation Regarding Final Specification. If Contributor withdraws in a manner other than as specified in Section 6.2(a) above:

- (1) with respect to such withdrawing Contributor, the entirety of Sections 1 (definitions), 3.1(a) (non-confidentiality of contributions), 3.2(a) (copyright license to contributions), 3.2(b) (copyrights in Final Specification), 3.3 (limited patent license in contributions), 3.4(b) (patent license obligation regarding final specification), 3.5 (non-circumvention); 4 (confidentiality), 5.1 (trademark nonassert) and 7 (general) shall continue in full force and effect; and
- (2) all other rights, licenses, obligations, terms and conditions of this Agreement shall terminate with respect to such withdrawing Contributor, including without limita-

tion those set forth in Sections 3.2(c) (license to publish final specification) and 3.4(a) (patent license regarding final specification).

7. GENERAL

7.1 Effective Date. This Contributors Agreement shall become effective when the Secretary receives an original, fully executed copy hereof.

7.2 No Other Licenses. Except for the rights expressly provided by this Contributors Agreement, no Promoter or Contributor grants or receives, by implication, or estoppel, or otherwise, any rights under any patents or other intellectual property rights.

7.3 No Warranty. All parties acknowledge that all information provided as part of the Final Specification development process and the Draft Specification and/or Final 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.

7.4 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.

7.5 Governing Law. This Contributors Agreement shall be construed and controlled by the laws of the State of New York without reference to conflict of laws principles.

7.6 Jurisdiction. The parties agree that all disputes arising in any way out of this Contributors Agreement shall be heard exclusively in, and all parties irrevocably consent to jurisdiction and venue in, the state and Federal courts of New York.

7.7 Notices. All notices hereunder shall be in writing and sent to the parties at the following addresses or at such addresses as the Secretary or Contributor may later specify by such written notice. For purposes of this Section, written notice shall not include notice by electronic mail or by facsimile.

Notices to Promoters

Intel Corporation
2111 NE 25th Avenue
Mailstop JF3-212
Hillsboro, OR 97124

Notices to Contributor:

As set forth on the first page of this agreement

Attn: Jeff Ravencraft
Subject: Wireless USB Promoters Agreement

With a copy to

Intel Corporation
2200 Mission College Blvd.
Santa Clara, CA 95052
Attn.: General Counsel
Subject: Initiatives

Such notices shall be deemed served when received by addressee or, if delivery is not accomplished by reason of some fault of the addressee, when tendered for delivery. Any party 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 such party at such changed address.

7.8 Good Faith Dealing. Contributor hereby represents and warrants that it has power to cause all patents owned or controlled by it and all of its Affiliates to be licensed as set forth in this Contributors Agreement.

7.9 Not Partners. The parties hereto are independent companies and are not partners or joint venturers with each other.

7.10 Complete Agreement; No Waiver. This Contributors 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 Contributors 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.

7.11 No Rule of Strict Construction. Regardless of which party may have drafted this Contributors Agreement, no rule of strict construction shall be applied against any party. If any provision of this Contributors 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 Contributors Agreement, and the remainder of the agreement will continue in effect.

7.12 Compliance with Laws. Anything contained in this Contributors 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.

7.13 Parties. The Promoters executing this agreement have the authority and by signing this agreement do hereby bind all the Promoters to this Contributors Agreement.

Promoter:

Company: _____ Address: _____

By: _____

Name: _____ Telephone: _____

Title: _____ Fax: _____

Date: _____ e-mail: _____

Promoter:

Company: _____ Address: _____

By: _____

Name: _____ Telephone: _____

Title: _____ Fax: _____

Date: _____ e-mail: _____

Contributor:

Company: _____ Address: _____

By: _____

Name: _____ Telephone: _____

Title: _____ Fax: _____

Date: _____ e-mail: _____