

Notice: This agreement is not effective until a fully executed original has been received by the Secretary, Intel Corporation, at 2111 NE 25<sup>th</sup> Avenue, Mailstop JF2-98, Hillsboro, OR 97124, Attn: Jeff Ravencraft.

## **WIRELESS USB ADOPTERS AGREEMENT**

This Wireless USB Adopters Agreement (“Adopters Agreement”) is effective as of the date set forth on the signature page (the “Effective Date”) and is entered into by and between the Promoters (as defined below) and the adopting party identified on the signature page (the “Adopting Party”). Each of the Promoters and the Adopting Party hereby agrees as follows:

### **Agreement**

#### **1. DEFINITIONS**

1.1 “Adopter” means Adopting Party and any party that has entered into or later enters into an Adopters Agreement and delivered it to the Secretary.

1.2 “Adopters Agreement” means an agreement entered into by any party and the Promoters containing terms substantially similar to this agreement.

1.3 “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) at least 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) at least 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%).

1.4 “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 “Contributor” means each company that has executed and delivered a Wireless USB Contributors Agreement.

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 alterna-

tive 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 signed a Wireless USB Specification Promoters Agreement. As of May 1, 2005 such companies are as follows: Agere Systems, Inc., Hewlett-Packard Company, Intel Corporation, Koninklijke Philips Electronics N.V., Microsoft Corporation, NEC Corporation and Samsung Electronics Co. Ltd.

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 sole 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 3.1.

## **2. LICENSES**

### **2.1 Limited Patent Licensing Obligation.**

(a) To Adopter. Effective upon adoption by the Promoters of the Final Specification and receipt by the Secretary of a fully executed original of this Adopters Agreement, each Promoter agrees, on behalf of itself and its Affiliates, that they will grant to Adopting Party and its Affiliates, (collectively in this Section 2.1(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 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 terms, provided that such license grant may be conditioned upon Licensee’s grant of a reciprocal license binding Licensee.

(b) By Adopter. Effective upon adoption by the Promoters of the Final Specification, Adopting Party, on behalf of itself and its Affiliates, hereby agrees that it will grant to each of the Promoters, Contributors, and all other Adopters and their respective Affiliates (collectively in this Section 2.1(b) “Licensee”), a nonexclusive, worldwide license under its Necessary Claims solely to make, have made, use, import offer to sell, 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 terms, provided that such license grant may be conditioned upon Licensee’s grant of a reciprocal license binding Licensee.

2.2 Copyright License. Effective upon adoption by the Promoters of the Final Specification, each Promoter, on behalf of itself and its Affiliates, hereby grants to Adopting Party 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 2.1(a), provided that all reproductions thereof shall include any copyright notices and disclaimers contained in the Final Specification.

2.3 Non-Circumvention. Adopter 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 Adopter’s obligations under this Agreement.

### **3. TRADEMARKS**

3.1 Nonassert. Adopting Party agrees, on behalf of itself and its Affiliates, not to assert against any Promoter, Contributor or other Adopter, 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”).

3.2 Obligation to Use Trademarks. Neither Adopting Party nor its Affiliates are obligated to use any of the Trademarks on any product, advertising, or on any other material in any manner.

3.3 Use of the Trademarks. Adopting Party, on behalf of itself and its Affiliates, agrees 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 Adopting Party nor its Affiliates shall use or adopt any trademarks for any product, service or specification likely to cause confusion with the Trademarks.

### **4. GENERAL**

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

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

4.3 No Warranty. All parties acknowledge that all information provided as part of the Final Specification and the 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.

4.4 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.

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

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

4.7 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 Adopter may later specify by such written notice. For purposes of this Section 4.7, written notice shall not include notice by electronic mail or by facsimile.

Notices to Promoters:

Intel Corporation  
2111 NE 25<sup>th</sup> Avenue  
Mailstop JF3-212  
Hillsboro, OR 97124  
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

Notices to Adopting Party:

As set forth on the signature page

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.

4.8 Good Faith Dealing. Adopter 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 Adopters Agreement.

4.9 Press Release. Adopter 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 Adopter in such announcement.

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

4.11 Complete Agreement; No Waiver. This Adopters 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 Adopters 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.

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

4.13 Compliance with Laws. Anything contained in this Adopters 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.

(signatures on next page)

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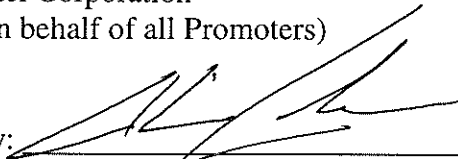
In witness of their agreement, the parties have executed this Adopters Agreement as of the date set forth below:

Adopting Party Name:

Intel Corporation  
(on behalf of all Promoters)

\_\_\_\_\_

By:

  
Alan Crouch

Director Communications Technology Lab  
Corporate Technology Group

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Contact Information

Company Address:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Contact Name: \_\_\_\_\_

Email Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_