

HOMEGRID FORUM
SECOND AMENDED AND RESTATED
INTELLECTUAL PROPERTY RIGHTS POLICY

This Second Amended and Restated Intellectual Property Rights Policy (“Policy”) was adopted by The HomeGrid Forum as of August 2, 2012.

SECTION 1 DEFINITIONS

(a) The following definitions shall apply to this Intellectual Property Rights Policy. Any undefined capitalized term used herein shall have the meaning set forth in the HomeGrid Forum Bylaws (“Bylaws”) and shall be deemed incorporated herein by reference as if fully set forth below.

(1) **“Compliant Portion”** means only those specific portions of products (hardware, software or combinations thereof) that implement and are compliant with all applicable normative portions of a HomeGrid Submission or HomeGrid Specification that are adopted, provided, and only to the extent that, such portions are within the bounds of the IPR Scope.

(2) **“Contribution”** means a submission by a Work Group Member to the HomeGrid Work Group in which such Work Group Member participates proposing an addition to or modification of a Draft Specification or a Draft Submission, or a portion thereof, or a HomeGrid Submission or HomeGrid Specification, or a portion thereof, where such 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 meeting, attributed in such minutes to the submitter, which minutes are provided within a customary time to the individual representing the submitter, whereupon the submitter shall have fourteen (14) days to confirm the accuracy of the minutes regarding the submission.

(3) **“Necessary Claims”** means those claims of patents or patent applications, other than design patents and design registrations, throughout the world which a Member or its Affiliates has the right to grant licenses of the nature agreed to be granted herein without such grant resulting in payment of royalties or other consideration to third parties (except for payments to Affiliates or employees), which claims are necessarily infringed by products which implement a HomeGrid Submission or HomeGrid Specification, and which are within the bounds of the IPR Scope, where such infringement could not have been avoided by another commercially reasonable non-infringing implementation of applicable portions of such HomeGrid Submission or HomeGrid Specification. “Necessary Claims” shall not include any claims other than those set forth above even if contained in the same patent or patent application as Necessary Claims and: (i) which, if licensed, would require a payment of royalties or other consideration by the licensor to third parties that are not Affiliates; (ii) that relate to semiconductors and semiconductor manufacturing technology; (iii) that relate to aspects of any technology, standard or product that is an optional part of the HomeGrid Submission or HomeGrid Specification or is not itself disclosed with particularity therein (even though such technology, standard or product may otherwise be mentioned or required by the HomeGrid Submission or HomeGrid Specification); or (iv) that relate to any technology that may be

necessary to develop, design, manufacture, sell or use any product or portion thereof that complies with the HomeGrid Submission or HomeGrid Specification (e.g., semiconductor manufacturing technology, microprocessor or chipset architecture, microprocessor bus technology, compiler technology, object oriented technology, basic operating system technology or the like).

(4) **“Processor”** means any integrated circuit or combination of integrated circuits capable of processing digital data, such as a microprocessor or coprocessor (including, without limitation, a math coprocessor, graphics coprocessor, or digital signal processor).

(5) **“IPR Scope”** means those electrical signaling characteristics, service provider interfaces, mechanical requirements, firmware descriptors, clocking signals, application program interfaces, commands and physical dimensions and characteristics disclosed with particularity in the HomeGrid Submission or HomeGrid Specification where the purpose and sole licensed use (under this Agreement) of such disclosure is to define, implement, utilize and interface HomeGrid Technology based products to enable products to interoperate, interconnect or communicate as defined within the HomeGrid Submission or HomeGrid Specification. Notwithstanding the foregoing, the IPR Scope shall not include: (i) any enabling technology that may be necessary to develop, design, manufacture, sell or use any product or portion thereof that complies with a HomeGrid Submission or HomeGrid Specification but is not expressly set forth as mandatory in the HomeGrid Submission or HomeGrid Specification (examples of such technologies include without limitation basic computer or network technology, semiconductor manufacturing technology, compiler technology, object oriented technology, basic operating system technology, and encoding and decoding technology, and encryption and decryption technology); or (ii) the implementation or use of other specifications published or otherwise made available but not developed and approved by the Corporation but referred to in the body of a HomeGrid Submission or HomeGrid Specification, even if required for compliance with the HomeGrid Submission or HomeGrid Specification; (iii) any portions of any product or any combinations of products (or portions of products) that are not required for compliance with a HomeGrid Submission or HomeGrid Specification such as any Processor, integrated circuits, intra-circuit buses or BIOS/firmware/drivers/libraries and software tools.

(6) **“Work Group Member”** for purposes of this IPR Policy means a Member of the Corporation that participates in a Work Group that is charged with the development of a Draft Specification or Draft Submission (and has so indicated its participation in writing pursuant to Section 6.2 of the Bylaws).

(7) **“Standard”** means a means a set of functional and/or feature definitions compiled to define a technology that is developed as an industry standard or recommendation developed by a standards development organization (“SDO”), including without limitation, ITU-T.

(8) **“Specification”** shall have the meaning set forth in the Bylaws.

(9) **“HomeGrid Submission”** shall have the meaning set forth in the Bylaws.

(10) **“HomeGrid Specification”** shall have the meaning set forth in the Bylaws.

(b) Unless specifically provided to the contrary, all references in this IPR Policy to “Member” or “Members” includes all Affiliates of such Member or Members.

SECTION 2 LICENSING OF MEMBER INTELLECTUAL PROPERTY RIGHTS

(a) **HomeGrid Submission or HomeGrid Specification.** When the Corporation adopts and approves for release a HomeGrid Specification or HomeGrid Submission after providing notice as set forth in Section 6.5(b) and (c) of the Bylaws, then unless a Member has issued a valid Licensing Objection pursuant to Section 6.5(d) of the Bylaws, each Member agrees to grant, and shall cause each of its Affiliates to grant, to the other Members and their Affiliates, under reasonable terms and conditions that are demonstrably free of any unfair discrimination, a nonexclusive, nontransferable, irrevocable (except upon breach by licensee) worldwide license under their Necessary Claims, to allow such Members and their Affiliates to make, have made, use, import, offer to sell, lease, sell and otherwise distribute Compliant Portions, provided that such agreement to license shall 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 reasonable and nondiscriminatory terms may include defensive suspension or termination provisions. Each Member agrees that it will not transfer, and has not transferred, patents having Necessary Claims for the purpose of circumventing this Section 2(a).

(b) **Reciprocity.** The provisions of Section 2(a), above, concerning the grant of patent licenses between Members shall not be effective as to any other Member or that other Member’s Affiliates, if that Member or its Affiliates do not, in fact and practice, make the patent license grant of Section 2(a) available to the granting Members and their Affiliates.

(c) **Retention of Rights.** Except as provided in Section 2(h), nothing contained in this Section 2 shall be deemed as requiring a Member or its Affiliates to grant or withhold any license or sublicense of an individual Member’s patents containing Necessary Claims to non-Members on such terms as the Member or its Affiliates may determine.

(d) **No Other License.** The Members agree that no license, immunity or other right is granted under this Policy by any Member or its Affiliates to any other Members or their Affiliates or to the Corporation, either directly or by implication, estoppel or otherwise, other than the agreements to grant licenses expressly set forth in this Section 2.

(e) **Transfer of Necessary Claims.** Any transfer by a Member or its Affiliates to an unaffiliated third party of a patent having Necessary Claims shall be subject to the terms and conditions of this Policy. A Member may choose the manner in which it complies with this Section 2(e), provided that any agreement for transferring or assigning Necessary Claims include a provision that such transfer or assignment is subject to existing licenses and obligations to license imposed on the Member by standards bodies, specification development organizations, or similar organizations (or language of similar import).

(f) **Copyrights.** Each Member hereby grants, and shall cause each of its Affiliates to grant, to the Corporation a worldwide, fully paid-up, irrevocable, non-exclusive, non-

transferable (except as otherwise provided in the Bylaws) sub-licensable, royalty-free copyright license to reproduce, create derivative works of, distribute, display, perform and sublicense the rights to reproduce, distribute, display and perform the Contributions of the granting Member and its Affiliates solely for the purposes of developing, publishing, and distributing HomeGrid Submissions or HomeGrid Specifications and related materials. Subject to the Member's copyright ownership in their Contributions, the Corporation shall own all rights, titles, and interest in the compilation of Contributions forming a Draft Submission, Draft Specification, HomeGrid Submission, or HomeGrid Specification and all related works. As to any HomeGrid Submission or HomeGrid Specification that has been finally adopted by the Board, or other copyrighted materials of the Organization, the Corporation grants and agrees to grant the Members and their respective Affiliates a worldwide, irrevocable (except for breach), non-sublicensable (except as set forth herein) non-exclusive, royalty-free copyright license to, internally (within the Member company, its Affiliates and, subject to a sublicense agreement containing a restricted use and nondisclosure clause consistent with this Policy, third party contractors of Member) reproduce, distribute, perform and display such HomeGrid Submission or HomeGrid Specification and other copyrighted materials of the Corporation, solely for the purposes of developing products based upon such HomeGrid Submission or HomeGrid Specification, procuring products based upon such HomeGrid Submission or HomeGrid Specification, or designing, developing or implementing internal systems and processes based upon such HomeGrid Submission or HomeGrid Specification. The license rights granted in this Section 2(f) do not include the right to create derivative works using or based on such HomeGrid Submission or HomeGrid Specification or other copyrighted materials of the Corporation, or otherwise modify, alter or change such HomeGrid Submission or HomeGrid Specification or other copyrighted materials in any way. Notwithstanding the preceding sentence, in the event Members or their Affiliates create or develop any such derivative works, the Corporation shall own and control such derivative works. The Corporation shall have no obligation to license any such derivative works to the Members and their Affiliates and shall have no obligation to incorporate any such derivative works into any HomeGrid Submission or HomeGrid Specification. Any transfer by Member or its Affiliates to an unaffiliated third party of copyrights of the Contributions shall be subject to the terms and conditions of this Policy. This Section 2(f) shall survive any withdrawal from membership of such granting Member.

(g) **Reference Examples and Sample Code.** A HomeGrid Submission or HomeGrid Specification may include implementation or reference examples but such implementation or reference examples shall not be subject to the patent license in Section 2(a) hereof, unless they are specifically identified within the HomeGrid Submission or HomeGrid Specification as being licensed. A HomeGrid Submission or HomeGrid Specification may also include source or object code and design templates, provided that any such source code and design templates shall only be considered part of the HomeGrid Submission or HomeGrid Specification for purposes of the copyright licenses set forth in Section 2(f).

(h) **Adoption by Another Standards Organization.** In the event that the Board is acting on its behalf and on behalf of the Corporation, for any HomeGrid Submission or HomeGrid Specification finally released or adopted by the Board that is adopted or published by an established standards organization other than the Corporation (including but not limited to, ITU-T), each Member agrees to grant a license under the same terms and conditions provided in Section 2 to non-Member implementers of the HomeGrid Submission or HomeGrid Specification that has been adopted or published by such established standards organization,

subject to the condition that such non-Member implementers agree to reciprocate or upon such other terms as the parties agree. Each Member also agrees that the Corporation will grant a sublicense to such established standards organization, and any non-Member implementers, any copyrights in such HomeGrid Submission or HomeGrid Specification for its implementation of the HomeGrid Submission or HomeGrid Specification within the scope of the terms and conditions set forth in the Section 2(f) above.

SECTION 3 TRADEMARKS

In the event that the Corporation proposes to adopt any other name or logo as a trademark or trade name (collectively, “Trademarks”), the Corporation shall notify the Members in writing (including a writing in electronic medium) of the proposal within forty-five (45) days of such adoption. The Corporation shall take such steps as the Board deems necessary and proper to protect its rights under such Trademarks adopted for use by the Corporation. In furtherance thereof, the Board shall establish and disseminate reasonable conditions and procedures for the licensing and use of such Trademarks, demonstrably free of any unfair discrimination among the Members. Each Member agrees that unless it provides written notice to the Executive Director of that Member’s challenge to the proposed Trademark prior to its adoption by the Board of Directors, then the Member and its Affiliates shall not assert against the Corporation or any Member any trademark or trade name rights they may have or thereafter possess in the proposed Trademarks. Each Member agrees not to use or adopt any trademarks for any product, service, guideline or HomeGrid Submission or HomeGrid Specification likely to cause confusion with any of the Trademarks adopted by the Corporation, unless agreed by the Board of Directors in writing.

SECTION 4 SURVIVAL OF AGREEMENT TO GRANT LICENSE

Notwithstanding the dissolution of the Corporation or a Member’s termination of membership (as set forth in Section 12.9 of the Bylaws), unless a Member has timely made and not withdrawn a Licensing Objection (as defined in Section 6.5(d) of the Bylaws) a Member’s agreement to grant a license as provided in Section 2(a), above, shall remain in full force and effect for: (i) any Necessary Claim to a Contribution made by such Member that becomes part of the particular version of any HomeGrid Submission or HomeGrid Specification for which the Contribution was made; (ii) any Necessary Claim to a HomeGrid Submission or HomeGrid Specification that has been finally adopted by the Corporation prior to the effective date of the Member’s termination or expiration of membership; and (iii) any Necessary Claim to a HomeGrid Submission or HomeGrid Specification resulting from a Draft Submission or Draft Specification for which such Member was given notice under Section 6.5(b) and (c) of the Bylaws prior to the effective date of the Member’s termination or expiration of membership. Notwithstanding the generality of the foregoing, the obligations set forth in (i) and (ii) above will additionally survive with respect to a HomeGrid Submission or HomeGrid Specification adopted after the effective date of Member’s termination of its membership to the extent such Necessary Claims are both: (a) necessary for a future HomeGrid Submission or HomeGrid Specification to be backwards compatible with a prior HomeGrid Submission or HomeGrid Specification (*i.e.*, designed to fully interoperate, communicate or connect with or to products that comply with the prior HomeGrid Submission or HomeGrid Specification); and (b) used in a substantially similar manner and to a substantially similar extent with a substantially similar result as the same Necessary Claims were used in a prior HomeGrid Submission or HomeGrid Specification for

which the Member is obligated to grant licenses. Except as set forth in this Section 4, a withdrawn, terminated or former Member shall not be subject to any additional obligation to license its Necessary Claims. Further, for the purposes of this Section, an Affiliate of a Member that ceases to be an Affiliate of such Member will be considered a withdrawn Member under this Section at the time such Affiliate ceases to be an Affiliate of such Member.

SECTION 5 EXCEPTION IN THE EVENT OF NONCOMPLIANCE

The agreement to license, which survives under Section 4, shall terminate completely as to any HomeGrid Submission or HomeGrid Specification which is not within the IPR Scope that was in effect prior to the effective date of the Member's termination or expiration or Membership, or prior to the effective date of dissolution of the Corporation.

SECTION 6 INVENTION AGREEMENT

In regard to any inventions made by the Members or its Affiliate during any discussions about what would or has become a HomeGrid Submission or HomeGrid Specification of the Corporation, the Members agree as follows:

(a) Invention means that which is patentable under U.S. law, made solely by one or more employees or contractors of one of the Members ("Sole Invention") or jointly by one or more employees or contractors of one of the Members with one or more employees or contractors of at least one of the other Members ("Joint Invention"), during and in the course of work on what is or becomes a HomeGrid Submission or HomeGrid Specification of the Corporation.

(b) Any Sole Invention shall be the sole property of the inventing Member.

(c) Any Joint Invention shall be jointly owned by the inventing Members, title to all patents issued thereon shall be joint, all expenses (including those related to preparation, prosecution and maintenance) shall be jointly shared (except as provided below). If the Joint Invention is a Necessary Claim, each joint owner shall have the rights provided under U.S. patent law to license such Necessary Claim to third parties. Where one joint owner elects not to share equally in the expenses for an Invention, the other joint owner(s) shall have the right to seek or maintain such protection for such Invention at its or their own expense and shall have full control over its preparation, prosecution and maintenance, even though title to any issuing patent will be joint.

SECTION 7 CHOICE OF LAW

Any claim arising under or relating to this Intellectual Rights Policy shall be governed by the internal substantive laws of the State of New York, without regard to principles of conflict of laws.