

**ROEV ASSOCIATION, INC.**  
**INTELLECTUAL PROPERTY POLICY**

**1. Background**

1.1 Background. ROEV Association, Inc., (the “**Association**”) is a nonprofit non-stock Delaware corporation formed for purposes including, but not limited to, designing, publishing, and promulgating industry protocols that will permit electric vehicle (“**EV**”) drivers to use a single access card to charge at charging stations operated by multiple EV charging networks. Comments or questions about this Intellectual Property Policy (the “**IP Policy**”) should be directed to the Association.

1.2 Intellectual Property Basis. The Association will initially develop or adopt the ROEV 1.0 Specification. The Association may also develop additional specifications. The IP Policy is intended to maximize the likelihood of widespread adoption of all Final Specifications adopted by the Association.

1.3 Legal Compliance. Participants are bound to the terms of the IP Policy by virtue of their participation in the Association and their execution of the Participation Agreement. The IP Policy is designed to comply with all applicable law, including federal and state antitrust laws.

**2. Definitions**

Unless defined explicitly herein, capitalized terms used but not otherwise defined in this IP Policy shall have the meaning given in the Bylaws of the Association. For the purposes of the IP Policy, the capitalized terms below shall have the meaning defined in this Section 2, while any other capitalized terms used in the IP Policy shall have the meanings respectively assigned to them. The definitions in the singular form shall also be applicable to the plural form and vice-versa, where the context so requires.

“**Contribution**” means a submission by a Member for incorporation into a Draft Specification; provided that the submission is either (i) submitted in writing (including a writing in electronic medium), or (ii) stated orally, memorialized with specificity in the written minutes of a Committee meeting, and correctly attributed in the meeting minutes to the submitting Member, provided further that the minutes are promptly provided to the individual representing the submitting Member, unless in either case, the submitting Member withdraws its submission in writing as soon as practicable and in any event, no later than thirty (30) days of receipt of such written minutes.

“**Copyrights**” means copyrights of a Member or its Affiliates pertaining to a Contribution of that Member, a license to which is necessary to finalize, reproduce and distribute a Final Specification.

“**Draft Specification**” means a set of documents designated as a draft specification, including without limitation, any successor specification, test tool, test plan, reference design documents, certification programs and generally any document marked “Draft Specification” or words of

similar meaning by the Association included in the set, and all Contributions included in such Draft Specification.

**“Essential IPR”** means any Intellectual Property that (a) is owned and controlled by a Participant or its Affiliates now or at any future time, and (b) which, absent any license, a Participant would infringe to implement the Required Portions of a Draft Specification or Final Specification. Explicitly excluded from “Essential IPR” are any Intellectual Property claims directed to technology that may be used to develop, design, manufacture, sell or use any product or portion thereof that complies with the Final Specification, but is not expressly set forth therein.

**"Final Specification"** means a Draft Specification that has been adopted by the Board in accordance with the Bylaws and this IP Policy as final. Such Final Specification may carry the marking ROEV 1.X Specification, ROEV 2.X Specification, or other similar marking as established by the Board.

**“Granting Participant”** means a Participant granting a RAND license to Essential IPR.

**“Intellectual Property”** means all copyrights, patents, trademarks and service marks, names, logos, designs, domain names, all registrations for copyrights, patents, trademarks and service marks/names, domain names, generic top-level domain names, trade secrets, know-how, and all unique concepts, information, data and knowledge that is eligible for legal protection under applicable laws as intellectual property, whether protected through confidentiality, registration or pending registration, regardless of form.

**“Licensed Material”** means only those specific portions of a Requesting Participant's product (hardware, software, or combinations thereof) that (a) implement and are compliant with all the Required Portion(s) of the applicable Final Specification; and (b) to the extent that the Requesting Participant’s products implement one or more optional portions of such Final Specification, those portions of Requesting Participant's products that implement and are compliant with all Required Portions that must be implemented to comply with such optional portions of the Final Specification.

**“License on Controlled Terms”** means a copyright license that requires that the use, copying, modification and/or distribution of a modified version or a derivative work (**“Derivative Work”**) of the underlying copyrighted information to be subject, to the following terms: (a) the underlying copyrighted information be made available to any third party on request, on a royalty-free basis ; (b) that permission to create any Derivative Work be granted to any third party; and (c) that a royalty-free license relating to the Derivative Work be granted to any third party. For the avoidance of doubt, any license that merely permits (but does not require) any of (a) through (c) above is not a License on Controlled Terms.

**“RAND License”** means a nonexclusive, worldwide, non-transferable, non-sublicensable (except to Affiliates), perpetual patent license (or an equivalent non-assertion covenant) on fair, reasonable, and non-discriminatory terms to make, have made, use, market, import, offer to sell, and sell, and to otherwise directly or indirectly distribute, or otherwise commercially exploit, Licensed Material. For the sake of clarity, the rights set forth above include the right to directly or indirectly authorize a third party to make unmodified copies of the Requesting Participant’s Licensed Material and to license (optionally under the third party's license) the Requesting Participant’s Licensed Material within the scope of, and subject to the terms of the Requesting

Participant's RAND License and acceptance by the third party of the terms of the IP Policy. The RAND License may require that the licensee grant a reciprocal license to the licensor under any Essential IPR controlled by the licensee and may include a term providing that such RAND License may be suspended with respect to the Requesting Participant if that Requesting Participant commences legal action against the Granting Participant for infringement by the Granting Participant of any of the Requesting Participant's Essential IPR.

**“RAND-RF License”** means a RAND License that does not require payment of a royalty.

**“Requesting Participant”** means a Participant, including its applicable Affiliates, that is granted a license to use a Granting Member's Essential IPR from a Granting Participant for a particular Final Specification.

**“Required Portion”** means a portion of a Draft Specification or Final Specification that must be implemented by a Participant to comply with such Draft or Final Specification. If such Draft or Final Specification defines optional parts, Required Portions include those portions of the optional part that must be implemented if the implementation is to comply with such optional part.

**“Subcontractor”** means any individual not directly employed by a Participant or the Association.

### **3. Specification Development and Intellectual Property Licensing**

3.1 Notice to Members. Upon resolution by the Board of Directors to develop or adopt a Draft Specification, the Association shall provide all Members with not less than thirty (30) days' prior notice (notice may be via email to all Members or via a publication on the Association's official website, or such other method as the Board directs) of the initiation of a new activity for the development of such Draft Specification. Such notice shall include at least a scope of the intended specification as approved by the Board in accordance with the Bylaws.

3.2 Contribution Process. A Technical Committee, to be chartered by the Board of Directors as a committee, shall have the responsibility for drafting and developing a Draft Specification, which shall be submitted to the Board of Directors to vote on whether or not such Draft Specification shall become a Final Specification. Each Member represented on the Technical Committee may at its discretion submit Contributions and exchange with other Members any information the submitting Member deems useful to develop a Draft Specification subject to compliance with antitrust laws. No Member shall be compelled to submit any such Contributions; nor will the submission of any such Contributions affect the Member's intellectual property rights in any manner other than as explicitly set forth in this IP Policy.

3.3 Obligation to License Contributions. The act of making a Contribution is deemed to be a Member's declaration that the Member will grant a RAND License to any IPR owned then or later by the Member, its owned or operated Affiliates, or its Affiliates that hold, own or control such IPR on its behalf, that is or becomes Essential IPR with respect to a Draft Specification to which the Contribution is made that is adopted as a Final Specification by the Board. The Association may publish Contributions.

3.4 License Review Period. Prior to accepting a Draft Specification as a Final Specification, the Association shall distribute the Draft Specification to all Members and allow

for a review period of not less than sixty (60) days (the “License Review Period”) during which each Member can review the Draft Specification with respect to any intellectual property licensing issues including, without limitation, consideration of such Member’s licensing obligations with respect to any Essential IPR that may be contained therein. All Members agree that failure to withdraw from the Association prior to the end of the License Review Period and identify Essential IPR will subject the Member and its applicable Affiliates to the licensing provisions of Section 3.9 as to Member’s and any applicable Affiliate’s disclosed Essential IPR and Section 3.10 as to Member’s and any applicable Affiliate’s undisclosed Essential IPR, including despite lack of knowledge thereof by any individual participating in the Association on behalf of such Member.

3.5 Mandatory Disclosure of Essential IPR. Each Member, on behalf of itself and its Affiliates that would be obligated to license pursuant to Section 3.9, shall disclose in writing to the Executive Director the existence of any claims of its Intellectual Property that may be Essential IPR prior to the expiration of the License Review Period. For avoidance of doubt, this disclosure is mandatory even if the Member is willing to grant a RAND License in such Essential IPR to implement any Final Specifications. The minimum information set forth in Section 5.2 must be provided in order to comply with this disclosure obligation. The failure of a Member to identify Essential IPR in accordance with this Section 3.5 owned by such Member and its Affiliates that are obligated to license shall result in an RAND-RF licensing obligation pursuant to Section 3.10 with respect to Essential IPR that is not disclosed prior to the expiration of the License Review Period.

3.6 Withdrawal Rights. Subject to the provisions of Section 3.3, any Member may withdraw from membership in the Association during the License Review Period if that Member determines that the Draft Specification contains Essential IPR which that Member or applicable Affiliate is unwilling to license to the other Members in the event the Draft Specification is approved as a Final Specification. In order to avoid license of the Essential IPR, the Member must issue a written notice to the Executive Director for distribution to the other Members informing the Association of its withdrawal and providing disclosure that is compliant with the requirements of Section 5.2 regarding such Member’s or applicable Affiliate’s Intellectual Property that may be Essential IPR. In the event that a Member does not both (i) withdraw prior to the expiration of the License Review Period and (ii) give written notice compliant with the requirements of Section 5.2, then the licensing provisions of this Section 3 shall apply. Notwithstanding the foregoing, a Member cannot avoid a commitment to grant licenses to Essential IPR under the terms of this IP Policy pertaining to a Contribution that the Member made to a Final Specification and such licensing obligation shall continue notwithstanding the withdrawal of and notice by such Member.

3.7 Final Approval of Specifications. Upon completion of the License Review Period for a Draft Specification and upon approval by majority vote of its members, the Technical Committee shall submit such Draft Specification to the Board of Directors for review, comment and consideration. Action of the Board of Directors taken in accordance with the Bylaws of the Association shall be necessary for adoption of the Draft Specification as a Final Specification. In the event that the Board of Directors does not approve the Draft Specification, the Secretary will return such Draft Specification to the Technical Committee for further action and resolution as identified by the Board of Directors.

3.8 Ownership of Rights. The intellectual property rights to Contributions contained in a Draft Specifications or Final Specifications shall be owned by the Member making the Contribution. Such Member shall have the right to obtain in its own name patents, copyrights, registrations, and similar other protections, but without any obligation to do so.

3.9 RAND License. Each Participant hereby covenants that upon request from any Requesting Participant, it will grant (or will cause its Affiliates owned or operated by Participant to grant) such Requesting Participant a RAND License to its Essential IPR contained in a Final Specification. Each Participant hereby covenants that upon request from any Requesting Participant, it will cause its Affiliates that hold, own, or control Essential IPR on behalf of such Participant to grant such Requesting Participant a RAND License to its Essential IPR contained in a Final Specification. In the case of Affiliates that are not owned or controlled by Participant that hold, own, or control Essential IPR contained in a Final Specification but not on behalf of Participant, the Participant shall use reasonable commercial efforts to encourage such Affiliate to grant a license to such Essential IPR on reasonable terms to other Participants. The obligations of this Section 3.9 apply to each Associate that implements a Final Specification.

3.10 RAND-RF License for Nondisclosed Essential IPR. In the case of Essential IPR that is not disclosed pursuant to the requirements of Section 3.5, each Participant hereby covenants that upon request from any Requesting Participant, it will grant (or will cause its Affiliates owned or operated by Participant to grant) such Requesting Participant a RAND-RF License to such Essential IPR contained in a Final Specification. Each Participant hereby covenants that upon request from any Requesting Participant, it will cause its Affiliates that hold, own, or control such Essential IPR on behalf of such Participant to grant such Requesting Participant a RAND-RF License to its Essential IPR contained in a Final Specification.

3.11 License Limitation. Any RAND License granted to a Participant in connection herewith need not extend to features of Licensed Material that are not required to comply with the Required Portions of a Final Specification.

#### **4. New Member Specification Review**

4.1 New Member Review Period. If a prospective Member applies to become a Member in the Association, then subject to the execution of such confidentiality and/or nondisclosure agreements as the Association may determine necessary, such prospective Member shall be permitted a review period of thirty (30) days (the “New Member Review Period”) to review any Draft Specification then under review and any previously adopted Final Specifications of the Association for any and all Essential IPR. Notwithstanding the foregoing, the New Member Review Period shall include the remaining term of any pending License Review Period with respect to any Draft Specification then under review to the extent that the remaining License Review Period is in excess of thirty (30) days at the time a prospective Member begins its review period.

4.2 Mandatory Disclosure of Essential IPR. In the event that such prospective Member in good faith believes that the implementation of Essential IPR in such Draft Specification then under review or in any previously adopted Final Specifications would require a license from such prospective Member or its applicable Affiliate that such prospective Member would be willing to provide in accordance with Section 3.9, such prospective Member shall on

behalf of itself and its Affiliates in the case of Affiliates that would be obligated to license pursuant to Section 3.9, disclose in writing to the Executive Director the existence of any claims of its Intellectual Property that may be Essential IPR prior to the expiration of the New Member Review Period. For avoidance of doubt, this disclosure is mandatory even if the prospective Member or applicable Affiliate is willing to grant a RAND License in such Essential IPR to implement any Final Specifications. The minimum information set forth in Section 5.2 must be provided in order to comply with this disclosure obligation. The failure of a prospective Member to identify Essential IPR in accordance with this Section 4.2 owned by such Member and its Affiliates that would be obligated to license Essential IPR shall result in an RAND-RF licensing obligation pursuant to Section 3.10 with respect to Essential IPR that is not disclosed prior to the expiration of the New Member Review Period.

4.3 Withdrawal and Disclosure to Avoid Mandatory License. In the event that the prospective Member in good faith believes that the implementation of Essential IPR in a Draft Specification then under review or in any previously adopted Final Specifications would require a license from such prospective Member or its Affiliates that such prospective Member would be unwilling to provide or cause its Affiliates to provide in accordance with Section 3.9, then prior to the expiration of the New Member Review Period, the prospective Member shall (i) withdraw its application for membership, and (ii) issue a written notice to the Executive Director for distribution to the other Members informing the Association of the withdrawal of its application and providing disclosure that is compliant with the requirements of Section 5.2 regarding such prospective Member's Intellectual Property that may be Essential IPR. If the prospective Member meets these requirements, it shall not be required to grant licenses under the identified Essential IPR pursuant to Section 3. In the event that a prospective Member does not both (i) withdraw its application for membership within the New Member Review Period, and (ii) give written notice compliant with the requirements of Section 5.2, then the licensing commitments of Section 3 shall apply to such prospective Member without exception for any previously adopted Final Specification(s) and any then-existing Draft Specification that is subsequently adopted as a Final Specification by the Board of Directors.

## **5. Additional IPR Clauses**

5.1 General Disclosure Obligation. In addition to the mandatory disclosure obligations of Section 3.5 during License Review Periods, each Member participating in the development of a Draft Specification is strongly encouraged to disclose to the Executive Director, in writing and on an ongoing basis, any Intellectual Property rights held by it or its Affiliates where such Intellectual Property rights include Essential IPR related to a Draft Specification that would be required to be licensed pursuant to Section 3 if included in a Final Specification. Each Member is encouraged to make this disclosure as soon as reasonably practicable after the Member first obtains knowledge of the Essential IPR and to meet the standards of Section 5.2 in making such disclosures.

5.2 Mandatory Disclosure to Avoid License Obligation. Where disclosure is required under this IP Policy to avoid license obligations that would otherwise be applied under this IP Policy, the minimum information set forth in this Section 5.2 must be provided in order to comply with the disclosure obligation. With respect to issued and published pending patent applications, disclosure must include (i) the identity of the patent right holder and/or applicant; (ii) the patent number or application number of the patent rights in each country where a patent

or patent application containing claims which may be Essential IPR has been filed or issued. With respect to unpublished pending patent applications, such disclosure must include the existence of the application containing the asserted Essential IPR, but need not disclose identifying information (e.g., application number, contents) of the patent rights. Nothing herein precludes broader disclosure of unpublished pending patent applications on a voluntary basis or pursuant to a non-disclosure agreement. Once an unpublished pending patent application that has been disclosed is published, the Member shall disclose the additional identifying information about the published application as specified above. All mandatory disclosures shall be submitted in writing with required detail and, if applicable, in the form adopted by the Association.

5.3 Intellectual Property Rights of Third Parties. No Member shall knowingly use, as part of any material or information supplied to any Member pursuant to this Agreement or as part of any Contribution, any information subject to any rights of a third party in Intellectual Property, including Subcontractors, except in the event that the Intellectual Property is disclosed clearly in writing to all the other Members or the Member has acquired the right to grant a license that is not a License on Controlled Terms. Each Member is responsible for obtaining its own rights to any rights in Intellectual Property that may be held by a third party, including Subcontractors. Unless disclosure is otherwise made to the Association, each Member providing a Contribution to any Draft Specification is deemed to represent to the best of its knowledge that it is not aware of any Intellectual Property contained in such Contribution, which is controlled by a third party that would be Essential IPR to Licensed Material if held by a Participant. Notwithstanding the foregoing, no Member shall be obligated to disclose the existence of, or any information regarding, potentially infringing Intellectual Property of a third party if the Member is restricted from such disclosure by contract, confidentiality obligation, court order or other legal impediment.

5.4 Specification Notice Requirement. Each Final Specification shall include this notice: THE SPECIFICATION IS PROVIDED "AS IS," AND ROEV ASSOCIATION, INC. MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR TITLE; THAT THE CONTENTS OF THE SPECIFICATION ARE SUITABLE FOR ANY PURPOSE; NOR THAT THE IMPLEMENTATION OF SUCH CONTENTS WILL NOT INFRINGE ANY THIRD PARTY PATENTS, COPYRIGHTS, TRADEMARKS OR OTHER RIGHTS. ROEV ASSOCIATION, INC. WILL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF ANY USE OF THE SPECIFICATION OR THE PERFORMANCE OR IMPLEMENTATION OF THE CONTENTS THEREOF

5.5 Transfer of Essential IPR. All licensing obligations under this IP Policy shall be interpreted as encumbrances that bind all successors-in-interest so that any transfer by a Member to a third party of a Patent having Essential IPR shall be subject to the terms and conditions of this IP Policy, including but not limited to all obligations to grant licenses hereunder. A Member who transfers ownership of Essential IPR shall include appropriate provisions in the relevant transfer documents to ensure that this undertaking is binding on the transferee, and that the transferee will similarly include appropriate provisions in the event of future transfers with the goal of binding all successors-in-interest. Notwithstanding the foregoing, the undertaking shall be interpreted as binding on successors-in-interest regardless of whether

such provisions are included in the relevant transfer documents. For the purpose of this provision, a transfer of ownership shall include any means of transferring control by the owner of Essential IPR regardless of the legal means and includes granting sole or exclusive licenses, and assigning actual ownership.

5.6 Copyright License. Each Member hereby grants to the Association and each Participant, a worldwide, irrevocable, nonexclusive, non-sublicensable, nontransferable, fully-paid up and royalty-free, copyright license to reproduce, distribute, display, and perform, and create Derivative Works of any Contribution owned by such Member and contained in each Final Specification, solely for the purposes of developing, publishing, distributing and promulgating the Final Specification and related promotional materials. This license to the Participants expressly excludes the right to create Derivative Works for the purpose of developing products not compliant with the applicable Final Specification. Effective as of the approval of each Final Specification by the Board of Directors, each Member hereby conveys to the Association a non-exclusive, undivided, and equal ownership in the copyrights in any Contribution made by such Member and contained in the Final Specification, which shall for the purpose of copyrights be deemed ownership of a collective work under 17 USC 201(c) (collectively, “**Materials**”) while retaining ownership of the copyrights in any such underlying Contribution. The Association may exercise any and all rights of copyright ownership and sublicense such rights in the Materials as if such rights were solely owned by the Association, without permission of any Member and without any duty to account. This Section 5.6 survives any withdrawal from participation in the Association by any Member.

5.7 Copyright Notice. Each Final Specification shall contain an appropriate copyright notice in the name of the Association.

5.8 License Rights of Participants. This IP Policy shall not supersede, modify or prevent any licensing agreements or arrangements by or between Participants, by or between the Association and one or more Participants, or by or between Participants, the Association and/or any third parties. In addition, this IP Policy shall not be construed to imply any separate obligation or agreement by or between Participants.

5.9 No Other License. The Participants agree that no patent license, immunity or other right is granted under this IP Policy by any Participant either directly or by implication, estoppel or otherwise, other than the agreements to grant licenses expressly set forth in this IP Policy and that no patent license, immunity or other right is granted under this IP Policy to non-Participants.

5.10 Affiliates. Any rights granted under, and obligations arising out of this IP Policy to a Participant extend to its Affiliates whether or not the term Affiliate is specifically included in the provision, but under no circumstances can an Affiliate either: (i) claim more rights arising out of this IP Policy than a Participant, or (ii) receive a RAND License (or if applicable, RAND-RF License) to Essential IPR in a Final Specification from Participants if such Affiliate does not provide a RAND License to its Essential IPR in a Final Specification to all Requesting Participants. Any rights granted to Affiliates of a Participant under this IP Policy terminate without any notification when the Affiliate ceases to be an Affiliate of that Participant or when the rights of the Participant terminate. Any obligations arising out of this IP Policy from an Affiliate of a Participant shall continue when the Affiliate ceases to be an Affiliate of a

Participant to the full extent of the obligations arising or undertaken under this IP Policy prior to the cessation of Affiliate relationship.

## 6. Association Developed Intellectual Property

6.1 Association Intellectual Property. Any Intellectual Property developed or created: (i) by any of the Association's employees, if any, alone; or (ii) by a contractor to the Association performing work for the Association on a "work made for hire" basis; (iii) or during any meetings of the Participants as the collective work product thereof; or (iv) otherwise solely assigned to or procured by the Association (collectively, the "**Association Intellectual Property**"), shall be owned exclusively by the Association.

6.2 Notification and Delivery. Each Participant may receive a copy of Association Intellectual Property comprised of Association trademarks, service marks, and corresponding logos connoting the Association, a Participant's affiliation with the Association, or a product's compliance with the Final Specifications, upon request to the Secretary of the Association, and execution of a License Agreement governing its use. Any other Association Intellectual Property shall be licensed to Participants on a case by case basis, on terms approved by the Board of Directors.

6.3 Copyright License to Participants. The Association hereby grants each Participant an irrevocable (except for breach), nonexclusive, non-sublicensable, nontransferable, fully-paid up and royalty-free copyright license to, internally (including a Participant's Affiliates or, subject to a restricted use nondisclosure agreement, its Subcontractors) reproduce, distribute, perform, and create Derivative Works of any Final Specifications adopted by the Association prior to or during a Participant's participation in the Association, as reasonably necessary for Participant to develop and commercialize products based upon the Final Specifications, procure products based upon the Final Specifications, or design, develop or implement internal systems and processes based upon the Final Specifications. This license to the Participants expressly excludes the right to create Derivative Works for the purpose of developing products not compliant with the applicable Final Specification.

6.4 Trademarks. In the event that the Association proposes to adopt any other name or logo as a trademark or trade name (collectively, "**Trademarks**"), the Association shall notify the Participants in writing of the proposal. The Association will not adopt any Trademark for which a Participant has notified the Association of reasonable objections, notably that the proposed trademark affects trademarks owned, used or adopted by the Participant or an Affiliate of such Participant. Each Participant agrees that unless it provides written notice to the Executive Director of that Participant's challenge to the proposed Trademark prior to its adoption by the Board of Directors, then the Participant shall not assert against the Association or any Participant any trademark or trade name rights they may have or thereafter possess in the proposed Trademarks. The Association shall take such steps as the Board of Directors deems necessary and proper to protect its rights under the Trademarks adopted for use by the Association and the Association shall own such Trademarks and the goodwill from the Trademarks shall be for the benefit of the Association. In furtherance thereof, the Board of Directors shall establish and disseminate reasonable conditions and procedures for the licensing and use of the Trademarks adopted for use by the Association, provided that any such licensing shall be done on a fully-paid up royalty-free basis and demonstrably free of any unfair

discrimination among the Participants as further set forth in a license agreement to be approved by the Board of Directors and promulgated by the Association. Each Participant agrees not to use or adopt any trademarks for any product, service, guideline, specification, or standard likely to cause confusion with any of the Trademarks adopted by the Association, unless agreed by the Board of Directors or already used or adopted by the Participant prior to adoption of the Trademark by the Association.

6.5 Patents. The Association will not assert claims to or against any patent held by any Participant. The Association does not currently contemplate either the development or acquisition of any patents to be owned by the Association. Any patent to be developed or acquired by the Association shall be in all respects subject to a patent policy (either general, or specific to a particular patent) adopted by the Board of Directors, as an amendment to this IP Policy, which shall ensure availability of RAND Licenses thereto for the Participants.

6.6 Defense of Association Intellectual Property. Subject to the prior approval of the Board of Directors, the Association may initiate legal proceedings, at the Association's cost, to restrain infringement of Association Intellectual Property on behalf of the Association, upon the terms and conditions agreed to by the Board of Directors.

## **7. Disclosure of Information**

7.1 Public Disclosures; Confidentiality. All public disclosures regarding the existence, Participants and activities of the Association shall be subject to the guidance of the Board in the interest of providing a consistent message in furtherance of the Association's purpose. Public disclosure of any Draft Specification, Final Specification, or other related materials of the Association, shall be subject to approval by the Board and pursuant to the applicable policies of the Association. All Participants shall be subject to the confidentiality obligations contained in the Association Bylaws, Participation Agreement, and other applicable Association policies.

7.2 Name, Trademark and Trade Name Use. Nothing in this Agreement gives any Participant permission to use any other Participant's name, trademark or trade name in any publication or in respect of any service or item to be supplied to the public, whether relating to the Agreement or otherwise.

## **8. Survival of Agreement to License**

Notwithstanding the dissolution of the Association or a Participant's withdrawal from the Association, or the termination, expiration or non-renewal of a Participant's participation in the Association (or its withdrawal from any Committee or Working Group), and except as otherwise expressly provided herein, a Participant's or its Affiliate's obligation to grant a license as provided in Section 3 shall remain in full force and effect for the life of (a) any Essential IPR of such Member or former Member (or its Affiliate) included in a Contribution that becomes part of the Final Specification for which the Contribution was offered; (b) any Essential IPR to a Final Specification adopted by the Association for which the License Review Period ended prior to the effective date of the Participant's termination, expiration or withdrawal from the Association; and (c) any Essential IPR to a Final Specification adopted by the Association that a Participant or former Participant did not identify

in its written disclosure compliant with Section 5.2 prior to its withdrawal from the Association. Notwithstanding the generality of the foregoing, the obligations set forth in (a) and (b) above will additionally survive to the extent such Essential IPR are both (i) necessary for future Final Specifications to be backwards compatible with the prior Final Specifications (i.e., designed to fully interoperate, communicate or connect with or to products that comply with the prior Final Specifications) and (ii) used in a substantially similar manner and to a substantially similar extent with a substantially similar result as the same Essential IPR was used in a prior Final Specification for which the Participant is obligated to grant licenses. Except as set forth in this Section 8, a withdrawn, terminated or former Participant shall not be subject to any additional obligation to license its Essential IPR.

## **9. No Representation or Warranties**

EACH PARTICIPANT HEREBY AGREES AND ACKNOWLEDGES THAT: (A) THE ASSOCIATION AND EACH PARTICIPANT (INCLUDING COMMITTEE REPRESENTATIVES AND COMMITTEE CHAIRS), TAKE NO POSITION AS TO WHETHER ANY INTELLECTUAL PROPERTY RIGHTS EXIST IN ANY SPECIFICATIONS; (B) THE SPECIFICATIONS AND ANY CONTRIBUTIONS THERETO ARE ALL PROVIDED “AS IS” AND “WITH ALL FAULTS”; (C) THE ASSOCIATION AND EACH PARTICIPANT (INCLUDING COMMITTEE REPRESENTATIVES AND COMMITTEE CHAIRS), MAKE NO WARRANTIES, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE WITH RESPECT TO THE SPECIFICATIONS OR ANY CONTRIBUTIONS THERETO, INCLUDING, BUT NOT LIMITED TO, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE, OF REASONABLE CARE OR WORKMANLIKE EFFORT, OR RESULTS OR OF LACK OF NEGLIGENCE; AND (D) NEITHER THE ASSOCIATION NOR ANY OF ITS PARTICIPANTS (INCLUDING COMMITTEE REPRESENTATIVES AND COMMITTEE CHAIRS), HAS UNDERTAKEN ON BEHALF OF THE ASSOCIATION OR ITS PARTICIPANTS ANY PATENT OR OTHER INTELLECTUAL PROPERTY SEARCH WITH RESPECT TO THE SPECIFICATIONS OR ANY CONTRIBUTIONS THERETO. NOTHING HEREIN SHALL, HOWEVER, BE CONSTRUED AS A RESTRICTION ON ANY PARTICIPANT WHO ELECTS TO CONDUCT ITS OWN DUE DILIGENCE OR OTHER TECHNOLOGY SEARCH OR SCREENING WITH RESPECT TO SPECIFICATIONS.

## **10. Limitation of Liability**

IN NO EVENT SHALL THE ASSOCIATION OR ANY PARTICIPANT BE LIABLE TO ANY OTHER PARTICIPANT OR AFFILIATE OF A PARTICIPANT FOR (A) ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES RESULTING UNDER THIS IP POLICY, WHETHER UNDER CONTRACT, TORT, WARRANTY OR OTHERWISE, AND WHETHER OR NOT SUCH PARTY HAD ADVANCE NOTICE OF THE POSSIBILITY OF SUCH DAMAGES; OR (B) THE COST OF PROCURING SUBSTITUTE GOODS OR SERVICES, LOST PROFITS, LOSS OF USE, OR LOSS OF DATA.

## **11. Amendments and Modifications**

Any revisions or amendments to this IP Policy will become effective only upon adoption by the Board of Directors in accordance with the Bylaws and only after: (a) the Board takes reasonable measures to notify all Participants of such revisions with either a copy of, or a link to, the revised IP Policy with revisions shown; and (b) the Participants are afforded at least thirty (30) days from the date of such notice to withdraw from the Association if they do not wish to be bound by the IP Policy revisions; provided, however, that ministerial changes to this IP Policy (such as proof-reading corrections or formatting changes) may be unilaterally executed by the Board. The Board shall take reasonable measures to communicate all amendments, modifications or revisions of the IP Policy to all Participants. Any Participant that withdraws from the Association prior to the end of the thirty (30) day notice period will be subject to the surviving provisions of the IP Policy in accordance with its terms, but will not be subject to revisions or amendments to the IP Policy adopted subsequent to their withdrawal.

## **12. Applicable Law**

All disputes arising under this IP Policy shall be governed by the law of the state of Delaware, United States of America, without regard to its rules with respect to conflict of laws. However, any disputes with respect to the ownership, existence, scope, validity or infringement of intellectual property rights shall be governed by the law of the country in which the intellectual property rights confer protection.