

IMPORTANT NOTE: THIS SAMPLE INTEGRATION AGREEMENT IS PROVIDED SOLELY AS A COURTESY TO COMPANY. NOTHING IN THIS SAMPLE INTEGRATION AGREEMENT SHALL MODIFY ANY OF THE TERMS IN COMPANY'S EMBEDDED OEM AGREEMENT(S) WITH MS. THIS SAMPLE INTEGRATION AGREEMENT MAY NEED TO BE ADJUSTED IN ORDER TO FULLY COMPLY WITH THE TERMS AND CONDITIONS IN COMPANY'S EMBEDDED OEM AGREEMENT REGARDING USE OF THIRD PARTY INTEGRATORS, AND LOCAL LAW, AND IT IS SOLELY COMPANY'S OBLIGATION TO DO SO. COMPANY MAY INCLUDE ADDITIONAL AND/OR ALTERNATIVE TERMS IN THE INTEGRATION AGREEMENT, PROVIDED SUCH TERMS ARE NOT LESS PROTECTIVE OF MS AND ITS AFFILIATES.

OEM Name:	
Integrator Name:	
Effective Date of this Integration Agreement:	
Expiration Date of this Integration Agreement:	

EMBEDDED OEM THIRD PARTY INTEGRATION AGREEMENT

This Embedded OEM Third Party Integration Agreement ("Integration Agreement") is entered into as of the effective date set forth above ("Effective Date") between the OEM ("COMPANY" or "OEM") and the integration company ("Integrator") referenced above, with regard to the following:

RECITALS

WHEREAS, COMPANY has entered into one or more embedded OEM license agreement(s) for certain Microsoft® OEM embedded software products to be installed on and distributed with COMPANY's embedded computer systems and/or computing devices; and

WHEREAS, COMPANY desires to engage Integrator on COMPANY's behalf to use the Licensed Product Deliverables only for the purpose of creating an Image, applications, or software drivers in connection with the Embedded System.

NOW, THEREFORE, the parties agree to the terms and conditions set forth below.

TERMS AND CONDITIONS

1. Definitions.

(a) "Embedded OEM License" means an embedded OEM license agreement listed on Attachment 1 between COMPANY and MS pursuant to which COMPANY has licensed certain Licensed Product(s) for installation on and distribution with its Embedded Systems.

(b) "Embedded System" means a COMPANY computer system or computing device which is licensed for installation and distribution with certain Licensed Product(s) pursuant to an Embedded OEM License.

(c) "Image" means the combination of COMPANY's and Licensed Product binaries developed by Integrator.

(d) "Integration Site" means a facility owned or leased by Integrator and listed on Attachment 1.

(e) "Licensed Product" means a Microsoft® embedded OEM software product that is licensed by COMPANY pursuant to an Embedded OEM License.

(f) "Licensed Product Deliverables" means the Licensed Product software, tools and utilities, documentation and other items identified in the Embedded OEM License or as otherwise identified by MS as components of Licensed Product Deliverables. An example of License Product Deliverables is an OEM pre-installation kit (OPK).

(g) "MS" means a subsidiary or affiliate of MSCORP from which COMPANY has license rights under an Embedded OEM License.

(h) "MSCORP" means Microsoft Corporation, a general partner or the direct or indirect parent of MS, as applicable.

2. Integrator Services.

(a) Subject to the terms and conditions of this Integration Agreement and COMPANY's license rights under its Embedded OEM License(s), Integrator is sub-licensed, if and as directed by COMPANY, to use the Licensed Product Deliverables to create an Image, applications, or software drivers in connection with the Embedded System.

(b) The services identified in subsection 2(a) may be performed only at an Integration Site and only by Integrator employees or individuals under Integrator's direct supervision and control who are engaged to perform such services pursuant to a contract that includes appropriate non-disclosure and other covenants sufficient to satisfy Integrator's obligations under this Integration Agreement.

(c) Integrator may deliver the Image, applications, and software drivers created by Integrator only to COMPANY.

(d) Integrator shall immediately cease all creation of Images, applications or drivers in connection with the Embedded System upon notice from COMPANY or MS.

(e) Integrator shall not reverse engineer, decompile or disassemble any portion of a Licensed Product.

(f) COMPANY reserves all rights not expressly granted in this Integration Agreement.

3. MS Prior Approval Required.

The services to be performed by Integrator pursuant to this Integration Agreement are subject to the prior written approval of MS pursuant to the Embedded OEM License. Integrator is not authorized to perform any services under this Integration Agreement unless and until COMPANY has verified in writing that COMPANY's engagement of Integrator for the services contemplated by this Integration Agreement has been approved by MS.

4. Copyright and Patent Notices.

Integrator will not remove, modify, or obscure any copyright, trademark or patent notices that appear in or on the Licensed Product Deliverables delivered to Integrator by or on behalf of COMPANY.

5. Term and Limited Extension.

This Integration Agreement shall commence on the Effective Date and continue until the earliest of (i) the expiration date set forth at the top of this Integration Agreement, (ii) termination pursuant to Section 7, or (iii) termination or expiration date of the Embedded OEM License.

6. Default, Suspension and Termination.

(a) This Integration Agreement may be suspended by MSCORP, MS or COMPANY, or terminated by COMPANY, if any of the following events of default occur: (i) if Integrator fails to perform or comply with any provision of this Integration Agreement; (ii) if Integrator manufactures, installs or distributes any Microsoft software product, software code or other intellectual property which is not properly authorized under a valid license agreement with MSCORP, MS, or other Microsoft affiliate or Microsoft licensee; (iii) if Integrator becomes insolvent, enters bankruptcy, reorganization, composition or other similar proceedings under applicable laws, whether voluntary or involuntary, or admits in writing its inability to pay its debts, or makes or attempts to make an assignment for the benefit of creditors; (iv) upon suspension or termination of COMPANY's rights under the Embedded OEM License or COMPANY's rights to engage a third party to perform services contemplated by this Integration Agreement; or (v) upon notice from MS to COMPANY that COMPANY shall cease use of Integrator.

(b) Suspension or termination resulting from default as outlined in this Section shall be effective immediately upon the giving of written notice to Integrator, except that in the case of Section 6(a)(iii), termination shall be effective upon receipt of notice or as soon thereafter as is permitted by applicable law.

(c) In addition, COMPANY may terminate this Integration Agreement without cause upon thirty (30) days' prior written notice to Integrator.

7. Obligations Upon Termination.

(a) Within ten (10) calendar days after the earlier of termination or expiration of this Integration Agreement, or notice to Integrator from COMPANY or MS of termination or expiration of an Embedded OEM License or termination or expiration of COMPANY's rights under an Embedded OEM License to engage a third party to perform services contemplated by this Integration Agreement, Integrator shall:

(i) return to COMPANY, at Integrator's expense, all copies of the applicable Licensed Product Deliverables, any Images or copies of the Licensed Product in its possession or under its control; and

(ii) provide written notice to COMPANY signed by an officer or director certifying that Integrator has fulfilled the obligations of this Section 7.

(b) From and after termination or expiration, Integrator's rights under this Integration Agreement regarding the Licensed Product Deliverables shall cease, and Integrator shall not use any portion of such Licensed Product Deliverables in any manner whatsoever.

(c) Integrator's obligations pursuant to Sections 7, 8, 9, 10, 11 and 12 of this Integration Agreement shall survive termination or expiration of this Integration Agreement.

8. Confidentiality.

(a) Integrator shall keep confidential the Licensed Product Deliverables, the terms and conditions of this Integration Agreement, and other non-public information and know-how disclosed to Integrator by COMPANY or MS, and Integrator will make no use of such materials, information and know-how except for Integrator's internal use in accordance with the terms of this Integration Agreement. Integrator may disclose the terms and conditions of this Integration Agreement in confidence to its immediate legal and financial consultants as required in the ordinary course of Integrator's business.

(b) Integrator acknowledges and agrees that notwithstanding any agreement to the contrary, if any, COMPANY may deliver to MS and/or MSCORP information received from and/or about Integrator which is reasonably related to or in connection with this Integration Agreement, and MS and/or MSCORP may use such information in connection with COMPANY's and Integrator's performance of obligations under this Integration Agreement, COMPANY's Embedded OEM License, the protection of intellectual property rights and for other business purposes.

9. Audits.

(a) During the term of the Integration Agreement and for three (3) years thereafter, Integrator shall make available at a single, readily accessible location all records relating to the creation of Images, applications and software drivers relating to the Embedded System ("Records").

(b) In order to verify Integrator's compliance with the terms of the Integration Agreement, COMPANY or MS may cause (i) an audit to be made of Integrator's Records and/or (ii) an inspection to be made of Integrator's facilities and procedures, either with or without prior notice to Integrator. Audits shall be

conducted by an independent certified public accountant selected by the auditing party (other than on a contingent fee basis).

(c) Integrator agrees to provide any audit or inspection team designated by the auditing party access to all relevant Integrator Records and facilities.

(d) COMPANY or MS shall pay the costs of any audit or inspection unless the review discovers material discrepancies during the time frame that was audited, or a breach of any material obligation of Integrator under the terms of this Integration Agreement ("Material Discrepancy"). In the event of a Material Discrepancy, Integrator shall pay MS the costs of the audit, plus any amounts for which COMPANY is liable to MS pursuant to an Embedded OEM License and other damages that COMPANY or MS may suffer as a result or in connection with the Material Discrepancy by Integrator.

10. Third-Party Beneficiaries.

(a) The parties agree that their respective promised performances under this Integration Agreement are intended for the benefit of MSCORP and MS and their respective subsidiaries, affiliates, successors and assigns. The parties further agree that MSCORP and MS each has the right to directly enforce performance of their respective obligations and duties under this Integration Agreement, and pursuant to such right, may directly sue either party or both parties to enforce any claim for breach of this Integration Agreement by such party(ies).

(b) The rights of MSCORP and MS to enforce the obligations of a party to this Integration Agreement shall not be subject to any defenses that such party may have against the party to whom performance is promised.

11. Notices.

All notices, authorizations, and requests in connection with this Integration Agreement shall be deemed given on the day they are (a) deposited in the national mail system in the country where the party giving notice is located, postage prepaid, certified or registered, return receipt requested; or (b) sent by air express courier, charges prepaid; and addressed as indicated beneath the signature blocks of the respective parties (or to such other address as the party to receive the notice or request so designates by written notice to the other).

12. Controlling Law; Attorneys' Fees.

(a) This Integration Agreement shall be interpreted under and controlled by the laws of the State of Washington as if the Integration Agreement was between Washington

parties on a matter located solely within the State of Washington. With respect to any action brought by MSCORP or MS to enforce its rights hereunder, COMPANY and Integrator each consents to exclusive venue and jurisdiction in the state and federal courts sitting in King County, Washington, USA. With respect to any action brought by or between COMPANY and Integrator to enforce the terms of this Integration Agreement, COMPANY and Integrator each consents to venue and jurisdiction in << _____ [COMPANY TO INDICATE APPLICABLE STATE/COUNTRY]>>.

(b) Process may be served on either party by the national mail system in the country where the party giving notice is located, postage prepaid, certified or registered, return receipt requested, or by air express courier, charges prepaid, as well as by any other method or procedure authorized by applicable law or court rule.

(c) If MSCORP, MS or COMPANY employs attorneys to enforce any rights against Integrator arising out of or relating to this Integration Agreement, such entity shall be entitled to recover reasonable attorneys' fees, costs and other expenses incurred if any material claim asserted against Integrator is successful in whole or in material part.

13. Assignment.

This Integration Agreement cannot be assigned by either COMPANY or Integrator in whole or in part (by contract, merger, operation of law, or otherwise). Any attempted assignment in violation of this provision shall be void and of no effect.

14. Government Regulations.

(a) Integrator acknowledges the Licensed Products are subject to U.S. export jurisdiction, and that releases or versions of certain Licensed Products not localized for a specific country or territory may be prohibited or subject to particular restrictions under applicable laws and regulations of that country or territory. Integrator shall comply with all applicable international and national laws and regulations that apply to the Licensed Products, including without limitation the U.S. Export Administration Regulations, as well as importation, manufacturing, end user, end-use and destination restrictions issued by U.S. and other governments. For additional information on exporting Licensed Products from the U.S., see <http://www.microsoft.com/exporting/>.

(b) Integrator shall arrange at its own expense all applicable government approvals required to perform the services contemplated by this Integration Agreement.

In Witness Whereof, the parties have executed this Integration Agreement as of the date set forth above, and represent that each signatory has authority to execute this Integration Agreement on behalf of COMPANY and Integrator, respectively. All signed copies of this Integration Agreement shall be deemed originals.

_____ COMPANY NAME	_____ Integrator NAME
_____ By (Signature)	_____ By (Signature)
_____ Name (Printed)	_____ Name (Printed)
_____ Title	_____ Title

COMPANY Contact Information: _____ _____ _____ Attn: _____ Tel: _____ Fax: _____ Email: _____ <i>With copy to:</i> _____ _____ _____ Attn: _____ Tel: _____ Fax: _____ Email: _____	Integrator Contact Information: _____ _____ _____ Attn: _____ Tel: _____ Fax: _____ Email: _____ <i>With copy to:</i> _____ _____ _____ Attn: _____ Tel: _____ Fax: _____ Email: _____
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ATTACHMENT 1

A. Embedded OEM Licenses

License Name	Microsoft OEM Licensing Entity	Effective Date	Expiration Date	Licensed Products	COMPANY Embedded Systems
1.					
2.					
3.					

B. Integrator Sites:

Location Address	Contact Information (Name, telephone, fax, email)
1.	
2.	

COMPANY may update the information in this Attachment by sending written notice to Integrator in accordance with the notice provisions of the Integration Agreement.