



DRIVER OBJECT CODE DISTRIBUTION AGREEMENT

This Agreement (“Agreement”) is entered into and is effective as of the 23rd day of October 2003 (“Effective Date”) by and between **ATI Technologies Inc.**, an Ontario corporation with its principal place of business at One Commerce Valley Drive East, Markham, Ontario L3T 7X6, its subsidiaries, (collectively “ATI”) and **DEBIAN PROJECT** (“Licensee”).

ARTICLE I

DEFINITIONS

1.1 Definitions

1.1.1 “**Licensed Purpose**” shall mean the purpose of including Licensed Software with the Licensee’s product: “Debian GNU/Linux”.

1.1.2 “**Licensed Software**” shall mean ATI’s software as described in Attachment A and shall include any associated documentation provided by ATI and relating thereto.

1.1.3 “**Object Code**” shall mean the machine readable form computer programming code as opposed to the human readable form of computer programming code.

1.1.4 “**Source Code**” shall mean the human readable form computer programming code and related system level documentation, including all comments and any procedural code such as job control language.

ARTICLE II

LICENSE

2.1 License. Subject to the terms and conditions of this Agreement, ATI grants Licensee a non-exclusive, revocable, non-transferable, non-assignable, limited license solely for the Licensed Purpose to distribute the Object Code of the Licensed Software solely for use in association with ATI hardware which works in conjunction with the Licensed Software and for no other purpose. No right, license or privilege is granted to any person or entity other than Licensee. Specifically, but without limitation, no right, license or privilege is granted to any entities related to or associated with Licensee including, but not limited to, affiliates, subsidiaries, parent entities or agents of Licensee.

2.2 Restrictions. Restrictions regarding Licensee’s use of the Licensed Software regardless of whether the Licensee received the Licensed Software before, on, or after the Effective Date of this Agreement, are as follows:

- 2.2.1 Licensee shall use the Licensed Software only for the Licensed Purpose and for no other purpose;
- 2.2.2 Licensee shall reproduce all notices, including without limitation, copyright and confidentiality notices, on all permitted copies of the Licensed Software;
- 2.2.3 Except as expressly provided for in this Agreement, or as reasonably required to fulfill the Licensed Purpose, Licensee shall not copy or reproduce in any form, the Licensed Software or any portion thereof;
- 2.2.4 Licensee shall not reverse engineer, decompile, disassemble, re-engineer, or otherwise reproduce in any form or create or attempt to create or permit, allow or assist others to create the Source Code of any portion or component of the Licensed Software;
- 2.2.5 Licensee shall enter into an end user license with each sublicensee that Licensee provides a copy of the Licensed Software or a portion thereof. The end user license may be in the Licensee's standard form agreement and shall contain terms and conditions substantially similar to the terms and conditions in Attachment B;
- 2.2.6 Licensee shall not, without ATI's prior written approval, alter or modify the Licensed Software; and
- 2.2.7 Licensee shall not remove, alter, modify or obscure any ATI trademark, logo or similar mark from any Licensed Product or permitted copy thereof.

ARTICLE III

OWNERSHIP; ASSIGNMENT

3.1 Ownership. Licensee acknowledges and agrees that the Licensed Software and all intermediate and partial versions thereto, including without limitation all modifications, enhancements, updates, bug fixes, inventions, know-how, as well as all intellectual property rights including, without limitation, copyrights, patents, trade secrets, and all other information relating thereto are and will remain the sole and exclusive property of ATI or a third party which may license parts of the Licensed Software to ATI, and Licensee shall have no right, title or interest therein except as expressly set forth in this Agreement. With respect to any derivative programs of the Licensed Software developed by Licensee, including without limitation, modifications, improvements and enhancements, and any documentation relating thereto, Licensee hereby assigns to ATI exclusively all right, title and interest to such derivative programs, and all copies thereof, and all related intellectual property rights (including, without limitation, copyrights) without further consideration. All such modifications, improvements, or enhancements, and any documentation relating thereto, shall be provided to ATI within thirty (30) days of creation.

ARTICLE IV

WARRANTY, DISCLAIMERS, AND INDEMNIFICATION

4.1 Disclaimer . Both parties represent and warrant that they have full authority to enter into this Agreement and all of the terms and conditions herein. LICENSED SOFTWARE PROVIDED TO LICENSEE HEREUNDER IS PROVIDED "AS IS" WITHOUT ANY WARRANTY WHATSOEVER. THE ENTIRE RISK ASSOCIATED WITH THE USE OF MATERIALS RESIDES WITH LICENSEE. ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, ARE DISCLAIMED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, ACCURACY, CONDITION, OWNERSHIP, FITNESS FOR A PARTICULAR PURPOSE, AND/OR OF NON-INFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS.

4.2 Limitation of Liability. NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES.

4.3 Indemnification. Licensee agrees to indemnify, defend, and hold ATI, its subsidiaries, successors, officers,

suppliers, directors and employees harmless from any and all actions, causes of action, claims, demands, costs, liabilities, expenses and damages, including reasonable attorneys' fees, arising out of or in connection with Licensee's use of the Licensed Software and/or any breach of Licensee's obligations under this Agreement.

ARTICLE V

TERM AND TERMINATION

5.1 Term. The term of this Agreement shall begin on the Effective Date and remain in effect as long as Licensee's product is made available, provided that ATI may terminate the Agreement immediately upon the breach by Licensee of any of the terms of the Agreement or upon giving written notice to Licensee. The termination of this Agreement shall have no effect on any sublicenses previously granted by Licensee to end users.

5.2 Return of Property. In the event this Agreement expires or terminates for any reason upon ATI's request,

Licensee shall immediately turnover to ATI (a) the original media containing the Licensed Software, and (b) at least one copy of any and all modifications, improvements, enhancements, or derivations to the Licensed Software, and certify that all other copies of the Licensed Software have been destroyed.

ARTICLE VI

GENERAL PROVISIONS

6.1 Governing Law/Jurisdiction. This Agreement will be governed by and construed under the laws of the

Province of Ontario without reference to its conflicts of law principles. The rights and obligations under this Agreement shall not be governed by the United Nations Convention on Contracts or the International Sale of Goods, the application of which is expressly excluded. The parties expressly stipulate that all litigation under this Agreement will be brought in the provincial courts of Ontario or in the Federal court of Canada and the parties expressly submit to the jurisdiction of said courts

6.2 Notices. All notices, requests, demands, and other communications to be given or delivered under or by reason of the provisions of this Agreement shall be in writing and shall be deemed given when delivered personally upon receipt, on the next business day when sent by overnight mail, including without limitation, Federal Express, Express Mail or similar service to each party at the address provided at the beginning of the Agreement.

6.3 Assignment. Licensee's rights and duties hereunder may not be sublicensed, assigned or transferred without ATI's written permission. Any attempt by Licensee to effect such an assignment, sublicense or transfer without prior written permission will constitute a material breach of this Agreement and be null and void. ATI may assign this Agreement to a parent, affiliate or subsidiary, or in the event of a sale or transfer of business.

6.4 Severability. Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, the parties will negotiate in good faith to restate such provision to reflect the original intentions of the parties as nearly as possible in accordance with applicable law and the remaining provisions of this Agreement shall be enforced as if this Agreement was entered into with the restated provision.

6.5 Transaction Costs. Except as expressly provided for in this Agreement, each party shall bear its

own costs and expenses incurred in connection with the negotiation, execution and performance of this Agreement.

6.6 Attorney Fees. In the event that attorney’s fees or other out-of-pocket costs are incurred, to secure performance of any of the obligations herein provided for, or to establish damages for breach thereof, or to obtain any other appropriate relief, whether by way of prosecution or defense, any prevailing party shall be entitled to recover reasonable attorney’s fees and out-of-pocket costs incurred therein.

6.7 Captions. The captions used in this agreement are for convenience of reference only and do not constitute a part of this Agreement and will not be deemed to limit, characterize or in any way affect any provision of this Agreement, and all provisions of this Agreement will be enforced and construed as if no caption had been used in this Agreement.

6.8 Modification; Waiver. This Agreement may be modified only by a written instrument duly executed by or on behalf of each party hereto. A waiver by either of the parties hereto of any of the covenants to be performed by the other or any breach thereof shall not be construed to be a waiver of any succeeding breach thereof or of any other covenant herein contained.

6.9 Remedies. Except as otherwise provided in this Agreement, all remedies provided for in this Agreement shall be cumulative and in addition to and not in lieu of any other remedies available to either party at law, in equity or otherwise. Licensee acknowledges that any disclosure or distribution of the Source Code or Confidential Information would cause irreparable injury to ATI and ATI shall be entitled to seek extraordinary injunctive and other equitable relief, without necessity of posting bond.

6.10 Entire Agreement. This Agreement constitutes the entire agreement among the parties hereto with respect to the subject matter hereof and supersedes and replaces in all respects all other prior agreements and understandings between the parties hereto with respect to the subject matter hereof, whether written or oral.

6.11 Export. The parties agree to adhere to all applicable Export Laws and Regulations of the United States and Canada.

6.12 Surviving Obligations. Any term or condition of this Agreement which by its nature extends beyond the expiration or termination of this Agreement, including without limitation sections 2.2, 3.1, 4.1, 4.2, 4.3, 5.2, and Article VI shall survive any termination of this Agreement and shall bind the parties and their legal representatives, successors, heirs and assigns

ATI TECHNOLOGIES INC.

HOMELINC A/S

By: _____
(I have authority to bind the corporation)
Name: _____
(Print or Type)
Title: _____
(Print or Type)
Date: _____
(Print or Type)

By: _____
(I have authority to bind the corporation)
Name: _____
(Print or Type)
Title: _____
(Print or Type)
Date: _____
(Print or Type)

ATTACHMENT A

LIST OF ATI SOFTWARE:

fglrx-glc22-4.3.0-3.2.8.i586.rpm and it's contents

ATTACHMENT B

End User License Agreement

PLEASE READ THIS LICENSE CAREFULLY BEFORE USING THE SOFTWARE. BY USING THE SOFTWARE, YOU ARE AGREEING TO BE BOUND BY THE TERMS OF THIS LICENSE.

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- c) transfer all your license rights in the Software provided you must also transfer a copy of this License, the backup copy of the Software, the ATI Hardware and the related documentation and provided the other party reads and agrees to accept the terms and conditions of this License. Upon such transfer your license is then terminated.

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- a) decompile, reverse engineer, disassemble or otherwise reduce the Software to a human-perceivable form;
- b) modify, network, rent, lend, loan, distribute or create derivative works based upon the Software in whole or in part; or
- c) electronically transmit the Software from one computer to another or over a network or otherwise transfer the Software except as permitted by this License.

3. Termination. This License is effective until terminated. You may terminate this License at any time by destroying the Software, related documentation and all copies thereof. This License will terminate immediately without notice from ATI if you fail to comply with any provision of this License. Upon termination you must destroy the Software, related documentation and all copies thereof.

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5. No Other License. No rights or licenses are granted by ATI under this License, expressly or by implication, with respect to any proprietary information or patent, copyright, trade secret or other intellectual property right owned or controlled by ATI, except as expressly provided in this License.

6. Additional Licenses. DISTRIBUTION OR USE OF THE SOFTWARE WITH AN OPERATING SYSTEM MAY REQUIRE ADDITIONAL LICENSES FROM THE OPERATING SYSTEM VENDOR.

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9. Controlling Law and Severability. This License shall be governed by and construed under the laws of the province of Ontario, Canada without reference to its conflict of law principles. In the event of any conflicts between foreign law, rules, and regulations, and Canadian law, rules, and regulations, Canadian law, rules and regulations shall prevail and govern. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this License. If for any reason a court of competent jurisdiction finds any provision of this License or portion thereof, to be unenforceable, that provision of the License shall be enforced to the maximum extent permissible so as to effect the intent of the parties, and the remainder of this License shall continue in full force and effect.

10. Complete Agreement. This License constitutes the entire agreement between the parties with respect to the use of the Software and the related documentation, and supersedes all prior or contemporaneous understandings or agreements, written or oral, regarding such subject matter. No amendment to or modification of this License will be binding unless in writing and signed by a duly authorized representative of ATI.