

AIRFUEL ALLIANCE

INTELLECTUAL PROPERTY RIGHTS (IPR) POLICY

July 10, 2015

1. Introduction

AIRFUEL ALLIANCE (“AIRFUEL ALLIANCE”) has established the following IPR POLICY. MEMBERS agree to be bound by this IPR POLICY, as it exists and as it may be revised strictly in accordance with Section 2 of the AIRFUEL ALLIANCE Membership Agreement.

2. Definitions

“**ADOPT**”, “**ADOPTED**”, or “**ADOPTION**” refer to approval by a formal vote of the BOARD, the procedures for such formal vote being described in the BYLAWS.

“**AFFILIATE**” of a first legal entity means any other legal entity:

- directly or indirectly owning or controlling the first legal entity, or under the same direct or indirect ownership or control as the first legal entity, or
- directly or indirectly owned or controlled by the first legal entity, in either case, for so long as such ownership or control lasts.

Ownership or control shall exist through the direct or indirect: ownership of more than 50 % of the nominal value of the issued equity share capital or of more than 50 % of the shares entitling the holders to vote for the election of directors or persons performing similar functions, or right by any other means to elect or appoint directors, or persons who collectively can exercise such control.

“**APPLICANT**” means an entity that wishes to become a MEMBER after AIRFUEL ALLIANCE has ADOPTED at least one SPECIFICATION. References to an APPLICANT shall wherever the context permits be interpreted as references to that APPLICANT and its AFFILIATES.

“**BOARD**” means the Board of Directors of AIRFUEL ALLIANCE.

“**BYLAWS**” means the Bylaws of AIRFUEL ALLIANCE, as may be amended from time to time.

“**COMPLIANT PORTION**” means only those specific portions of products (hardware, software or combinations thereof) that implement and are compliant with all relevant required portions of a SPECIFICATION (as applicable to such portions).

“**CONTRIBUTION**” means any written (including electronically transmitted) proposal, input, comment or contribution that is offered by a MEMBER for consideration for or regarding inclusion in a SPECIFICATION. To be considered a CONTRIBUTION, the proposal, input comment or contribution must be in written (including electronically transmitted form).

“**IPR**” means any patent, copyright, or other intellectual property right conferred by statute or law, including applications therefor, other than trademarks. For the avoidance of doubt rights relating to confidential information, trade secrets or the like are excluded from the definition of IPR.

“**IPR POLICY**” means this AIRFUEL ALLIANCE Intellectual Property Rights Policy and any amendments or modifications made to this IPR POLICY in accordance with its terms.

“**MANUFACTURE**” means production of products containing COMPLIANT PORTIONS.

“**MEMBER**” means any member or participant of AIRFUEL ALLIANCE. The use of the term MEMBER in this IPR Policy shall not refer to the capitalized term “Member” as defined in the BYLAWS or be deemed to grant such person or entity any of the voting or other rights specified in Section 5056(a) of the California Corporations Code.. References to a MEMBER shall wherever the context permits be interpreted as references to that MEMBER and its AFFILIATES.

“**METHODS**” means any method or operation fully conforming to a SPECIFICATION.

“**NECESSARY CLAIMS**” mean those patent or patent application claims that (i) are owned and licensable (without payment of royalties or other consideration by the licensor to unaffiliated third parties) now or at any future time, and (ii) would necessarily be infringed by fully compliant implementations of a SPECIFICATION, wherein a claim is necessarily infringed only when there is no (based on the state of the art at the time the SPECIFICATION was adopted) way of implementing the relevant and required portion of the SPECIFICATION without infringing the relevant patent claim. NECESSARY CLAIMS do not include any patent or patent application claims other than those set forth above even if contained in the same patent, utility model, or application as NECESSARY CLAIMS.

“**STANDARDS DEVELOPMENT ORGANIZATION**” means those standards-setting organizations whose charters and operations derive from recognized international or regional or national governmental or legislative authorities (e.g., ARIB, ETSI, IEC, ISO, ITU), or other recognized industry organizations accredited, such as by ANSI, WTO, et al., to generate technical standards (e.g., CEA) or otherwise recognized by industry as being in such category (e.g., OMA), and whose IPR Policies are specified and available for review.

“**SUBGROUP**” means the smallest group within AIRFUEL ALLIANCE charged with the development of a SPECIFICATION. For example, if a SPECIFICATION is being developed by a Working Group, then the Working Group is the SUBGROUP. If that Working Group delegates responsibility for the development of a SPECIFICATION with a subgroup within the Working Group, then that subgroup becomes the SUBGROUP.

“**SPECIFICATION**” means any technical specification or test plan that has achieved ADOPTION by AIRFUEL ALLIANCE, including options therein or amended versions thereof, but not including any technical specifications, or parts thereof, not developed by AIRFUEL ALLIANCE.

3. Availability of Licenses to NECESSARY CLAIMS

Effective upon ADOPTION of a SPECIFICATION, and subject to Section 4, below, each MEMBER irrevocably agrees that it will, with respect to the SPECIFICATION, upon request, offer to grant, and that it will cause its AFFILIATES to offer to grant, to any other AIRFUEL ALLIANCE MEMBER (and to its respective AFFILIATES) and any implementers a nonexclusive, worldwide license under its NECESSARY CLAIMS to at least the following extent:

- MANUFACTURE equipment including COMPLIANT PORTIONS, including the right to make or have made customized components and sub-systems to the licensee's own design for use in the MANUFACTURE of such equipment;
- sell, lease, or otherwise dispose of equipment so MANUFACTURED;
- repair, use, or operate equipment including COMPLIANT PORTIONS; or
- use METHODS.

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 (which may include a reasonable royalty). Notwithstanding the foregoing, no MEMBER shall have any obligation to offer to grant a license under its NECESSARY CLAIMS to any party or company that does not offer licenses to any NECESSARY CLAIMS owned or controlled by it or its AFFILIATES on reasonable and non-discriminatory terms (which may include a reasonable royalty).

4. Opt-Out, Notice and Review Period

- Review Period for Existing Members. All MEMBERS will be notified at least sixty (60) days in advance of any vote on whether to ADOPT a SPECIFICATION. Any MEMBER wishing to opt-out any of its IPR that would become NECESSARY CLAIMS if the SPECIFICATION were ADOPTED from the licensing commitment set forth in Section 3 may do so by identifying such NECESSARY CLAIMS in writing to the AIRFUEL ALLIANCE President, at the AIRFUEL ALLIANCE address, at least ten days prior to any vote to ADOPT the SPECIFICATION, and following the procedures set forth in Section 5 of this IPR POLICY. Issued patents and published patent applications that contain asserted NECESSARY CLAIMS must be identified by patent or publication number. MEMBER is not required and does not have a duty to conduct any patent search of its own patents or patent applications or of patents or patent applications owned by a third party.
- Review Period for Applicants. An APPLICANT will be given the opportunity to review SPECIFICATIONS ADOPTED prior to the APPLICANT's joining AIRFUEL ALLIANCE for at least sixty (60) days in advance of such joining. If the APPLICANT wishes to opt-out any of its NECESSARY CLAIMS from the licensing commitment set forth in Section 3, it may do so by withdrawing its application for membership or participation, as the case may be, in writing to the AIRFUEL ALLIANCE President, at the AIRFUEL ALLIANCE address, after which APPLICANT will have no further obligations under this IPR POLICY. APPLICANT is not required and does not have a duty to conduct any patent search of its own patents or patent applications or of patents or patent applications owned by a third party.
- Non-Availability of IPR. In the event a MEMBER or APPLICANT opts-out any of its IPR pursuant to this Section 4, then (i) if, in the opinion of the majority of the BOARD, there is a viable alternative technology for the SPECIFICATION that is not blocked by that IPR and satisfies AIRFUEL ALLIANCE's requirements, then the SPECIFICATION shall be revised to use such alternative technology; and (ii) if, in the opinion of the majority

of the BOARD, there is no viable alternative technology for the SPECIFICATION that is not blocked by that IPR and satisfies AIRFUEL ALLIANCE's requirements, then such related work on the SPECIFICATION shall cease.

5. Termination of Membership or Participation and Survival of Certain Obligations

- (a) Termination; Survival. MEMBER's membership or participation, as the case may be, may be withdrawn or terminated in accordance with the BYLAWS (for voting members within the meaning of Section 5056 of the California Corporations Code) or as determined by the BOARD (for non-voting participants). On the effective date of such withdrawal or termination, MEMBER's obligations under this IPR Policy shall terminate prospectively. All obligations that have accrued hereunder prior to the date of such termination survive termination, except as specified in Section 5(b).
- (b) Termination of Certain Licensing Obligations. MEMBER's obligations under Section 3 terminate with respect to SPECIFICATIONS for which MEMBER has made timely disclosure of information regarding its NECESSARY CLAIMS as contemplated by Section 4; and either
 - i) MEMBER withdraws its membership or participation, as the case may be, in AIRFUEL ALLIANCE in writing to the President, at the AIRFUEL ALLIANCE address, prior to approval of the draft SPECIFICATION by the SUBGROUP; or
 - ii) MEMBER votes against approval of the draft SPECIFICATION by the SUBGROUP and withdraws its membership or participation, as the case may be, in AIRFUEL ALLIANCE in writing to the President, at the AIRFUEL ALLIANCE address, no later than three (3) weeks following its receipt of notice (via general email distribution from AIRFUEL ALLIANCE President (or the President's designee) or SUBGROUP email reflector to its participants) of the approval of the draft SPECIFICATION by the SUBGROUP.
- (c) No Termination Related to CONTRIBUTIONS. Notwithstanding the provisions of Section 5(b), MEMBER's obligations under Section 3 may not terminate with respect to any CONTRIBUTIONS made prior to the date of notice of withdrawal or termination.

6. Restriction on the Submission of SPECIFICATIONS to Other Bodies

AIRFUEL ALLIANCE shall take commercially reasonable measures to ensure, as far as practical, that its activities which relate to the preparation, adoption, application and enablement of SPECIFICATIONS be available to potential users in accordance with the general principles of standardization, including possible submission of AIRFUEL ALLIANCE SPECIFICATION(S) as contributions to BOARD approved STANDARDS DEVELOPMENT ORGANIZATION(S) for formal standardization.

The BOARD must approve any such submissions and shall be constrained in its selection of STANDARDS DEVELOPMENT ORGANIZATION(S) to those whose IPR Policies are substantially and materially equivalent to the IPR POLICY – principally with regards to licensing

that is fair, reasonable and free from unfair discrimination – as determined by independent AIRFUEL ALLIANCE legal counsel.

AIRFUEL ALLIANCE shall form the necessary liaison or cooperation agreement or itself take appropriate membership status in the STANDARDS DEVELOPMENT ORGANIZATION in order to assure participation in the standardization process (drafting, editing, approval) of the SPECIFICATION.

7. Copyrights

MEMBERS retain ownership rights in their CONTRIBUTIONS. Upon submission of a CONTRIBUTION, each MEMBER grants, and agrees to cause its AFFILIATES to grant:

- (a) To each other AIRFUEL ALLIANCE MEMBER and its AFFILIATES, a worldwide, non-exclusive, non-transferable, royalty-free copyright license to the extent of its copyrights in such CONTRIBUTION to use, reproduce, distribute, display, perform and create derivative works of such CONTRIBUTION for the sole purpose of creating the final SPECIFICATION to which that CONTRIBUTION relates; and
- (b) To AIRFUEL ALLIANCE, effective upon the approval of the final SPECIFICATION to which that CONTRIBUTION relates, a worldwide, non-exclusive, non-transferable, royalty-free copyright license to the extent of its copyrights in that SPECIFICATION, with right to sublicense, to use, reproduce, publicly display, publicly perform and distribute the SPECIFICATION, in whole or in part; and
- (c) To AIRFUEL ALLIANCE, effective upon the approval of the final SPECIFICATION to which that CONTRIBUTION relates, an exclusive copyright ownership interest in such compiled SPECIFICATION.

8. Non-Circumvention

Each MEMBER represents and warrants that neither it nor its AFFILIATES have transferred, and that neither it nor its AFFILIATES have granted exclusive licenses, to patents having NECESSARY CLAIMS for the purpose of circumvention of MEMBER's obligations under this IPR POLICY. Further, MEMBER agrees that it will not transfer nor grant exclusive licenses, and that it will cause its AFFILIATES to not transfer or grant exclusive licenses, to patents having NECESSARY CLAIMS for the purpose of circumventing MEMBER's obligations under this IPR POLICY.

9. Revisions to this IPR POLICY

Supermajority Vote. Without prejudice to the BYLAWS, no decisions shall be taken by AIRFUEL ALLIANCE in relation to the revision or implementation of this IPR POLICY unless supported by a 2/3 majority of the individual votes cast by MEMBERS entitled to vote under the BYLAWS.

Withdrawal. In the event of a change in the IPR POLICY, MEMBERS shall be given the opportunity to withdraw from membership or participation, as the case may be, in AIRFUEL ALLIANCE as provided in the BYLAWS (for voting members within the meaning of Section 5056 of the California Corporations Code) or as determined by the BOARD (for non-voting participants). Notwithstanding the foregoing, the licenses granted and commitments made by MEMBER prior to withdrawal with respect to SPECIFICATIONS ADOPTED prior to withdrawal shall survive in accordance with the provisions of this IPR POLICY prior to any such change.

10. Governing Law

This IPR POLICY and all disputes arising from it shall be governed by the laws of the State of California, USA, without reference to conflict of laws principles.