

**UNIFIED EFI FORUM, INC.
CONTRIBUTORS AGREEMENT**

This Unified EFI Forum, Inc. (“Forum”) Contributors Agreement (“Agreement”) is entered into by and between the Forum and the party set forth below and its Affiliates (collectively, the “Contributor”).

Organization Name

City	State	Country	Zip
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Contact Name	Telephone	Fax	Email
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The parties hereto hereby agree as follows:

1. MEMBERSHIP IN UNIFIED EFI FORUM, INC.

1.1. By executing this Agreement and subject to its acceptance by the Secretary, the Contributor agrees to be bound by the terms hereof as well as the terms and conditions stated in the Articles of Incorporation and Bylaws of the Forum, which are attached hereto as Attachments A and B, respectively.

1.2. Membership Privileges. As a member of the Forum, Contributor may, upon invitation, participate in Working Groups created for the purpose of developing the UEFI specification and or corresponding Test Suites. Every Contributor participating in a Working Group shall have voting rights with respect to decisions made within the forum of said Working Group.

1.3. Payment of Fees. The Contributor agrees to pay to the Secretary upon execution the initial membership fee and annual fee, set forth in Attachment C. The annual fee may be changed by a Majority Vote of the Forum from time to time.

1.4. Affiliates. An Affiliate of a Member shall be permitted to separately execute a Contributor Agreement and thereby become entitled to the Membership Privileges set forth in Section 1.2 hereof; *provided, however*, such Affiliate shall expressly identify on the Contributor Agreement the Member to which it is affiliated. In addition, the foregoing and anything in this Agreement, the Bylaws or Articles of Incorporation of the Forum notwithstanding, the Member and any Affiliate that may separately execute a Contributor Agreement shall in all instances be entitled to only a single vote with respect to any matter on which a vote is taken by the Forum or any Working Group of the Forum, and the Member and its Affiliate shall notify the Board of Directors in writing of the single representative authorized to cast a vote on their collective behalf. Further, the Affiliate shall be subject to the payment of fees as required by Section 1.3 hereof.

1.5. Individuals. By executing this Contributor Agreement an individual shall become a Member of the Forum and become entitled to the Membership Privileges set forth in Section 1.2

hereof; *provided, however*, such individual shall, from time to time, identify in writing to the Board of Directors his or her then current employer or firms for which he or she is providing consulting services.

2. CONTRIBUTIONS

2.1. Copyright License. Upon submitting a Contribution, the Contributor grants the Forum, and each Member, a non-exclusive, perpetual, compensation-free license under its copyrights in the Contribution to reproduce, publish, display, perform, distribute and create derivative works, solely for the purpose of developing any Draft Specification and Draft Test Suite and publishing a Published Specification or Test Suite and other related materials for which such Contribution was submitted.

2.2. Patent License. The Contributor hereby agrees that following publication of a Published Specification it will, upon request, grant to any Promoter or Adopter and their respective Affiliates (collectively, "Licensee"), a nonexclusive, nontransferable, non-sublicenseable, worldwide license on reasonable and nondiscriminatory terms 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. The Contributor agrees and warrants that any transfer or assignment of a patent or patent application having Necessary Claims to a third party will be subject to this Agreement and will not affect any license the Contributor has already granted nor the obligation to grant licenses pursuant to this Agreement; *provided, however*, that the inclusion, in any agreement for transferring or assigning a Necessary Claim, of a provision that such transfer or assignment is subject to existing licenses and obligations to license imposed by standards bodies, specification development organizations, or similar organizations (or substantially similar language) shall be sufficient to comply with this obligation.

2.3. Adopters Agreement. Each Contributor hereby authorizes the Forum to enter into Adopters Agreements with Adopters and to represent in such Adopters Agreements that such Contributor will enter into licenses with such Adopters that are consistent with the provisions of Section 2.2.

2.4. Definitions.

- (a) "Compliant Portion" means only those specific portions of products (hardware, firmware, software, service or combinations thereof) that: (a) implement and are compliant with all required portions of a Published Specification (i.e., not optional portions); and (b) are within the bounds of the Scope.
- (b) "Necessary Claims" means those claims of an issued patent or pending patent application that (a) are owned or controlled by a Member now or until one year after the end of the term of this Agreement; and (b) would be necessarily infringed by implementing a Published Specification within the bounds of the Scope, wherein a patent claim is "necessarily infringed" only when there is no commercially reasonable non-infringing alternative for implementing a Published Specification within the bounds of

the Scope. Notwithstanding the foregoing sentence, Necessary Claims do not include any claims:

- i) other than those set forth above even if contained in the same patent or patent application as Necessary Claims; or
 - ii) that read solely on any implementations of any portion of a Published Specification that are not within the bounds of the Scope; or
 - iii) that, if licensed, would require a payment of royalties by the Member to unaffiliated third parties; or
 - iv) in reference implementations that may be included in a Published Specification.
- (c) “Scope” means software, firmware or hardware technology related to the creation of the deliverables reasonably required to effectuate the goals of the Forum; provided, however, that the Scope will be limited to only definition of programmatic interfaces and related data structures, conventions and tests that combine to provide the means to access services implemented by platform firmware or emulations of platform firmware, which services are designed to interact with operating systems, pre-boot add-in card drivers, pre-boot manufacturing and diagnostic utilities and certain pre-boot manageability operations. For clarification, and notwithstanding the above, the Scope shall not include:
- (i) any enabling technologies that may be necessary to make or use any product or portion thereof that complies with a Published Specification, but are not themselves actually contained within such product or portion thereof and not expressly set forth in a Published Specification (e.g., semiconductor manufacturing technology, compiler technology, basic operating system technology, and the like); or
 - (ii) the implementation or use of other published specifications developed elsewhere but referred to in the body of a Published Specification, even if required for compliance with a published specification; or
 - (iii) any portions of any product and any combinations thereof the purpose or function of which is not required for compliance with required portions of a Published Specification (i.e., implementations of optional portions); or
 - (iv) Application Programming Interfaces, applications, or user interfaces, including the technology used to generate, display or interact with a user, which are not themselves expressly set forth in a Published Specification.

2.5. Representations and Warranties. The Contributor represents and warrants that (a) it has power to cause all pertinent patents owned or controlled by it to be licensed as set forth in this Agreement; (b) its Representatives to the Forum will not knowingly submit a Contribution that violates the copyright or trade secret rights of any Promoter, Contributor or third party; (c) it holds or has the right to grant all relevant copyright licenses to any of its Contributions; and (d) it will not knowingly submit Contributions that may subject any Contribution, Draft Specification,

Test Suite or Published Specification, in whole or in part, to licensing obligations with additional restrictions or requirements inconsistent with the Forum's agreement to grant licenses for purposes of adopting specifications or that would require any portion of the Contribution, Draft Specification, Test Suite or Published Specification to be (i) disclosed or distributed in source code form; (ii) licensed for the purpose of making derivative works; or (iii) redistributable at no charge.

2.6. Intellectual Property in Contributions.

- (a) Disclosure. A Contributor shall disclose to the Secretary in writing the existence of any Potential Claim of which a Representative of such Contributor has actual personal knowledge. A "Potential Claim" means a claim in any patent issued and/or granted under the laws of any country, as well as a claim in any pending published patent application filed under the laws of any country, that is owned by a Member and is, in the good faith judgment of the Contributor, a Necessary Claim upon the implementation of a Contribution made either by the Contributor or by another Member of which the Contributor has become aware. No Representative or Contributor shall be required to conduct a patent search with respect to any Contribution, and knowledge of Potential Claims of a Contributor shall not be imputed to any Representative of that Contributor.
- (b) Time of Disclosure. A disclosure required by subsection (a) shall be made within sixty (60) business days after the submission by any Contributor of a Contribution containing a Potential Claim.
- (c) Form of Disclosure. A disclosure required by subsection (a) should include (i) the name of the submitting party; (ii) sufficient identifying information about the Contribution to permit it to be identified, including its date; and (iii) the patent number, or published patent application number, if available, of the patent in which the Potential Claim is contained. The Secretary may prescribe a form on which such disclosures shall be made.

2.7. Incorporation of Contributions. No Contributor is guaranteed that its Contribution will be incorporated into any specification.

2.8. Confidentiality. Each Contributor agrees that it will maintain all Confidential Information of each Member in confidence with at least the same degree of care that it uses to protect its own proprietary material and in no event with less than reasonable care. "Confidential Information" means (a) any Draft Specification and Contribution and (b) any information, of whatever kind or nature, communicated by a Member to another Member for purposes of developing a Draft Specification or Test Suite, provided that the Member communicating that information (i) marks it "confidential" if it is disclosed in writing; or (ii) makes clear prior to disclosure, if not disclosed in writing, that the disclosure is confidential and within twenty-eight (28) days of the date of the disclosure provides the receiving party with a written summary of the disclosure. Notwithstanding the foregoing, Confidential Information shall not include any information that is (a) already in the possession of the receiving party or any of its Affiliates without obligation of confidence; (b) independently developed by the receiving party or any of

its Affiliates; (c) becomes publicly available without breach of this Agreement; (d) rightfully received by the receiving party or any of its Affiliates from a third party without any obligation of confidence; or (e) rightfully known to the receiving party without any limitation on use or disclosure prior to its receipt from the disclosing party.

2.9. Disclosure. Each Contributor and the employees and contractors of each Contributor may disclose Confidential Information of another Member to an employee or contractor; provided, however, that such employee or contractor shall have signed a confidentiality agreement with the Contributor on terms at least as restrictive as those set forth in this Agreement. Each Contributor making copies of any Confidential Information will retain the “confidential” or similar legend affixed thereto. Unless the disclosing and receiving Member agrees otherwise, this obligation of confidentiality will expire three (3) years from the date of disclosure. Contributors will not disclose to any third party any Contribution except to Promoters and to other Contributors. Aside from this limitation on disclosure of Contributions, there is no obligation to maintain the confidentiality of, or the potential trade secret status of, the Contributions of any Contributor. No Contributor will disclose to any third party any specification before it is published, except to Promoters and other Contributors. Notwithstanding the foregoing, a Contributor may disclose Confidential Information (a) with the prior written consent of the disclosing Member; (b) as otherwise may be required by law or legal process, including to legal and financial advisors in their capacity of advising a party in such matters; or (c) in confidence to its legal counsel, accountants, banks and financing sources and their advisors solely in connection with applicable laws and regulations governing regulated businesses or issuance of securities to the public; provided that, for (b) and (c) above, the receiving Contributor shall use all reasonable legal means available (i) to minimize the disclosure to third parties, including without limitation seeking a confidential treatment request or protective order whenever appropriate or available, and (ii) to provide the disclosing Member with at least ten (10) days notice of such disclosure.

2.10. Residuals and Independent Development. The terms of this Article will not be construed to limit any Contributor’s right to independently develop or acquire products. Further, the Contributor shall be free to use and disclose for any purpose the Residuals resulting from access to or work with Confidential Information. The term “Residuals” means any information retained in the unaided memories of the receiving Contributor’s employees who have accessed and used the subject Confidential Information pursuant to the terms of this Agreement. An employee’s memory is unaided if the employee has not intentionally memorized information from the Contribution for the purpose of retaining and subsequently using or disclosing it in violation of this Agreement. No Contributor shall have any obligation to limit or restrict the assignment of such employees or to pay royalties for any work resulting from the use of Residuals. However, the foregoing will not be deemed to grant to any Member a license under another Member’s copyrights or patents.

2.11. Review Period. Approximately five (5) business days after the Members have agreed on a final draft specification, the Secretary will send to all Contributors a notice indicating the commencement of a period to review the final draft, and indicating the deadline by which any Contributor may provide comments on such draft. Prior to the end of such Review Period, each Contributor shall make disclosures required by Section 2.6(a) to the Secretary, in the form specified by Section 2.6(c). No Contributor, however, will be under any duty to perform any

patent search. Within one (1) week following the date when the Promoters adopt a specification as final, the Secretary will send written notice of such adoption, including a copy of such specification, to all Contributors.

3. WITHDRAWAL

3.1. Conditions and Procedure for Withdrawal. A Contributor may withdraw from this Agreement at any time. The timing of such withdrawal will determine the effect on such Contributor's licensing obligations as specified in Section 3.2 below. A Contributor who wishes to withdraw must provide timely written notice to the Secretary of this decision, and no withdrawal will be effective until written notice is received by the Secretary. The Secretary will promptly send out copies of the withdrawing Contributor's notice to the Members and will, as soon as reasonably practicable, remove the withdrawing Contributor's name and all contact or identifying information of such withdrawing Contributor from any Forum websites, mailing lists, listservs and distribution lists.

3.2. Effect of Withdrawal.

(a) Effect of Withdrawal *Prior* to Adoption of a Published Specification. The withdrawal of a Contributor at any time prior to adoption of a Published Specification will have the following effect:

- i) Any licenses (or commitments to licenses) previously granted (or promised) to such withdrawing Contributor with respect to any Published Specification or approved Test Suite, under the Bylaws, this Agreement and any Promoter and Adopters Agreements, will be revoked or nullified as to the withdrawing Contributor. Moreover, the withdrawing Contributor will not be entitled to receive any new licenses (to which it otherwise would have been entitled as a Contributor) after its withdrawal, and any copyright ownership rights provided to such withdrawing Contributor under this Agreement will be forfeited.
- ii) Even after withdrawal, the withdrawing Contributor will be and remain subject to the obligations and commitments specified under the following Sections: 2.1 (Copyright License), but only with respect to copyright licenses it has granted prior to withdrawal, 2.2 and 2.4 (Patent Licenses) but only with respect to any of the Contributor's Necessary Claims included in a Contribution(s) of such withdrawing Contributor, and 2.6 (Confidentiality).
- iii) All other rights, licenses, obligations, terms and conditions of this Agreement will terminate with respect to such withdrawing Contributor.

(b) Effect of Withdrawal *After* Adoption of a Published Specification. The withdrawal of a Contributor at any time after adoption of a Published Specification will have the following effect:

- i) Any licenses (or commitments to licenses) previously granted (or promised) to such withdrawing Contributor with respect to a Published Specification or a Test Suite, under the Bylaws, this Agreement and any Promoters and Adopters

Agreements, will remain in effect as to the withdrawing Contributor. However, the withdrawing Contributor will not be entitled to receive any new licenses (to which it otherwise would have been entitled as a Contributor) after its withdrawal, and any copyright ownership rights provided to such withdrawing Contributor under this Agreement will be forfeited in favor of the Promoters.

- ii) Even after withdrawal, the withdrawing Contributor will be and remain subject to the obligations and commitments specified under the following Sections: 2.1 (Copyright License), but only with respect to copyright licenses it has granted prior to withdrawal, 2.2 and 2.4 (Patent Licenses) but only with respect to any of the Contributor's Necessary Claims included in a Contribution(s) of such withdrawing Contributor.
- iii) All other rights, licenses, obligations, terms and conditions of this Agreement will terminate with respect to such withdrawing Contributor.

4. TERM AND TERMINATION

4.1. Term. The term of this Agreement will begin on the Effective Date and shall continue until this Agreement is terminated as a result of a vote to dissolve the Forum or is earlier terminated as provided in this Agreement.

4.2. Survival.

- (a) Termination Prior to Adoption of Published Specification. In the event of termination prior to adoption of a Published Specification (1) only Sections 2.8 (Confidentiality) and 5 (General) of this Agreement will survive and remain in effect; (2) each Promoter and Contributor will retain its exclusive rights to its Contribution(s); and (3) no licenses, or commitments to license, will be deemed to have arisen under this Agreement.
- (b) Termination After Adoption of Published Specification. In the event of termination at any time after adoption of a Published Specification, only Sections 2.1 (Copyright License), 2.2 and 2.4 (Patent License), 3 (Withdrawal), and 5 (General) will survive and remain in effect with respect to such adopted Published Specification.

5. GENERAL

5.1. Representation and Warranty. By signing below, the individual executing this Agreement on behalf of the Contributor represents and warrants that he or she has all requisite signing authority for and on behalf of the Contributor.

5.2. Effective Date. This Agreement shall become effective only: (a) if executed by the Secretary (or another authorized representative of the Forum) and the third party; and (b) when the Secretary receives a fully executed original of such agreement. **THEREFORE, THIS AGREEMENT IS NOT EFFECTIVE UNTIL A FULLY EXECUTED ORIGINAL HAS BEEN RECEIVED BY THE SECRETARY.**

5.3. Governing Law. This Agreement shall be construed and controlled by the laws of Washington without reference to conflict of laws principles.

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

5.5. Notices. All notices hereunder will be electronic or written and sent to the parties at the addresses indicated on the signature page of this agreement. Such notices shall be deemed served when sent. Any party may give written notice of a change of address and, after notice of such change has been received, any notice of request shall thereafter be given to such party at such changed address.

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

5.7. Complete Agreement; No Waiver. This Agreement, together with the Bylaws, Promoters and Adopters Agreements and including all attachments and exhibits, sets forth the entire understanding of the parties relating to the subject matter hereof and supersedes all prior agreements and understandings relating hereto, unless otherwise stated in this Agreement. No modifications or additions to or deletions from this Agreement will be binding unless accepted in writing by an authorized representative of the Forum, and the waiver of any breach or default will not constitute a waiver of any other right hereunder or any subsequent breach or default.

5.8. Amendment. The Forum may change any term or condition of this Agreement by giving Contributor thirty days prior written notice. If Contributor wishes to terminate this Agreement because of these changed terms or conditions, Contributor must notify the Forum within the period indicated in such notice. Otherwise, Contributor agrees to accept such changed terms and conditions and agrees to deem this Agreement modified to include such changed terms and conditions.

5.9. Construction. Capitalized terms used but not defined herein have the meanings assigned to such terms by the Bylaws, the terms and obligations of which are incorporated into this Agreement as if fully set forth herein. Regardless of which party may have drafted this Agreement, no rule of strict construction will be applied against any party. If any provision of this Agreement is determined by a court to be unenforceable, the parties will 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 the Agreement will continue in effect.

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

The Unified EFI Forum, Inc.

Contributor

Organization: _____

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Address, Fax Number and Email for Notice:

Address, Fax Number and Email for Notice: