

# Open Compute Project Foundation Intellectual Property Rights Management Policy

07- 18-2024

The Open Compute Project Foundation (“OCP”) has adopted this Intellectual Property Rights Management Policy pursuant to the Bylaws of OCP (“Bylaws”).

## 1. Definitions

**1.1 “CLA”** means the Open Web Foundation Contributor License Agreement 0.9.

**1.2 “Contribution”** means any Specification Contribution, Software Contribution, or Other Contribution.

**1.3 “Contributor”** means an OCP member who submits one or more Contributions.

**1.4 “Exclusion Notice”** means a written notice provided by a Contributor to the OCP Community Director via an OCP provided email address during an Opt-Out Period that identifies patent claim(s) that Contributor is excluding from its patent licensing commitments under the Specification License. The Exclusion Notice for issued patent(s) and published application(s) must include the Final Specification’s name, patent number(s) or title and application number(s), as the case may be, for each of the issued patent(s) or pending patent application(s) that the Contributor is excluding from the royalty-free licensing commitment set forth in the Specification License, and the specific section(s) of the Final Specification that are infringed by the excluded patent claim(s). If an issued patent or pending patent application that may contain patent claim(s) subject to the Specification License is not set forth in the Exclusion Notice, those patent claim(s) shall continue to be subject to the licensing commitments under the Specification License. The Exclusion Notice for unpublished patent application(s) must provide either: (i) the text of the filed application; or (ii) identification of the specific part(s) of the Final Specification whose implementation makes the excluded claim(s) subject to the Specification License. If (ii) is chosen, the effect of the exclusion will be limited to the identified part(s) of the Final Specification.

**1.5 “Feedback Agreement”** means the Feedback Agreement set forth in Appendix A.

**1.6 “Final Specification”** means a Proposed Specification that has been approved by the Steering Committee as described herein.

**1.7 “Opt-Out Period”** means a 30-day period starting on the date the OCP staff provides to all Contributors to a Proposed Specification a copy or link to the text of the Proposed Specification and written notice to Contributors of initiation of the period during which a Contributor may issue an Exclusion Notice.

**1.8 “Other Contribution”** means any data or copyrightable materials that is not a Proposed Specification or Software, such as configuration data, documentation text, or images.

- 1.9 “Project Lead”** means an individual designated as described in the Bylaws to lead technical matters for OCP pertaining to a particular technology area.
- 1.10 “Proposed Specification”** means specification that has been submitted by a Contributor for approval by Steering Committee.
- 1.11 “Software Contribution”** means any software, programs, scripts, and the like that are contributed by any Contributor for use with a Proposed Specification.
- 1.12 “Specification Contribution”** means a Proposed Specification or portion thereof that is submitted by an OCP member.
- 1.13 “Specification License”** means the Open Web Foundation Agreement 0.9 (OWFa).
- 1.14 “Steering Committee”** is the committee of that name appointed by OCP to review and approve Proposed Specifications.

## **2. Contributions**

- 2.1 General.** Only OCP members may submit Proposed Specifications or other Contributions.
- 2.2 CLA.** All Specification Contributions must be covered by a CLA. All Software Contributions must be designated as associated with a Proposed Specification and made available under an Open Source Initiative approved license. Other Contributions must be released to the public domain, or made available under a Creative Commons license, or a Copyright License Agreement.
- 2.3 Diligence.** Although Contributions are provided as-is with no warranties, the Steering Committee will encourage Contributors to exercise reasonable care to ensure that they have all the necessary rights to the intellectual property incorporated in their Contributions.
- 2.4 Clarifications.** A Contributor may elect to provide clarifying information distinguishing the technologies that are licensed by the Contributor from technologies merely referenced in a Proposed Specification. The Steering Committee will not be obligated to accept any such clarification in the Final Specification. If the Steering Committee rejects any such clarification, the Contributor may withdraw the applicable Contribution.

## **3. Specification Approval Process**

- 3.1 Initiating Specification Approval.** A Contributor will work with the appropriate Project Lead to initiate the approval process for each Proposed Specification. If two or more Contributors wish to collaborate on a Proposed Specification, one single Contributor must take responsibility for communicating with the Project Lead to streamline the approval process.
- 3.2 Steering Committee Approval.** The Project Lead will have the authority to determine if and

when a Proposed Specification will be presented to the Steering Committee for approval. The Project Lead may ask the Contributor to adjust or improve the Proposed Specification prior to presentation of the Proposed Specification to the Steering Committee for approval. The Contributor will assist the Project Lead in presenting the Proposed Specification to the Steering Committee.

### **3.3 Outbound License and CLAs.**

- a. **Conditions.** As a condition for presentation to and approval by the Steering Committee of a Proposed Specification, all Contributors must have executed the CLA covering their Contributions as required in this Policy.

- b. **Opt-Out Period.** Upon determination by a Project Lead that a Proposed Specification is ready for consideration by the Steering Committee as a Final Specification, OCP staff will initiate an Opt-Out Period for the Proposed Specification. During the Opt-Out Period, Contributors may submit Exclusion Notices to OCP. If a valid Exclusion Notice is received, OCP Staff will consult with the Steering Committee and Contributors to the Proposed Specification per the OCP Operations and Policy Structure to determine how to proceed. The Steering Committee will not release a Final Specification prior to the completion of the Opt-Out Period or early completion as set forth in Section 3.3(d). At the conclusion of the Opt-Out Period, no additional Exclusion Notices will be accepted or considered. If no Exclusion Notices are received during the Opt-Out period, then it is deemed that no Exclusion Notices were raised.

- c. **Outbound License.** Each Contributor to the Proposed Specification will be deemed to have agreed to the Specification License upon the Final Specification's release as set forth in Section 3.4, except for materials identified in a valid Exclusion Notice.

- d. **Early Completion of the Opt-Out Period.** Upon the written agreement of all Contributors to a Proposed Specification, the Opt-Out Period for such Proposed Specification may be completed prior to the expiration of the Opt Out Period.

**3.4 Specification Release.** The Final Specification will be released by OCP staff bearing the appropriate notice of the Specification License, listing the names of Contributors, and any valid and applicable Exclusion Notices received during an Opt-Out Period. If a Contributor has elected to provide clarifying information under Section 2.4, and if such information is included in the Final Specification, such information will be appended to the notice of the Specification License in the released Final Specification. The Final Specification will become subject to the Specification License upon release only.

**3.5 Withdrawal.** A Contributor can withdraw its Proposed Specification from the specification approval process at any time prior to approval thereof by the Steering Committee. Any

such withdrawal must be in writing. Upon such withdrawal, the Proposed Specification will no longer be deemed a Proposed Specification hereunder and all Contributions associated only with that Proposed Specification will be deemed withdrawn.

#### **4. Trademarks, Certification Marks and Logos**

**4.1 Adoption of Marks.** In the event OCP proposes to adopt any name, logo, trademark, certification mark or trade name (collectively, “Marks”) (other than the OCP name and logo), for use with any Final Specification or products, processes or services that implement and conform to the requirements of the Final Specification, OCP will provide notice to its members at least 45 days in advance. The OCP will take such steps as the board of directors deems necessary and proper to protect its rights under such Marks adopted for use by the OCP. In furtherance thereof, the board of directors will establish and disseminate reasonable conditions and procedures for the licensing and use of such Marks, demonstrably free of any unfair discrimination among the members or others.

**4.2 Member’s Adoption and Use.** Each member agrees not to use or adopt any mark for any product, service, or published material that is likely to cause confusion as determined under applicable trademark laws with any of the Marks.

#### **5. Limitation on the Scope of Disclosed Information.**

Members will endeavor not to disclose or exchange information as part of OCP’s activities among or with other members unless such disclosure is necessary in order to achieve the lawful purposes of the OCP as set forth in its Bylaws.

**6. Feedback.** Non-Contributors may provide Feedback regarding Contributions subject to the Feedback Agreement, which is attached as Appendix A and incorporated herein.

#### **Appendix A**

#### **Feedback Agreement**

**OCP Feedback Agreement for:** \_\_\_\_\_ (the Work)

The Contributors to the Work identified in the title above have developed certain specifications, documents, source code, data, and other artifacts in that Work (the “Materials”). The Contributors would like to receive input, suggestions and other feedback (“Feedback”) on the Materials.

By signing below, you (on behalf of yourself if you are an individual and your company if you are providing Feedback on behalf of the company) grant the Contributors under all applicable intellectual property rights owned or controlled by you or your company a non-exclusive, non transferable, worldwide, perpetual, irrevocable, royalty-free license to use, disclose, copy, publish, license, modify, sublicense or otherwise distribute and exploit Feedback you provide for the purpose of developing and promoting the Materials for which the Feedback was provided.

You warrant to the best of your knowledge that you have the right to provide this Feedback, and if you are providing Feedback on behalf of a company, you warrant that you have the right to provide Feedback on behalf of your company. In all other respects, the Feedback is provided to the Contributors “as is” without any warranties, express or implied.

You also acknowledge that the Contributors are not required to incorporate your Feedback into any version of the Materials. Unless required to be disclosed pursuant to a valid order by a court or other governmental entity of competent jurisdiction, you further agree that you and your company will not disclose or distribute to third parties any non-public drafts of the non-public Materials provided to you by the Contributors. Unless the parties agree otherwise or the contributed Materials are made publicly available by the Contributors, this obligation of non disclosure will expire five (5) years from the date the Materials were disclosed to you.

Source Code: Any source code you provide to the Contributors is subject to the Developer Certificate of Origin version 1.1, available at <http://developercertificate.org/> and the license indicated in the Contributors’ source repository for the Materials.