



**The SPIRIT Consortium™ Inc.
Membership Agreement**

December 1, 2006

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This Membership Agreement is effective on the date it is acknowledged on behalf of The SPIRIT Consortium Inc. (“The Consortium”) on the signature page of this document by and between The SPIRIT Consortium Inc., a California Corporation with a place of business at 1370 Trancas Street #184, Napa, CA 94558, and _____ (“Member”) whose business address is at _____ (hereinafter individually and collectively referred to as “Party” or “Parties”).

Whereas

- A. The SPIRIT Consortium has been established generally to develop a set of requirements for an open standard and a working/validated specification that allow the packaging/wrapping of (i) design modules to be independent from specific system development tools, languages or architectures and (ii) an open standard Application Programming Interface for a common interface for a tool framework for the development flow of integrated circuits and systems.
- B. Member wishes to be admitted to The SPIRIT Consortium, as a user of the specifications defined and provided by The SPIRIT Consortium.

Agreed

1. Definitions & Interpretation

In this Membership Agreement the following terms shall have the meaning ascribed to them. Capitalised terms not defined herein shall have the meaning ascribed to them in the IP Policy.

“Affiliated Company” shall mean any corporate legal entity in which more than 50% (fifty percent) of the voting shares (or similar voting rights), now or hereafter are owned or controlled, directly or indirectly, by Member, or the ultimate parent company of a Party, but any such legal entity shall be considered to be an affiliated company only for so long as such control exists)

“Associate Member” shall mean a non-profit organization, itself constituted of one or more organization members, that is a Member of The SPIRIT Consortium, having rights to access the Proposed Specifications, the ability to provide feedback, and the ability to disclose the Proposed Specifications to organization members specifically for the purpose of generating feedback, with the rights and responsibilities as defined herein. Confidential Information, the rights of its disclosure and responsibility for its protection within the organization and within organization members, shall have the meaning ascribed to it in the Non-Disclosure Undertaking.

“The Consortium” and shall mean The SPIRIT Consortium Inc.

“Consortium Objectives” shall mean to create and promote broad industry adoption of specifications that allows the packaging/wrapping of (i) design modules to be independent from specific system development tools, languages or architectures and (ii) an open standard Application Programming Interface for a common interface for a tool framework for the development flow of integrated circuits and systems.

“Contribution” shall mean a submission, comment, suggestion or feedback by a Contributor to a Working Group for incorporation into, or to revise or modify, a

Proposed Specification or portion thereof, or a Proof of Concept Report provided by a Contributor to a Working Group. A Contribution may be written (including e-mail) or oral. In order to qualify as a Contribution, any oral Contribution shall be confirmed in writing by the Contributor as soon as possible but in any event within fourteen (14) days as of the date of oral Contribution.

“Contributing Member” shall mean a Member, participating in a Working Group, other than an Associate Member or a Reviewing Member, having the right to access the Contributions made to such Working Group, and entitled to vote in such Working Group on selection of the Proposed Specifications for submission for the formal adoption or not in the Board of Directors sole election by the Board of Directors and with the rights and responsibilities as defined herein.

“Feedback” shall mean any submission, comment, suggestion or feedback, whether or not solicited, and however made by a Reviewing Member for incorporation into, or to revise or modify, a Specification, Proposed Specification or portion thereof. Feedback shall be deemed non confidential.

“IP Policy” shall mean the Intellectual Property Policy, so called, and appended hereto as Appendix 2.

“Members” shall mean the companies or organizations that are Members of the Board of Directors, Reviewing Members, Contributing Members, or Associate Members, categorised according to the level responsibilities accepted hereunder.

“Organization” shall mean a legally defined non-profit entity that consists of organization members that may be individuals, institutes or companies; consultants, officers and employees bound by the membership, non-disclosure and IP policies of the organization.

“Proposed Specifications” shall mean proposals, definitions or modifications to Specifications, proposed by a Working Group for formal adoption by the Board of Directors.

“Reviewing Member” shall mean a Member, other than Member of the Board of Directors, Contributing Member, or an Associate Member, having the right to access the Proposed Specifications and provide feedback and with the rights and responsibilities as defined herein.

“Non-Disclosure Undertaking” shall mean the undertaking, so called, between Member and The SPIRIT Consortium as set out in Appendix 1.

“Specification” shall mean a set of definitions, including a XML schema, that allows the packaging/wrapping of design modules to be independent from specific system development tools, languages or architectures and an open standard Application Programming Interface for a common interface for a tool framework for the development flow of integrated circuits and systems, as proposed by a Working Group and adopted and published by The SPIRIT Consortium.

“Working Group” shall mean a working group established by the Board of Directors to develop Specifications under procedures and directions established by the Board of Directors, and may consist of one or more Board Member(s) and Contributing Members.

- 1.2 The headings in this Agreement are for convenience only and do not in any way affect its interpretation.
- 1.3 Any reference to a Section or an Exhibit is a reference to a Section or an Exhibit of this Agreement and any reference to this Agreement is, unless the context otherwise requires, a reference to this Agreement including all the Exhibits.
- 1.4 Unless the context otherwise requires, the singular includes the plural and vice versa.
- 1.5 Any reference in this Agreement to “writing”, or to any related expression, includes a reference to any communication effected by electronic mail, fax or any comparable means.

2. Scope of Agreement and Purpose of The SPIRIT Consortium

2.1 Purpose of The SPIRIT Consortium

The purpose of The SPIRIT Consortium is to:

- a. identify and propose a set of requirements in the form of an open standard that allows the packaging/wrapping of design modules to be independent from specific system development tools, languages or architectures.
- b. identify and propose an open standard Application Programming for the development for a common interface for a tool framework for the flow of integrated circuits and systems.

2.2 Endorsement of The SPIRIT Consortium

Member understands that by joining The SPIRIT Consortium it is expressing its support for the purpose of The Consortium as outlined in Section 2.1 above and that Member is expected to be committed to endorse the Specifications.

2.3 Proposed Specifications

This Membership Agreement covers the right to participate in The SPIRIT Consortium as either a Reviewing Member, an Associate Member or a Contributing Member and the circumstances and conditions under which such Reviewing Member, Associate Member or Contributing Member may review or contribute to Proposed Specifications and gain access to documentation pertaining to the Proposed Specifications and, when available, the Specifications.

2.4 Open Competition

Members shall individually and collectively be committed to open competition in the development of products, technology and services, and the Members shall not be restricted in any way from designing, developing, marketing and/or procuring hardware, software, systems, technology or services. Implementation or use of specific adopted Specifications is voluntary. No Member shall be required or obliged to implement adopted Specifications by virtue of being a Member of The SPIRIT Consortium.

3. Characterization of Membership

3.1 General

A Member may be classed as a Reviewing Member, a Contributing Member or an Associate Member, according to the degree of Member's commitment to The SPIRIT Consortium and the level of responsibility embraced by the Member.

3.2 Reviewing Member

Reviewing Members will not participate in any Working Group and shall have limited rights.

Reviewing Members:

- (a) shall have the right to give feedback to the Proposed Specifications and/or any draft versions thereof released by a Working Group for review; and
- (b) shall have access to the documentation pertaining to the Proposed Specifications and/or any draft versions thereof after a Working Group has released such Proposed Specifications and/or any draft versions thereof; and
- (c) shall be permitted to use the Specifications pursuant to the terms of the IP Policy referred to in Section 4.2 below; and
- (d) shall have the right to add their name to a public list of endorsees; and
- (e) shall have the right to use The SPIRIT Consortium name publicly according to the published guidelines subject to such conditions as determined by the Board of Directors.

3.3 Contributing Member

Contributing Members:

- (a) shall have the right to review and contribute to the Proposed Specifications; and
- (b) shall have access to the documentation pertaining to the Proposed Specifications; and
- (c) shall have access to the Contributions made to the Working Group in which they participate in; and
- (d) be permitted to use the Specifications pursuant to the terms of the IP Policy referred to in Section 4.2 below; and
- (e) shall participate in a Working Group and be entitled to vote in such Working Group; and
- (f) shall have the right to add their name to a public list of endorsees, and
- (g) shall have the right to use The SPIRIT Consortium name publicly according to the published guidelines subject to such conditions as determined by the Board of Directors.

3.4 Associate Member

Associate Membership status may only apply to Organizations. Associate Members will not participate in any Technical Working Group unless explicitly invited to by The SPIRIT Consortium Board of Directors. Associate members shall have the following rights.

Associate Members:

- (a) shall have access to the documentation pertaining to the Proposed Specifications and/or any draft versions thereof after a Working Group has released such Proposed Specifications and/or any draft versions thereof. Access is limited to the following Organization members: the consultants, officers and employees during the term of their official engagement with the Organization, and the Member Companies of the Organizations as explicitly defined in the Non-Disclosure Undertaking (Appendix 1); and
- (b) shall be permitted, for those Organization members granted rights of access, to use the Proposed Specifications pursuant to the terms of the IP Policy referred to in Section 4.2 below; and
- (c) shall be permitted to have Organization officers, employees or consultants actively engaged in The SPIRIT Consortium R&D group; and
- (d) shall have the right to give feedback to the Proposed Specifications and/or any draft versions thereof released by a Working Group for review; and
- (e) shall, for any Organization member that cannot otherwise be defined as a Reviewing or Contributing member of The SPIRIT Consortium, assume all responsibility for contributions by Organization members to The Consortium as defined by the IP Policy; and
- (f) shall have the right to add their name to a public list of endorsees, and
- (g) shall have the right to use The SPIRIT Consortium name publicly according to the published guidelines subject to such conditions as determined by the Board of Directors; and
- (h) shall not have the right to present details of technical findings on Proposed Specifications and/or any draft versions thereof to individuals, institutes, organizations or companies that are not otherwise themselves Members of The SPIRIT Consortium except with express written agreement of the Board of Directors; and
- (i) shall not have the right to participate in The SPIRIT Consortium specification development groups unless specific individuals are explicitly invited to participate by the Board of Directors. This type of engagement may be promoted as a consequence of successful R&D activities that are maturing to a development stage.

3.5 Administration of Membership

- a. The Board of Directors shall manage the progress of the development work to be undertaken in realizing the development of the open standard as envisaged by The

SPIRIT Consortium.

- b. The Board of Directors shall administer all Membership Agreements executed with Members and shall keep a list of all Members.
- c. The Board of Directors shall organize, and make decision that relate to the organization of, The SPIRIT Consortium in accordance with the terms on which The SPIRIT Consortium is established.

3.6 Expenses

Each Party shall bear its own cost and expenses incurred and made by it in connection with this Membership Agreement and the activities contemplated herein.

4. Intellectual Property Rights

4.1 Non-Disclosure Undertaking

By signature of this Membership Agreement, Member accepts the terms and conditions of the Non-Disclosure Undertaking. Any access provided by Member to its employees or employees of its Affiliates as have a need to know, is permitted provided that

- a. Member will make any such employee or employee of its Affiliate aware of the confidential nature of information supplied; and
- b. Member ensures that such employee or employee of its Affiliate to which Confidential Information is disclosed, is bound by obligations of confidentiality no less stringent than those accepted by Member hereunder.

4.2 IP Policy

By signature of this Membership Agreement, Member is deemed to have accepted the terms and conditions of The SPIRIT Consortium IP Policy as presently adopted and as amended from time to time (see Appendix 2). All changes to the IP Policy will be publicly announced to the Members and provided for review on the web site for a period of four (4) weeks before implementation. In the event Member does not agree to support such amendments to the IP Policy, Member shall have the right to resign its Membership in accordance with Section 4.11 of the Bylaws of The SPIRIT Consortium.

4.3 Use of Member's Name

The Board of Directors may, in good faith and in their discretion and until such time as Member withdraws its interest, include the name of Member in a public list of companies who have executed a Membership Agreement.

5. Term of Membership

5.1 Term of Membership Agreement

This Membership Agreement shall commence on the date it is acknowledged on behalf of The SPIRIT Consortium and remain in effect until the earlier of: (i) such time as Member elects to voluntarily withdraw as a Member of The Consortium; or (ii) termination of Member's status as

a Member as provided in Section 5.2; or (iii) termination or expiration of The Consortium in accordance with the terms on which The Consortium is established.

Further, by signature of this Membership Agreement, Member understands it is agreeing to the Bylaws of The SPIRIT Consortium, as presently adopted and as amended from time to time. All changes to the Bylaws will be publicly announced to the Members and provided for review on the web site for a period of four (4) weeks before implementation. In the event Member does not agree to support such amendments to the IP Policy, Member shall have the right to resign its Membership in accordance with Section 4.11 of the Bylaws of The SPIRIT Consortium.

5.2 Termination or Suspension of Membership Agreement by Board of Directors

Upon expiration or termination of a Member's status as a Member of The SPIRIT Consortium (i) the following terms shall survive: (A) this Section 5.2 and Sections 4 and 8 of this Membership Agreement; and (B) Sections 1.2 and 1.4 of the IP Policy with respect to Essential IP of Member incorporated into or a part of any adopted Specifications existing prior to the effective date of expiration or termination of such Member's status; and (ii) the terms of Sections 1.2 and 1.4 of the IP Policy shall not apply to any portions of Contributions which have been expressly identified and affirmatively withdrawn from the Proposed Specifications by a Contributing Member in accordance with Section 1.5 of the IP Policy prior to the effective date of expiration or termination of such Contributing Member's status as a Contributing Member.

6. Contributions

6.1 Contributions

Both Reviewing and Contributing Members may contribute to the Proposed Specifications. Contributions may be in any form and shall be provided in goodwill. If there are rights associated with the Contribution and the Contribution is used, the member shall provide a free perpetual license to The SPIRIT Consortium for sub-licensing to users of the specifications as defined in the IP Policy.

All Contributing Members must fulfil the expected contribution levels of resource allocation to working groups.

7. Disclaimers

7.1 Consequential Loss

No Party shall be liable to the other for any indirect, special, exemplary, consequential, special, or punitive damages, including without limitation, lost profits even if advised of the possibility of such damages.

7.2 Exclusion of Liability

NO PARTY HERETO MAKES ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO ANY SOFTWARE, DOCUMENTATION, INTERFACES, SAMPLE IMPLEMENTATIONS, SPECIFICATIONS OR ANY OTHER ITEMS PROVIDED OR MADE AVAILABLE TO ANY MEMBER, OR WITH RESPECT TO ANY STANDARD OR INTERFACE OR SPECIFICATION APPROVED, PROMOTED OR ENDORSED BY ANY OTHER MEMBER OF THE SPIRIT CONSORTIUM, INCLUDING,

WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT ANY OF THE FOREGOING ITEMS DOES NOT INFRINGE OR CONSTITUTE A MISAPPROPRIATION OF THE PROPRIETARY RIGHTS OF ANY THIRD PARTIES. EACH PARTY AGREES THAT ALL SUCH ITEMS ARE PROVIDED OR MADE AVAILABLE HEREUNDER "AS IS."

8. General Provisions

8.1 *Jurisdiction (Governing Laws)*

This Membership Agreement shall be governed by and interpreted and construed under the laws of the State of California.

8.2 *Dispute Resolution*

Any disputes arising in connection with this Agreement that cannot be resolved amicably between the Member and The SPIRIT Consortium shall be settled finally by the state and federal courts in the State of California.

8.3 *Rights and Remedies*

Notwithstanding the foregoing, The SPIRIT Consortium on behalf of the Members will have the liberty to seek interlocutory injunctive relief to enforce obligations under this agreement in addition to other rights and remedies it may have, if an actual or threatened breach of this Agreement by Member could cause irreparable or significant harm or injury to the Members.

8.4 *Non-Competition*

Nothing in this Agreement shall be construed as requiring a Member to develop or market any product or to refrain from using its own confidential information and intellectual property to engage in any business activities whatsoever, whether or not such activity is in competition with The SPIRIT Consortium Objectives.

8.5 *Binding Nature*

This Membership Agreement shall be binding on the Parties and their successors and assigns.

8.6 *Relationship of Parties*

The relationship of the Parties established by this Membership Agreement is that of independent contractors, and nothing in this Membership Agreement shall be construed to give any Party the power to direct or control the day-to-day activities of any other Party. No Party shall have authority to act, to enter into any contract, incur any liability or make any representation on behalf of any other Party.

8.7 *Competence of Parties*

The execution, delivery, and performance by a Party of this Membership Agreement and any related documents is an implied warranty that that Party has been duly authorized by all necessary corporate action and each individual executing this Membership Agreement and any related documents is authorized to so execute instruments of this nature on that Party's behalf.

8.8 Assignment and Subcontracting

Neither this Membership Agreement nor any interest herein may be transferred or assigned, in whole or in part, by a Party hereto without the written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, a Board Member Company may assign or transfer any or all of its rights and obligations under this Membership Agreement to any or all other Board Member Companies without notice.

8.9 Addressees for Notices

Any notice, report, approval or consent required or permitted hereunder shall be in writing and will be deemed to have been duly given if delivered personally, by facsimile, or mailed by first-class, registered or certified mail, postage prepaid to the respective addresses of the Parties as set out below, or as otherwise from time to time may be notified.

The SPIRIT Consortium

1370 Trancas Street #184
Napa, CA 94558 U.S.A
Phone: (707) 265-8193
Fax (707) 265-8492

Member Company: _____

Address: _____

Address: _____

Country: _____

Phone: _____

Fax: _____

Primary Contact: _____

E-mail address: _____

Corporate web site URL: _____

8.10 Amendment, Severability and Waiver

- a. This Membership Agreement may be modified only by means of a written instrument signed by the Party to be bound. Only expressly authorized representatives of any corporate party may agree to any such modification or change.
- b. If any of the terms and provisions of this Membership Agreement are determined to be invalid or unenforceable by any court of competent jurisdiction or any government authority, it shall not invalidate the rest of this Membership Agreement, which shall remain in full force and effect as if such terms and provisions had not been a part of this Membership Agreement.
- c. No delay or omission by either Party to exercise any right occurring upon any non compliance or default by the other Party with respect to any of the terms of this Membership Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the Parties hereto of any of the covenants,

conditions or agreements to be performed by the other shall not be construed to be a waiver of any succeeding breach thereof or of any covenant, condition or agreement herein contained.

8.11 Entire Agreement; Modifications

This Membership Agreement, sets forth the entire, final and exclusive agreement between the Parties as to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, between the Parties. This Membership Agreement may be modified only pursuant to a writing executed by authorized representatives of each Party.

8.12 Counterparts

This Membership Agreement may be executed in one (1) or more duplicate originals, all of which together shall be deemed one and the same instrument.

8.13 Antitrust compliance

- a. The Parties understand that in certain lines of business they are or may be direct competitors and that it is essential that they and their representatives act in a manner which does not violate any US state, US federal, European Union, or European Union member states national antitrust laws and regulations. The Parties acknowledge that this Membership Agreement prohibits any communications that violate antitrust laws. Accordingly, each Party will counsel its representatives who participate in The SPIRIT Consortium on the importance of limiting the scope of their discussions and communications to topics that relate to The SPIRIT Consortium Objectives, whether or not such discussions and communications take place during formal meetings, informal gatherings, or otherwise.

Executed effective as of the date it is acknowledged on behalf of The SPIRIT Consortium Inc.

Company: _____

Signed: _____ Date: _____

Name: _____ Title: _____

Acknowledged on behalf of The SPIRIT Consortium:

Signed: _____ Date: _____

Name: _____ Title: _____

Appendix 1 - Non-Disclosure Undertaking

- A. To the extent that confidentiality is claimed or by its nature such information reasonably is considered confidential by the originator or disclosing party (“Confidential Information”), with respect to any Confidential Information disclosed under the Membership Agreement, during a period of three (3) years from the date of disclosure and unless the disclosing party gives its prior written authorization otherwise, Member will: (i) not use the Confidential Information for any purpose other than The SPIRIT Consortium Objectives; (ii) protect the Confidential Information against disclosure in the same manner and with the same degree of care, but not less than a reasonable degree of care, with which it protects its own information of a similar nature and importance, and (iii) limit circulation of the Confidential Information to such of its employees and employees of its authorized Affiliates as provided in Clause 4.1 of the Membership Agreement.
- B. All Confidential Information disclosed or transferred to Member: (i) will remain the property of the disclosing party; (ii) will be provided on an "as is" basis, without any warranty, whether express, implied or otherwise, regarding its accuracy, usefulness or performance; and (iii) will, upon the written request of the disclosing party, be returned by Member with any copies thereof, and all data comprising Confidential Information on a server of Member will be removed,
- C. The confidentiality undertaking shall not apply to any material to the extent that it: (i) is or becomes part of the public domain without violation of this Undertaking; (ii) is known to Member prior to disclosure; (iii) lawfully is obtained by a receiving party from a third party; (iv) is furnished to others by the disclosing party without similar restrictions as to use or disclosure to those herein contained; (v) can reasonably be proven is developed by Member or an Affiliate of Member independently of any disclosure by the disclosing party, (vi) is ascertainable from a commercially available product without however reverse engineering, decompiling or disassembling such product; or (vii) is disclosed pursuant to administrative or judicial action, provided that the receiving party shall use its best efforts to maintain the confidentiality of the Confidential Information by asserting in such action any applicable privileges, and shall, immediately after getting knowledge or receiving notice of such action, notify the disclosing party thereof and give the disclosing party the opportunity to seek any other legal remedies so as to maintain such Confidential Information in confidence. If only a portion of the Confidential Information falls under any of the above subsections, then only that portion of the Confidential Information shall be excluded from the use and disclosure restrictions of this Undertaking.
- D. Nothing in this Undertaking (i.) shall be construed as a grant by implication, estoppels or otherwise, of a license by either party to the other to make, have made, use or sell any product using Confidential Information or as a license under any patent, patent application, utility model, copyright, mask work right, or any other intellectual property right; and (ii) Nothing in this Undertaking shall oblige any party to disclose any particular item of information to any other Party.

Appendix 2 - IP Policy

See document "The SPIRIT Consortium Inc. Intellectual Property Policy"

file name: "SPIRIT IP Policy 2006-09-11.doc"

Appendix 3 - Side Letter "Press Release"

Reference is made to Section 4.3 of the SPIRIT Consortium-Membership Agreement:

4.3. Use of Member's Name

The Board of Directors may, in good faith and in their discretion and until such time as a Member withdraws its interest, include the name of a Member in a public list of companies who have executed a Membership Agreement.

Interpretation:

The Board of Directors hereby confirm that any other publications or a press release where the Member is mentioned has to be approved in advance and in writing by the Member. The Member will not unreasonably withhold this confirmation.