

# SparkLink Alliance IPR Management Regulations

## Chapter 1 General Provisions

- Article 1. This document is formulated in line with the *SparkLink Alliance Charter* (the “Charter”) to fulfill the mission of the SparkLink Alliance (the “Alliance”) and regulate its intellectual property rights (IPR) matters. It shall apply to the entire process of the Alliance's development and implementation of technical standards, copyrights, trademarks and logos.
- Article 2. As an important part of the Alliance's operational guidelines, this document and the Charter are applicable to all Alliance members.

## Chapter 2 Terms

- Article 3. Unless otherwise specified, the terms in this document are defined as follows:
1. "Member" refers to all members of the Alliance as stipulated in Article 10 of the Charter. The members mentioned in this document include members and their affiliates.
  2. "Affiliate" means a legal entity that directly or indirectly controls a member, or is directly or indirectly controlled by a member, or is directly or indirectly controlled by another entity which directly or indirectly controls a member. One entity is deemed to control another entity if it:
    - Owns or controls over 50% of the another entity's voting shares

- Has the decision-making power according to bylaws or agreements though it does not own or control over 50% of the another entity's voting shares, or
- Has the right to elect or appoint directors or other personnel with similar responsibilities and has the decision-making power according to bylaws or agreements.

Affiliates exclude government agencies and other public bodies that perform their duties in accordance with laws, or any legal entity associated with a member merely controlled or owned by government agencies and other public bodies that perform their duties in accordance with the law.

3. "Draft Standard" refers to a proposal or draft document submitted by an Alliance working group and entitled *Draft Standard*.
4. "Final Standard" refers to the latest version of the draft standards formulated by Alliance working groups in line with the Alliance's mission specified in Article 5 of the Charter — the Alliance strives to promote SparkLink technology innovation and build an industry ecosystem that drives smart vehicle, smart home, smart device, and smart manufacturing applications — and approved by the Alliance Council.
5. "Compliant Part" refers only to the specific part of a product or service that is certified by the Alliance and complies with the relevant normative requirements of a Final Standard. These normative requirements shall be clearly disclosed in the Final Standard and are intended to enable the product or service to implement the technical solution proposed in the Final Standard.
6. "Essential Claims" refers to the claims of a patent that is inevitably infringed in order to ensure that a service or product complies with a Final Standard according to the law of the country in which the patent is granted or published. Such claims are limited to that patent.

Inevitably infringing a claim of a patent means that the infringement could not have been avoided by adopting another technically feasible non-infringing implementation in the application of the Final Standard.

Essential Claims do not include, and the license does not apply to, the following: (1) other claims that do not qualify as claims set forth above, even if the claims are in the same patent; (2) claims that involve standards developed by other standards organizations and referenced as normative requirements in the Final Standards, or that comply with both a Final Standard of the Alliance and a standard developed by another standard setting organization; (3) claims involving implementation technology that is not expressly described in any Final Standard but must be used to make or use any product or service (or a part of any product of service) that complies with a Final Standard.

7. "Patent" refers to any patent, enforceable invention certificates, granted utility models, or published enforceable patent applications or utility model applications that are owned by the Licensor or that the Licensor is authorized to license in any country. Such a Patent does not include design patents and registrations.
8. "Licensee" refers to the legal entity that is authorized, directly or indirectly, by a patentee to implement the Compliant Part covered by the Essential Claims of the patent licensed by said patentee.
9. "Licensor" refers to a legal entity that provides a license to a licensee with respect to the Essential Claims in its possession to allow the licensee to implement the Compliant Part covered by the Essential Claims of the patent.
10. "Proposal" refers to any material, proposal, or other relevant entries formally submitted in writing (paper or electronic) to an Alliance working group for the purpose of proposing, in whole or in part, a draft standard or of supplementing or revising a draft standard or a

final standard.

11. "Participation in the development of specific standards" means that a Member, upon formal application and approval, may engage with a working group on standards development through direct participation, proposal drafting, or other means before the working group completes a draft standard, regardless of whether the Member actually contributes to the standards development.
12. FRAND is the acronym for fair, reasonable and non-discriminatory.
13. FRAND-RF is the acronym for fair, reasonable and non-discriminatory, royalty free.

### **Chapter 3 Patents**

Article 4. All commitments regarding patent licensing under this document are applicable to all Licensees implementing the Compliant Part, and shall provide the Licensees with a worldwide, irrevocable license in respect of the Essential Claims of the Licensor, allowing the Licensees to make, use, promise to sell, sell, and import the Compliant Part.

Any Licensor that undertakes to offer a license on the principle of reciprocity and FRAND shall negotiate the license fee with the licensee in accordance with the FRAND principle and shall not seek injunction relief against a willing licensee. For an Essential Claim declared in accordance with the FRAND principle, the incremental value of the Essential Claim to the Compliant Part shall be taken into account when determining the reasonable royalty. If the Compliant Part contains certain components, and the implementation of standards specification related to the Essential Claim does not directly contribute value to these components, or these components did not implement the Essential Claim, then the reasonable license fee shall not cover these components.

Article 5. Members shall choose their default licensing obligation in writing while signing the *Letter of Committeemen for Joining the SparkLink Alliance*. If a Member does not change their default licensing obligation in accordance with Article 7 Proposal or Article 8 Review Period herein, then the default licensing obligation will apply to all Essential Claims owned or controlled by the Member within the Alliance.

Members may choose their default licensing obligation from the following: (a) FRAND-RF licensing under the principle of reciprocity (b) FRAND licensing under the principle of reciprocity.

Article 6. Members shall, in good faith and to the extent of their actual knowledge, disclose any patent and patent application that may contain the Essential Claims to the Alliance in a timely manner, as stipulated in Article 10 herein.

Article 7. When submitting a proposal to the Alliance, a Member shall, in good faith and to the extent permitted by its capacity, disclose the patents and patent applications that may contain the Essential Claims in the proposal, as stipulated in Article 10 herein, regardless of whether the aforementioned patents and patent applications are owned or controlled by the Member. If a proposal does not meet the above requirements, the Alliance may not consider the technology covered by the proposal in the standards. With respect to the Essential Claims owned or controlled by a Member that are covered in the Final Standard due to the adoption of the Member's proposal, the Member shall choose either of the two aforementioned licensing obligations in Article 5 and make a declaration at the request of the Alliance. (The aforementioned Final Standard includes some parts of the future versions of the Final Standard, and these parts are developed to maintain backward compatibility with the Final Standard that adopts the Member's proposal.)

Article 8. All Members shall be given a review period of no less than thirty (30) days prior to the official release of the final draft of an Alliance Standard to allow them to fully review IPR issues involved in the draft. Members shall, in good faith and to the extent of their actual knowledge, disclose patents and patent applications that may contain Essential Claims to the Alliance (as stipulated in Article 10 herein) within the review period or before the deadline specified by the Alliance.

Unless a Member has undertaken, in accordance with the provisions of Article 7, a corresponding licensing obligation with respect to all of the Member's Essential Claims contained in the proposal, a Member may, prior to the closing date of the review period, disclose patents and patent applications for one or more specific Essential Claims in the draft standard. They may choose either of the two aforementioned licensing obligations in Article 5, and make a declaration in accordance to the requirements of the Alliance.

If a member does not make a declaration by the closing date of the review period, the member's default licensing obligations will apply.

Article 9. Members may undertake to offer licenses that are more favorable than their default licensing obligation for specific Essential Claims disclosed. Licenses are provided in descending order of favorable levels under the principle of reciprocity: FRAND-RF, FRAND.

Article 10. Members shall, in good faith, fulfill their disclosure obligations stipulated in this document, for example, Articles 6, 7 and 8. Such disclosure shall not be construed as requiring Members to conduct patent searches, but shall be based only on the personal knowledge of the persons sent by Members to participate in standards setting tasks. Members shall not willfully conceal relevant facts from such persons and shall bear full responsibility in case that such persons fail to fulfil their disclosure obligations.

Article 11. Treatment of Essential Claims owned or controlled by non-members:

1. When discovering that a third-party patentee outside the Alliance owns potential Essential Claims related to an Alliance standard, a Member may voluntarily and promptly disclose this to the Alliance.
2. If the disclosed claims are identified to be potentially Essential Claims, the Alliance shall request the third-party patentee to make an irrevocable written declaration of a patent license, promising to license any person using the standard to enforce its patent on FRAND terms or more favorable terms. If the aforementioned license commitment cannot be obtained for the potentially Essential Claims, the Draft Standard shall be amended.

Article 12. Members reserve the right to license their patents independently and non-exclusively on the premise that they have undertaken the licensing obligations stipulated herein.

Article 13. Members agree that, except for the licenses to be provided expressly stipulated in these IPR Management Regulations, these IPR Management Regulations do not constitute a license, exemption or other right granted or provided by a member to any other party in respect of any intellectual property, whether directly or implicitly, by estoppel or otherwise.

Article 14. Members shall not transfer their Essential Claims for the purpose of circumventing their licensing obligations stipulated herein. When a Member transfers a patent containing Essential Claims to a third party, such transfer shall be subject to the licensing obligations (if any) already undertaken by the Member in accordance with the IPR Management Regulations stipulated herein.

Article 15. The principle of reciprocity in this document indicates that when a licensee refuses to license a Member that has made a licensing commitment with respect to an Essential Claim owned or controlled by the licensee, the Member may withhold a license from the licensee in respect of the Essential Claim owned or controlled by the Member or terminate a license already granted to the licensee. If the Licensee does

not agree to license a Member that has made a license commitment on reciprocal license terms with respect to the Essential Claim owned or controlled by the Licensee, the Member may license the Licensee on less favorable license terms. However, the license terms offered by the Member shall not be at a lower level than those offered by the Licensee. The above-mentioned acts of a Member shall not be regarded as a breach of the commitments made by the Member herein. In descending order of favorable level, the license terms in this article include:

- (1) FRAND-RF licensing under the principle of reciprocity
- (2) FRAND licensing under the principle of reciprocity
- (3) No licensing.

#### **Chapter 4 Copyrights**

Article 16. Members agree that submitting copyrighted materials to the Alliance indicate that they authorize the Alliance to use these materials worldwide by means of reproduction and modification only for the purpose of making and publishing Alliance standards, unless they have expressly stated that they do not want the Alliance to use such materials in its standards. Such authorization is global, irrevocable, non-exclusive, non-transferable, and free of charge. Members shall notify the Alliance at the time of submission if they are aware that the materials they submit involve third party copyrights.

Article 17. The copyright of standards developed by the Alliance shall belong to the Alliance, and no Member shall publish or distribute all or part of the Draft Standard or Final Standard, or any other works derived from the Standard without the Alliance's consent.

#### **Chapter 5 Trademarks and Logos**

Article 18. Alliance-related logos are owned and centrally managed by the Alliance.

Article 19. Alliance-related logos are classified into Alliance logos and product certification marks according to their scope of use and functions.



- Article 20. Members who join the Alliance may, on the premise of complying with relevant regulations of the Alliance, use the corresponding Alliance logo for marketing and on their official website to indicate their Alliance membership.
- Article 21. Manufacturers whose products have been certified by the Alliance's certification bodies may use the product certification marks on their products, product specifications, product packages and product advertisements provided that they have signed a trademark licensing agreement based on reasonable and non-discriminatory principles with the Alliance or its designated entities.
- Article 22. As the trademark owner, the Alliance shall have the right to spot-check the products that use its product certification marks. If a product fails to meet the Alliance's certification requirements, the Alliance shall have the right to require the responsible manufacturer to submit new product samples for certification within a specified period of time. If the samples still fail to meet the Alliance's certification requirements, the Alliance has the right to terminate the trademark licensing agreement with the manufacturer immediately.
- Article 23. The Alliance has the right to change or modify its logos.

## **Chapter 6 Survival of Licensing Obligations**

- Article 24. 1. A Member's undertaking to provide licenses pursuant to Articles 4, 5, 7 and 8 herein shall continue in force with respect to the following Essential Claims after the Member terminates or withdraws its membership in the Alliance:
- (1) Any Essential Claim relating to the Member's proposal for any Draft Standard incorporated into a Final Standard, provided that the undertaking to provide a license is limited to that Draft Standard and to such part of the Final Standard necessary for backward compatibility with that Draft Standard.
  - (2) Any Essential Claims other than those relating to the Member's

proposal for any Draft Standard incorporated into a Final Standard, provided that the Draft Standard is available for review during the validity of the Member's membership, and this Member or former Member shall be entitled to make a declaration pursuant to Article 8 within thirty days starting from the date on which the Draft Standard is available for review, and the undertaking to provide a license shall be limited to that Draft Standard and to such part of the Final Standard necessary for backward compatibility with that Draft Standard.

2. If the Alliance is dissolved, Members agree to provide a license for Essential Claims (in accordance with Articles 4, 5, 7, 8) but only for those that the Members are obligated to provide a license prior to the dissolution.
3. Essential Claims relating to a future Final Standard refer to only those relating to the following parts of the future Final Standard: (1) the part that is necessary to maintain backward compatibility with the Final Standard and is adopted during the validity of the Member's membership; (2) the part for which the Member has committed a license obligation with respect to the Essential Claims in the prior adopted Final Standard.

Except as expressly stipulated in this Article, a Member who has revoked or terminated its membership shall not be obliged to grant licenses for any other Essential Claims.

All Members obligated to license one or more of the Essential Claims under this Article shall remain entitled to reciprocal rights under Article 15.

- Article 25. The termination of membership, dissolution of the Alliance, or termination of these Management Regulations shall not affect the patent licenses previously granted by the Members, unless otherwise agreed in relevant patent licensing agreements.

## Chapter 7 Miscellaneous

- Article 26. Any amendment to this IPR Management Regulations must comply with relevant provisions of the Alliance's Charter. Members shall have at least thirty days (the Decision Period) to decide whether or not to accept the revised version of IPR Management Regulations, which shall begin on the date on which Members receive a written notice of the amendment (which may be notified by e-mail). If the Alliance does not receive a written reply from a Member when the Decision Period expires, the Member will be deemed to have accepted the revised version. All Members who accept the revised version, either explicitly or implicitly, are required to sign a Member Commitment to confirm their acceptance. Any Member who withdraws from the Alliance before the end of the Decision Period is not subject to the revised IPR Management Regulations.
- Article 27. The Council has the right to interpret these IPR Management Regulations.
- Article 28. The interpretation of these IPR Management Regulations shall be governed by the laws of the People's Republic of China.
- Article 29. These IPR Management Regulations shall come into effect on November 28, 2020 after being approved by the Council.