To: **O-RAN ALLIANCE**

**For the attention of the Directors**

and

**To: Each Member and Participant of the Association as at the date of this application and from time to time.**

Dear Sirs

By executing this Application Form, we (the "**Applicant**") hereby apply for admission as a **Member / Contributor of the Association**, on and subject to the Association's Constitution and the provisions set out in **Annex 1 (General) and Annex 2 (IPR Policy)** to this **Application Form** and we acknowledge and agree that such Annexes shall form part of, and shall accordingly be incorporated in this Application Form.

**PLEASE NOTE THAT BREACH OF ANY OF THE OBLIGATIONS CONTAINED IN THE ASSOCIATION'S CONSTITUTION OR THE APPLICATION FORM (AS FROM TIME TO TIME REVISED), INCLUDING FAILURE TO PAY ANY APPLICABLE FEES, MAY RESULT IN THE SUSPENSION OR TERMINATION OF PARTICIPATION RIGHTS IN ACCORDANCE WITH THE ASSOCIATION'S CONSTITUTION.**

We request you to enter the following registration details in the Association's register of Members and Contributors:

Full name(s) of Applicant[1]:

Registered office or principal business address of Applicant:

Website address of Applicant:

Name of contact person[2]:

Position of contact person:

Business address of contact person:

Telephone number of contact person:

Fax number of contact person:

E-mail address of contact person:

[1] Company´s official name

[2] This person should be an authorised representative of the Applicant and must be capable of taking binding decisions concerning the Association on behalf of the Applicant.

We confirm that we will transfer to you in cleared funds for value, or will otherwise plan with you for the payment of the respective **Membership / Participation Fees** in respect of our application as Member / Contributor the full amount of which shall be payable **within 30 days of notification** to us from the Association of its acceptance of this application.

Please select[3] your membership or your participation class:[4]

- ☐ **MOBILE NETWORK OPERATOR**: 50,000 USD
- ☐ **CONTRIBUTOR**: 25,000 USD
- ☐ **CONTRIBUTOR (SME)**: 10,000 USD (not having more than 500 employees or an annual turnover not exceeding 50 million USD)
- ☐ **CONTRIBUTOR (START-UP)**: 5,000 USD (not having more than 50 employees)
- ☐ **CONTRIBUTOR (ACADEMIC CONTRIBUTOR / OTHER NON-PROFIT MAKING ORGANIZATIONS / GOVERNMENTAL AGENCIES)**: 1,000 USD

Yours faithfully

Signed by[5]:

| ..... | ..... | ..... |
|---|---|---|
| Date | Name | Duly authorised signature |

[3] Please tick as applicable.

[4] If the Applicant does not become a Member or Contributor at the beginning of the Association's financial year, the Membership or Participation Fee may be pro-rated based on the quarter of the financial year in which the Applicant becomes a Member or Contributor to reflect the remaining part of that financial year in which the Applicant becomes a Member or Contributor.

[5] Please ensure this document is duly executed as a deed in accordance with the rules of the jurisdiction applicable to the Applicant.

**Annex 1 – General Provisions**

## 1. Definitions

Unless stated below or defined elsewhere in this Application Form, the words and expressions defined in the Association's Constitution (as amended from time to time) shall have the same meanings in this Application Form:

1.1. "Associates" means, in respect of any Person, any members of that Person's Group or any of that Person's agents, representatives, professional advisers, employees, officers or directors;

1.2. "Confidential Information" means all financial, commercial, operational, staff, management, and other non-technical information relating to the Disclosing Party or the activities of the Association, which may be supplied to or may otherwise come into the possession of the Receiving Party, whether orally or in writing or in any other form, and which is confidential or proprietary in nature or otherwise expressed by the Disclosing Party or by any of its Associates to be confidential, except as specified in Section 3.1;

1.3 "Contribution" means a written technical submission contributed by the Member or Participant to the development of a Specification;

1.4. "Disclosing Party" means the Association, Member or Participant (including any member of the Association's, Member's or Participant's Group), as the case may be, whose Confidential Information has been disclosed, supplied or has otherwise come into the possession of the Receiving Party;

1.5. "Group" means, in relation to any Person, any company which a direct or indirect subsidiary is or holding company of that Person and any company which a direct or indirect subsidiary of such holding company is ("holding Association" and "subsidiary Association" as defined in section § 271 Para 2 Handelsgesetzbuch (HGB)[6];

1.6 "Participant Fee" means each annual participation fee that shall be payable by each Member, the amount and due date for payment of which shall be determined by the Directors in accordance with the provisions of the Association's Constitution;

1.7 "Person" shall include any corporation, limited liability company, partnership, limited liability partnership, joint venture, joint stock company, trust estate, company and association, whether organized for profit or otherwise;

1.8 "Receiving Party" means the Association, Member or Participant (including any member of the Association's, Member's or Participant's Group) as the case may be, to whom Confidential Information is disclosed, supplied or into whose possession any Confidential Information has come in accordance with this Annex; and

1.9. "Specification" means a specification developed or in development by the Association.

[6] „Handelsgesetzbuch (HGB)": Commercial Code in Germany

**2. Fees**

The Applicant irrevocably agrees and undertakes, by execution of this Application Form, that:

2.1. within 30 days of notification by the Association of the acceptance of this application, it will pay to the Association the Membership or Participation Fee and subsequently it will pay each annual Membership or Participation Fee at such time during each year of membership as may be determined by the Directors in their absolute discretion from time to time and in accordance with the Association's Constitution;

2.2. if at any time it ceases to be a Member or Participant, it shall not be entitled to any refund of any fees paid pursuant to paragraph 2.1 above;

2.3. if it ceases to be a Member or Participant, it shall nonetheless remain liable for all amounts (including Membership or Participation Fees) due to the Association remaining unpaid at the date of cessation of membership or participation; and

2.4. except as may otherwise be agreed or determined in accordance with the Association's Constitution, it will be responsible for all expenses and other costs incurred by it or by any of its representatives or personnel in connection with the Association and its activities.

2.5. In case the Applicant does not pay its membership fees in due time, the Applicant will be Reminded three times in 4 weeks intervals. In case the payment does not arrive after the last reminder, the Application will not be pursued.

2.6. An existing Member or Participant may terminate its membership or participation within 30 days after having received the invoice for the next membership year without payment of fees. In case of termination by an existing Member or Participant after this period, the Member or Participant is obliged to pay the fees pro-rated based on the quarter of the financial year.

**3. Confidential Information**

3.1. Having regard to the considerable commercial value of the Confidential Information, the Receiving Party shall keep confidential and secret and not disclose to any third party the Confidential Information. The Receiving Party shall not use any Confidential Information other than for:

3.1.1. the purpose of promoting, furthering or assisting with the objects and aims of the Association;

3.1.2. the benefit of the Association and its Members and Participants collectively; or

3.1.3. for the purpose of participating in the Association.

3.2. Notwithstanding paragraph 3.1, the Receiving Party may disclose the Confidential Information to another Member or a Participant or an Associate of the Receiving Party who or which is directly involved in the Association and needs to know such information for the purpose of promoting, furthering or assisting with the objects and aims of the Association, provided that (a) any such Associate to whom Confidential Information is to be disclosed agrees in advance to be bound by the confidentiality provisions contained in this Member Application Form as if it were a party to it and (b) the Receiving Party shall be responsible to the Disclosing Party for any failure of its Associate to comply with such provisions.

3.3. Without prejudice to the above, the Receiving Party agrees to treat the Confidential Information and take all relevant precautions to a standard at least as high as it treats confidential information in its own organisation.

3.4. The restrictions on use and disclosure set out in paragraphs 3.1 to 3.3 above shall not apply to any information which:

3.4.1. is already in the possession of the Receiving Party or any of its Associates prior to its disclosure in connection with the Receiving Party's participation (or proposed participation) in the Association, without any obligation of confidentiality or use owed by the Receiving Party to the Disclosing Party in respect of it;

3.4.2. is or comes into the public domain or otherwise ceases to be of a confidential nature other than as a result of wrongful disclosure hereunder by the Receiving Party or any of its Associates;

3.4.3. becomes available to the Receiving Party or any of its Associates on a non-confidential basis from a source other than the Disclosing Party or any of its Associates;

3.4.4. is separately generated by the Receiving Party or any of its Associates who are not privy to the Confidential Information; or

3.4.5. is required to be disclosed by any law or order of a court of competent jurisdiction, recognised stock exchange, governmental department or agency provided that the Receiving Party (where legally permitted to do so) promptly notifies the Disclosing Party of any such requirement, takes full account of any reasonable representations made by the Disclosing Party in connection therewith and uses its best efforts to ensure that confidential treatment is accorded to the Confidential Information disclosed.

3.5. Upon termination of this Application Form, the Receiving Party shall on demand:

3.5.1. promptly return to the Disclosing Party or destroy all originals of Confidential Information, whether in paper or in electronic form, supplied to it or to any of its Associates or which are otherwise in its possession or under its control; and

3.5.2. promptly destroy or have destroyed all copies made of the Confidential Information and all notes, memoranda and other documents or computer files or records prepared by it or any of its Associates to the extent of the Confidential Information contained in them, provided that the Receiving Party may keep one copy of Confidential Information for archiving purposes.

3.6. Neither the Applicant nor its Associates shall release any press statement or disclose other information to any person relating to the activities, objects or membership (other than the fact of its own membership) of the Association, without the prior written consent of (a) the Association to the content of such release and (b) any relevant Member or Participant or any member of a Member's or Participant's Group referred to in such release, to the content of the relevant part(s) of such release.

3.7. The obligation of any Receiving Party with respect to any Confidential Information disclosed to it hereunder in Annex shall continue in force for a period of two (2) years from the date of such disclosure, irrespective of any termination of this Participant Application Form.

3.8. Nothing in this Annex shall restrict the free movement of the Receiving Party's employees throughout its organization. The Receiving Party shall in any event be able to assign its employees to different projects, tasks and activities. Nor shall anything in this Annex prevent the Receiving Party from independently developing, without use of the Disclosing Party's Confidential Information, competing products or technologies, and from using, selling or otherwise supplying to third parties such products or technologies.

**4. Confidentiality and Copyright**

4.1. The Applicant agrees that any technical specification or part thereof, including Specifications under creation or development within the Association will be treated as Confidential Information until such time it is published, or otherwise publicly disclosed, by or on behalf of the Association Board.

4.2. Members and Participants grant to the Association and the Association grants to Members and Participants a copyright license in accordance with the O-RAN IPR Policy (Annex 2).

4.3. The Association shall own the copyright in Specifications, subject to the underlying copyright rights of the Contributions of their respective Members and Participants. Any publication of a Specification shall contain an appropriate copyright notice in the name of the Association. The Association may exercise any and all rights of copyright ownership in the Specification and will be authorized to license such rights.

**5. Termination**

5.1. Upon the Applicant ceasing to be a Participant of the Association in accordance with the Association's Constitution:

5.1.1. the licences granted to the Association, the Members and the Participants and their respective Associates under section 4.2 above shall continue without limit of time;

5.1.2. the Applicant shall on demand by the Association:

5.1.2.1. promptly return to the Association all originals, whether in paper or in electronic form, of all Association documents and all materials in which Specification copyright subsists which were supplied to the Applicant or to any of its Associates or which are otherwise in the Applicant's possession or under its request;

5.1.2.2. promptly destroy or have destroyed all copies made by the Applicant or its Associates of all materials in which Specification copyright subsists and Association documents and all notes, memoranda and other documents or computer files or records prepared by the Applicant or any of its Associates to the extent of such Specification copyright or contained in them;

5.1.2.3. promptly return to each Member and Participants all originals, whether in paper or in electronic form, of all materials (if any) in which such Member or Participant owns copyright which were supplied by such Member or Participant to the Applicant or to any of its Associates or which are otherwise in the Applicant's possession or under its request as a result of its participation in the Association; and

5.1.2.4. promptly destroy or have destroyed all copies made by the Applicant or its Associates of all materials in which other Members or Participants own copyright and all notes, memoranda and other documents or computer files or records prepared by the Applicant or any of its Associates to the extent of such copyright material contained in them provided that the Applicant may keep one copy of such materials for archiving purposes.

**6. German Law/Arbitration**

The Applicant agrees and acknowledges that the obligations contained in this Application Form for membership are legally binding upon it and that they will be construed and interpreted in accordance with German law. The Applicant agrees that any disputes which may rise out of or in connection with this Application Form (including the provisions of this Annex, as from time to time revised) or otherwise in connection with its involvement in or with the Association shall be finally settled under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with these Rules. The Applicant further agrees that the place of arbitration shall be London and all proceedings in the arbitration shall be in English.

## 7. Obligations Enforceable

7.1 The Applicant agrees and acknowledges that:

7.1.1 the obligations set out in this Annex are intended to be enforceable by and against and therefore between each Member and by each Participant of the Association from to time and by the Association against each such Member and Participant (as if and to the extent that such obligations are set out in the Association's Constitution); and

7.1.2 it will be bound by and will observe all the obligations set out in this Annex, as from time to time revised or varied by the Members of the Association in accordance with the Association's Constitution (as may be amended or varied from time to time).

7.2 The Applicant further acknowledges that it has read and understood the Association's Constitution and the O-RAN Participation Guidelines (which give an overview of participants' rights for the time being). The content or provisions in this Annex only may be amended or varied from time to time (thereby amending the rights and obligations of Members) by an appropriate majority of the Members or the Directors respectively without the formal approval of the Members.

## 8. Survival of Rights

The obligations in this Annex in respect of confidentiality and licensing of copyright shall survive termination of participation howsoever arising.

## 9. Withdrawal

Each Member and Participant may withdraw from membership or participation in the Association at any time by providing written notice to the Association, effective as of the date of such written notice. Upon the effectiveness of any such withdrawal, the withdrawing Member or Participant, as the case may be, shall have no obligations (including, but not limited to, those set forth in revised Application Forms or the Association's Constitution), except its obligation to maintain the confidentiality of any Confidential Information and the licences granted in accordance with Section 4 above.

**Annex 2: O-RAN ALLIANCE INTELLECTUAL PROPERTY RIGHTS POLICY**

**01-07-2022**

SECTION 1: DEFINITIONS
SECTION 2: SPECIFICATION REVIEW AND NOTICE
SECTION 3: COPYRIGHT LICENSE
SECTION 4: FRAND PATENT LICENSING COMMITMENT
SECTION 5: NO OTHER LICENSE
SECTION 6: TRANSFER OF NECESSARY CLAIMS
SECTION 7: SURVIVAL OF AGREEMENT TO GRANT LICENSE
SECTION 8: RIGHT TO MAKE VOLUNTARY DISCLOSURES OF NECESSARY CLAIMS
SECTION 9: OBLIGATION OF GOOD FAITH
SECTION 10: LAW AND REGULATION
SECTION 11: EFFECTIVE DATE AND APPLICABILITY

Appendix A: O-RAN ALLIANCE INTELLECTUAL PROPERTY RIGHTS DECLARATIONFORM

## SECTION 1: DEFINITIONS

This Intellectual Property Rights Policy ("IPR Policy") will apply to documents or code developed by the O-RAN ALLIANCE for the purpose of describing key components of a Radio Access Network and their interconnections and performance, including in particular, but not limited to, the functions, behaviors, and requirements for systems, subsystems, software modules, and hardware modules, and the details of the interfaces and APIs that interconnect these components to each other or to external systems and components as well as future amendments or revisions thereto, if any. Except as otherwise defined, all capitalized terms will have the meaning defined for them in the O-RAN Constitution.

The following definitions apply to this IPR Policy:

1.1 "Compliant Implementation" means any system, device, method or operation (whether implemented in hardware, software or combinations thereof) that fully conforms to a Final Specification.

1.2 "Specification Contribution" means a proposed submission by a Member, Contributor or Academic Contributor proposing a Draft Specification or an addition to or modification of a Draft Specification, that is submitted to the O-RAN ALLIANCE by a Member, Contributor or Academic Contributor either: (a) in writing (including writing in electronic medium) and clearly marked as a contribution, or (b) orally, so long as the contribution is: (i) memorialized in substance in the formal written minutes of the meeting where it was proposed, (ii) correctly attributed in the meeting minutes to the Member, Contributor or Academic Contributor, and (iii) not withdrawn (but may be corrected in writing) by the Member, Contributor or Academic Contributor before or at the time that the meeting minutes are approved at a subsequent meeting.

1.3 "Work Product Contribution" means a Work Product or an addition to or modification of a Work Product that is submitted to the O-RAN ALLIANCE by a Member, Contributor or Academic Contributor.

1.4 “Draft Specification” means a document in development or under consideration for adoption as a Final Specification, including amendments to existing Final Specifications which amendments have not been adopted and approved for release by the O-RAN ALLIANCE in accordance with Section 2.

1.5 “Final Specification” means a document designated by the O-RAN ALLIANCE as a “Final Specification” that has been adopted and approved for release by the O-RAN ALLIANCE in accordance with Section 2.

1.6 “Necessary Claims” means those claims of all present and future patents and patent applications, other than design patents and design registrations, throughout the world, which (i) are owned or otherwise licensable by a Member, Contributor or Academic Contributor during the term of its Member-, Contributor- or Academic Contributor-ship; (ii) such Member, Contributor or Academic Contributor has the right to grant a license without the payment of consideration to a third party; and (iii) are necessarily infringed by a Compliant Implementation (without considering any Specification Contributions not included in the Final Specification). A claim is necessarily infringed only when it is not possible on technical (but not commercial) grounds, taking into account normal technical practice and the state of the art generally available at the date any Final Specification was published by the O-RAN ALLIANCE or the date the patent claim first came into existence, whichever last occurred, to make, sell, lease, otherwise dispose of, repair, use or operate a Compliant Implementation without infringing that claim. For the avoidance of doubt in exceptional cases where a Final Specification can only be implemented by technical solutions, all of which infringe patent claims, all such patent claims shall be considered Necessary Claims.

1.7 “FRAND” means Fair, Reasonable and Non-discriminatory.

1.8. “Work Product” means any document (excluding code or software that is subject to an existing license at the time of contribution) that is not a Draft or Final Specification or a Specification Contribution.

**SECTION 2: SPECIFICATION REVIEW AND NOTICE**

2.1 Draft Specifications review

The “Technical Steering Committee” chartered by the Board of Directors will have the responsibility for drafting and developing the Draft Specifications. At such time as the Technical Steering Committee determines that a Draft Specification is ready for final review, the Technical Steering Committee will send the Draft Specification to the Board of Directors for their approval. If the Board of Directors approves the Draft Specification, they will send complete copies of the Draft Specification to all Members, Contributors and Academic Contributors for review. Each Member, Contributor or Academic Contributor will have a period of at least sixty (60) days pursuant to Section 4.4, beginning from the date that the Board of Directors sends the Draft Specification to the Members, Contributors and Academic Contributors for review, to elect its licensing commitments pursuant to Sections 2.2, 2.3, 4.4 and 4.5. If the Board of Directors does not approve such Draft Specification, the Draft Specification is returned to the Technical Steering Committee.

2.2 Commitments to Contributions and Draft Specifications

a) Each Member, Contributor or Academic Contributor is deemed to be bound to the licensing commitments in Section 4.1, with the right to compensation (subject to an alternative election as per Section 4.1), with respect to its Specification Contributions to a Draft Specification that are substantively incorporated into a Final Specification. Any Member, Contributor or Academic Contributor making a Specification Contribution to any Draft Specifications may submit an IPR Withhold Notice during the 60 day draft review period (see Section 4.4) in respect of other parts of the Draft Specifications for which it has not made a Specification Contribution that is substantively incorporated in the Final Specification.

b) Each Member, Contributor or Academic Contributor agrees to make licensing commitments as set forth in Section 4.1 with respect to a Draft Specification, subject to Sections 2.2(a), 2.3 and 4.5. The Member, Contributor or Academic Contributor may elect, during the 60 day draft review period (see Section 4.4), its licensing commitment and shall do so as set forth in Section 4 and Appendix A (or an alternative equivalent electronic form provided by the O-RAN ALLIANCE). Such Member, Contributor or Academic Contributor is deemed to have committed to its licensing election with regard to Necessary Claims if and when the Draft Specification is approved by the Board of Directors as a Final Specification, in accordance with Section 2.5. If the Member, Contributor or Academic Contributor does not deliver a signed and completed Appendix A form (or an alternative equivalent electronic form provided by the O-RAN ALLIANCE) to the O-RAN ALLIANCE, Section 4.7 shall apply.

2.3 Withdrawal

A withdrawing Member, Contributor or Academic Contributor shall provide written notice to the Board of Directors that it withdraws from participation in the O-RAN ALLIANCE pursuant to Sections 2.9 and 2.17 of the Constitution. Subject to Section 2.2(a), for any Draft Specifications within a draft review period (see Sections 2.2, 2.4 and 4.4), the withdrawing Member, Contributor or Academic Contributor may, prior to its withdrawal, provide an IPR Withhold Notice (see Section 2.4) and/or elect its licensing commitment to any Necessary Claims, and shall do so as set forth in Section 4 and Appendix A (or an alternative equivalent electronic form provided by the O-RAN ALLIANCE). If the Member, Contributor or Academic Contributor does not deliver, prior to its withdrawal, a signed and completed Appendix A form (or an alternative equivalent electronic form provided by the O-RAN ALLIANCE) to the O-RAN ALLIANCE, such Member, Contributor or Academic Contributor shall be deemed to have elected to license, or to cause its Affiliate(s) to license, all of its Necessary Claims (including those owned by its Affiliates) under the Final Specification in question, with the terms to be as set forth in Section 4 with the right to compensation.

Subject to Section 7, such withdrawing Member, Contributor or Academic Contributor will not be committed under Section 4, for Final Specifications approved after the withdrawal of its membership, unless its Necessary Claims to those Final Specifications were: (1) implicated by a Specification Contribution made by that Member, Contributor or Academic Contributor, or (2) implicated in a Draft Specification previously available during a draft review period (see Sections 2.2 and 2.4) during which the Member, Contributor or Academic Contributor had

been such Member, Contributor or Academic Contributor but had not delivered, an IPR Withhold Notice (see Section 2.4 below) specifying such Necessary Claims in accordance with Section 4.5.

2.4 Reacting to any IPR Withhold Notice; Subsequent Draft Specification Reviews

A notice that no licensing commitment is given in accordance with Section 4.1 below (an IPR Withhold Notice) may be provided by Members, Contributors and Academic Contributors to the O-RAN ALLIANCE. Any and all IPR Withhold Notices must provide the information outlined in Section 4.5 and, if timely received by the Board of Directors, will be immediately forwarded to all Directors and to the Technical Steering Committee. Either the full Technical Steering Committee, or an ad-hoc sub-committee thereof, will review and evaluate each such notice, as well as alternative design options or recommendations for the Draft Specification.

The Technical Steering Committee or subcommittee thereof will deliver to the Board of Directors the results of its findings within a reasonable period of time. Should the Technical Steering Committee or ad-hoc sub-committee recommend material changes to the Draft Specification, then the Technical Steering Committee will commence the necessary modifications to the Draft Specification.

Once modified, the Draft Specification review process started in Section 2.1, will commence again with a shortened draft review period of thirty (30) days. Should the Technical Steering Committee or ad-hoc subcommittee thereof recommend that no material changes be made to the Draft Specification, then the Draft Specification will proceed for final approval pursuant to Section 2.5.

2.5 Approval & Release of Final Specifications

After completion of the Draft Specification review process stated in Sections 2.1 to 2.4, the Technical Steering Committee will submit such Draft Specification to the Board of Directors for final review.

If the Board of Directors approves such Draft Specification via an affirmative vote with qualified majority, the Draft Specification will become a Final Specification of the O-RAN ALLIANCE on the date of approval.

In the event that the Board of Directors does not approve such Draft Specification as a Final Specification, such Draft Specification will be returned to the Technical Steering Committee.

2.6 Notice of any request for change to a Draft Specification made during the process described in Section 2.4 shall be returned to the Board of Directors in a timely manner and in the format then applicable for receiving such notification.

**SECTION 3: COPYRIGHT LICENSE**

3.1 The ownership of copyright in Draft and Final Specifications shall vest in the O-RAN ALLIANCE. By submitting a Specification Contribution, that Member, Contributor or Academic Contributor, or its Affiliates, represents and warrants that it has sufficient rights and permissions to assign to the O-RAN ALLIANCE and hereby assigns to the O-RAN

ALLIANCE copyrights in Specification Contributions, or part(s) thereof, that are included in such Draft or Final Specification in accordance with this IPR Policy and the rules of the O-RAN ALLIANCE, as necessary for the O-RAN ALLIANCE to publish and deal with its Draft and Final Specifications. Upon assignment of such copyrights to the O-RAN ALLIANCE, the O-RAN ALLIANCE grants back to that Member, Contributor or Academic Contributor, or its Affiliates, a royalty-free non-exclusive, fully transferable, irrevocable, sub-licensable both directly and indirectly, worldwide copyright license to download or otherwise access, copy, adapt or modify, and distribute such Specification Contributions.

For Specification Contributions that are not included in a Draft or Final Specification, Work Product Contributions or Work Products, a Member, Contributor, or Academic Contributor or its Affiliates grants to the O-RAN ALLIANCE a royalty-free non-exclusive, fully transferable, irrevocable, sub-licensable both directly and indirectly, worldwide copyright license to download or otherwise access, copy, adapt or modify, and distribute such Specification Contributions, Work Product Contributions or Work Products.

The above assignments and licenses will not apply to Work Product Contributions where a Member, Contributor or Academic Contributor indicates in writing, at the time of its contribution, that it is not providing any such rights to the O-RAN ALLIANCE, its Members, Contributors or Academic Contributors

3.2 The O-RAN ALLIANCE grants to Members, Contributors and Academic Contributors (or their Affiliates) and any third party a royalty-free non-exclusive, non-transferable, worldwide copyright license to download or otherwise access, copy, adapt or modify Final Specifications to make, have made, sell, lease, otherwise dispose of, repair, use or operate any Compliant Implementation but not to further distribute the Final Specifications in any other way. This license may be terminated by the O-RAN ALLIANCE for a party or third party who conducts an infringing act outside the scope of this copyright license in this Section 3.2. No other copyright rights to use Final Specifications are granted unless otherwise authorized under this IPR Policy or in accordance with Section 3.3.

3.3 The O-RAN ALLIANCE, through its Board of Directors, may grant any other rights allowed by law under its copyrights in its Draft and Final Specifications and Work Products, and in its code and software.

3.4 Subject to Section 3.1, by submitting a Contribution, nothing in this IPR Policy restricts or alters any copyright owned by the Member, Contributor or Academic Contributor, or its Affiliates, in its own Contribution, nor any copyright owned by another third party, at the time of submitting its Contribution.

3.5 Ownership of copyrights in that portion of any Final Specification or Work Product that is collaboratively created in the course of the O-RAN ALLIANCE's technical process (i.e., that is not a formal Contribution) shall belong to the O-RAN ALLIANCE.

**SECTION 4: FRAND PATENT LICENSING COMMITMENT**

4.1 Each Member, Contributor or Academic Contributor, on behalf of itself and its Affiliates, shall, subject to Sections 2.3 and 4.5, agree to be prepared to grant under Fair Reasonable And Non-Discriminatory (FRAND) terms and conditions a non-exclusive, non-

transferable, irrevocable, non-sublicensable, worldwide patent license to their Necessary Claims to make, have made, use, import, offer to sell, lease, sell and otherwise distribute Compliant Implementations; provided, however, that such agreement to license shall not extend: (i) to any part or function of a product in which a Compliant Implementation is incorporated that is not itself part of the Compliant Implementation; or (ii) to anyone not willing to make a reciprocal grant to the granting Member, Contributor or Academic Contributor, and its Affiliates. For the avoidance of doubt, the foregoing licensing commitments includes the distribution by the licensee's distributors, and the use by the licensee's customers, of such licensed Compliant Implementations.

Each Member, Contributor or Academic Contributor shall elect a compensation regime for the FRAND License to be either (i) with or (ii) without compensation (such as royalties). Such election shall be made pursuant to a written declaration in the form of Appendix A (or an electronic equivalent to this form provided by the O-RAN ALLIANCE).

For the avoidance of doubt, "reciprocal" in this Section means that if a patent owner offers its Necessary Claims on terms more disadvantageous than the declaration given by the Member, Contributor or Academic Contributor, the Member, Contributor or Academic Contributor may offer terms on the same basis as that offered by the patent owner (e.g. on a "with compensation" basis if a "without compensation" election has been made).

If a Member, Contributor or Academic Contributor, or one of its Affiliates, later owns one or more additional Necessary Claims that implement the Final Specification that are such by reason of the incorporation of such Member, Contributor or Academic Contributor's Specification Contribution, in whole or in part, into such Final Specification, such Member, Contributor or Academic Contributor will be deemed to have elected the same option with respect to such Necessary Claims as it initially elected under this Section 4.1.

A Member, Contributor or Academic Contributor, on behalf of itself and its Affiliates, may elect one option with respect to one or some of the Necessary Claim(s) that implement the Final Specification and another option with respect to other Necessary Claim(s) that implement the Final Specification.

4.2 Any licensing commitments to Necessary Claims given to a Final Specification will apply also to the extent a subsequent version of the Final Specification incorporates the same subject matter to which the commitment(s) applied to if and to the extent such subject-matter is necessary for backwards-compatibility with the earlier Final Specification.

4.3 Within six (6) weeks after joining the O-RAN ALLIANCE, each new Member, Contributor or Academic Contributor shall elect the royalty regime using Appendix A (or an electronic equivalent to this form provided by the O-RAN ALLIANCE) with respect to each existing Final Specification.

4.4 No later than sixty (60) days from the date that a respective Draft Specification has been posted for final comments to all Members, Contributors and Academic Contributors (unless a different date is specified by the Board of Directors) (the 60 day draft review period) each Member, Contributor or Academic Contributor may elect the royalty regime using Appendix A (or an electronic equivalent to this form provided by the O-RAN ALLIANCE) with respect to this Draft Specification.

4.5 Subject to Section 2.2(a), a Member, Contributor or Academic Contributor may provide an IPR Withhold Notice using Appendix A (or an electronic equivalent to this form provided by the O-RAN ALLIANCE) notifying the O-RAN ALLIANCE that it is unwilling to commit to license in accordance with Section 4.1 as to its or its Affiliates' potentially Necessary Claims that it identifies under the Draft Specification in its then-current form (or any Final Specification with respect to a new Member, new Contributor or new Academic Contributor), provided it does so within the time period set forth in Sections 2.3 or 4.4 (or Section 4.3 for the new Member, new Contributor or new Academic Contributor) and such identification reasonably identifies the portion of such document that would result in such infringement and indicates that no guarantee of a FRAND license is being made (or that such rights will in fact be denied in some or all cases) as to such Necessary Claims. In the case of Necessary Claims under non-public patent applications, the disclosure of such claims need not be in such detail as would disclose any trade secrets.

4.6 In the event that any Final Specification is withdrawn by the O-RAN ALLIANCE, then all commitments and obligations of Members, Contributors or Academic Contributors under existing licenses based on this IPR Policy to Necessary Claims with respect to such Final Specification shall remain in force, but the Board of Directors may decide to release all commitments to provide future licenses on FRAND terms, with such commitments to terminate on a date to be approved by the Board of Directors.

4.7 In the event that a Member, Contributor or Academic Contributor does not timely return a signed and completed Appendix A form (or an alternative equivalent electronic form provided by the O-RAN ALLIANCE) in accordance with Sections 2.2, 2.3, 4.3, 4.4 and 4.5, then such Member, Contributor or Academic Contributor shall be deemed to have elected to license, or to cause its Affiliate(s) to license, all of its Necessary Claims (including those owned by its Affiliates) under the Final Specification in question, with the terms to be as set forth in Section 4 with the right to compensation.

4.8 In the event that a Member, Contributor or Academic Contributor, or any of their Affiliates, later brings a patent infringement action against anyone with respect to such Necessary Claim(s), the O-RAN ALLIANCE shall have no obligation to intervene. If any Member, Contributor or Academic Contributor, or their Affiliates, initiates legal proceedings against the O-RAN ALLIANCE which are related to such action, and O-RAN ALLIANCE reasonably incurs costs in appropriately defending against such action (hereinafter "Costs"), then unless the Member, Contributor or Academic Contributor, or its Affiliates, finally prevails against the O-RAN ALLIANCE in such action, the Member, Contributor or Academic Contributor will reimburse O-RAN for all Costs.

**SECTION 5: NO OTHER LICENSE**

The Member, Contributor or Academic Contributors agree that no license, immunity or other right is granted or may otherwise arise under this IPR Policy by any Member, Contributor or Academic Contributor or its Affiliates to any other Member, Contributor or Academic Contributors, or their Affiliates, or to the O-RAN ALLIANCE, either directly or by implication, estoppel, or otherwise, other than the agreements to grant licenses and assignments expressly set forth herein.

**SECTION 6: TRANSFER OF NECESSARY CLAIMS**

Each Member, Contributor or Academic Contributor agrees that it will not assign or transfer, and has not assigned or transferred, its patents or patent applications having Necessary Claims for the purpose of circumventing such Member, Contributor or Academic Contributor's obligations under this IPR Policy. In the event a Member, Contributor or Academic Contributor assigns or transfers any of its patents or published patent applications containing Necessary Claims, the Member, Contributor or Academic Contributor agrees to condition the assignment or transfer on the assignee's or transferee's agreement: (a) that such patents or published patent applications will continue to be subject to the licensing provisions of Section 4; and (b) to obligate subsequent assignees or transferees to similarly, *mutatis mutandis,* respect this obligation.

**SECTION 7: SURVIVAL OF AGREEMENT TO GRANT LICENSE**

Notwithstanding the dissolution or winding-up of the O-RAN ALLIANCE or a Member, Contributor or Academic Contributor's termination, withdrawal, or non-renewal of its participation in the O-RAN ALLIANCE, a Member, Contributor or Academic Contributor's agreement to grant a license as provided in Section 4 shall remain in full force and effect for: (a) any Necessary Claim to a Specification Contribution made to a later adopted Final Specification or any Necessary Claim to a Final Specification adopted before the effective date of dissolution or winding-up or before the effective date of a Member, Contributor or Academic Contributor's termination, withdrawal, or expiration of participation; and (b) any Necessary Claims to a Final Specification adopted by the O-RAN ALLIANCE after the effective date of the Member, Contributor or Academic Contributor's termination, withdrawal or expiration of participation that are necessary for the future Final Specification to be backwards compatible with the Final Specifications provided that subject matter licensed under the new Final Specification are used in a substantially similar manner and to a substantially similar extent with a substantially similar result as the subject matter under the prior Final Specification for which the Member, Contributor or Academic Contributor is committed to license under Section 4. In no event will a withdrawn, terminated, or non-renewed Member, Contributor or Academic Contributor be committed to license any additional Necessary Claims under this Section 9. A withdrawn, terminated, or non-renewed Member, Contributor or Academic Contributor, and its Affiliates, will remain entitled to reciprocity pursuant to Section 4 so long as that withdrawn, terminated, or non-renewed Member, Contributor or Academic Contributor remains committed to license under Section 4 any Necessary Claims under this Section 9. This agreement to the survival of reciprocal licensing will extend to all Members, Contributors or Academic Contributors, and their Affiliates, including any Member, Contributor or Academic Contributor who becomes a Member, Contributor or Academic Contributor after the effective date of a departing Member, Contributor or Academic Contributor's termination, withdrawal or non-renewal.

**SECTION 8: RIGHT TO MAKE VOLUNTARY DISCLOSURES OF NECESSARY CLAIMS**

Nothing in this IPR Policy will be construed as prohibiting the Member, Contributor or Academic Contributors from voluntarily disclosing the presence of Necessary Claims of such Member, Contributor or Academic Contributor, or its Affiliates, or third party, that are found in Draft Specifications or Final Specifications. Such disclosure will not, however, be deemed as a waiver of that Member, Contributor or Academic Contributor's rights under Section 2. Other

than as specifically set forth herein, nothing in this IPR Policy requires a Member, Contributor or Academic Contributor to disclose or otherwise identify Necessary Claims of such Member, Contributor or Academic Contributor, or any of their Affiliates.

**SECTION 9: OBLIGATION OF GOOD FAITH**

The Member, Contributor or Academic Contributor, acknowledge and agree that the obligations of this IPR Policy will be governed by the principles of good faith and fair dealing.

**SECTION 10: LAW AND REGULATION**

The IPR Policy shall be governed by the laws of Germany. However, no Member, Contributor, or Academic Contributor shall be obliged by the IPR Policy to commit a breach of the laws or regulations of its country or to act against supranational laws or regulations applicable to its country insofar as derogation by agreement between parties is not permitted by such laws.

**SECTION 11: EFFECTIVE DATE AND APPLICABILITY**

This IPR Policy was approved by the Board of Directors on 23 June 2022, in accordance with the O-RAN ALLIANCE's Constitution. These amendments take effect from 1 July 2022 (the "Effective Date") and will apply to all Final Specifications approved, in accordance with this IPR Policy, following this Effective Date. For Final Specifications approved prior to the Effective Date, the prior versions of the IPR Policy will apply, as applicable, to these except that the previous requirement for Adopters (as previously defined in the earlier IPR Policies) to agree to an O-RAN Adopter License Agreement to access and use Final Specifications shall no longer apply or be required for these Final Specifications after the Effective Date.

## Appendix A

### O-RAN ALLIANCE INTELLECTUAL PROPERTY RIGHTS DECLARATION FORM

NOTE: All blanks must be completed in order for this declaration form to be given consideration. This declaration form is subject to the Intellectual Property Rights Policy (the "IPR Policy") of O-RAN ALLIANCE and any policies and procedures adopted by the Board of Directors and any applicable Work Group Procedures or Work Group Specific Procedures ("Policies and Procedures"). All capitalized terms used in this form have the meanings given to them in the IPR Policy of the O-RAN ALLIANCE.

| | |
|---|---|
| Name of Member, Contributor of Academic Contributor: | |
| Name of Representative Completing this Form on Behalf of Member, Contributor of Academic Contributor ("Representative"): | |
| Mailing Address of Representative: | |
| Email Address of Representative: | |
| Draft Specification(s) to which this Declaration Form relates: | |

A. The Representative hereby represents the following on behalf of him/herself and the Member, Contributor or Academic Contributor as the context requires:

1. The Representative is authorized to complete and submit this Declaration Form on behalf of the Member, Contributor or Academic Contributor and to make the following representations and warranties.

2. The Representative and the Member, Contributor or Academic Contributor have each reviewed any Policies and Procedures and agree that this Declaration Form is being completed and submitted in full compliance with the same.

B. By selecting either options 1(A) or 1(B) of Exhibit A, the Member, Contributor or Academic Contributor and each of its Affiliates hereby irrevocably agree that if the Draft Specification(s) referred to above is finally adopted as a Final Specification, that it agrees to the licensing commitments in Sections 4.1 and 4.2 of the O-RAN ALLIANCE IPR Policy as approved by the Board of Directors and being effective as of 1 July 2022 (the "FRAND Patent Licensing Commitment"). Each Member, Contributor or Academic Contributor elects, by its selection of 1(A) or 1(B), a compensation regime pursuant to Section 4.1.

C. By selecting option 2 of Exhibit A, the Member, Contributor or Academic Contributor is providing an IPR Withhold Notice for the Draft Specification(s) referred to above, if adopted

as Final Specification(s), in accordance with either Section 2.3 or Section 4.5 of the O-RAN ALLIANCE IPR Policy as approved by the Board of Directors and being effective as of 1 July 2022. (For the avoidance of doubt, this IPR Withhold Notice may be withdrawn at any time by the Member, Contributor or Academic Contributor, if substituted with a new Declaration Form with either options 1(A) or 1(B) selected, for example, due to later changes made to the Draft Specification(s).)

This Declaration Form has been submitted on: ……..

Name of Member, Contributor or Academic Contributor: ……

By: ……

Signature of Representative: ……

## Exhibit A

### Patent Declaration

**Please select one of the following:**

**1. FRAND Patent Licensing Commitment:**

☐ The Member, Contributor or Academic Contributor, on behalf of itself and each of its Affiliates, elects the compensation regime for the above FRAND Patent Licensing Commitment to be **with compensation** (e.g. royalties).

☐ The Member, Contributor or Academic Contributor on behalf of itself and each of its Affiliates, elects the compensation regime for the above FRAND Patent Licensing Commitment to be **without compensation** (i.e. no royalties).

2. **IPR Withhold Notice:**

☐ The Member, Contributor or Academic Contributor, identify below all Necessary Claims owned by it and/or its Affiliates under the Draft Specification(s) in its then-current form, as well as reasonably identify the portion of such Draft Specification that would result in such infringement. Member, Contributor or Academic Contributor, and their Affiliates, do not make any guarantee of a FRAND Patent Licensing Commitment being made and such rights may in fact be denied in some or all cases as to such Necessary Claims. (In the case of Necessary Claims under non-public patent applications, the disclosure of such claims need not be in provided below in such detail as would disclose any trade secrets.)

List below all Necessary Claim(s) by identifying such specific Necessary Claim(s) and by reasonably identifying the portion(s) of said Draft Specification(s) to which such Necessary Claim(s) relate.

| Jurisdiction and Patent (Application) Number | Necessary Claim | Affected Portion of Draft Specification(s) |
|---|---|---|
| | | |
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