

Ecma International Royalty-Free Patent Policy Extension Option – version 2 (approved in December 2018)

E.1 This is an optional Royalty-Free (RF) extension of the Ecma Code of Conduct in Patent Matters (“Code of Conduct”). Under this RF Policy extension, Ecma International may designate certain Technical Committees (TCs) as “Royalty-Free TC” (RFTC) or Task Groups of an Ecma TC as “Royalty-Free Task Group” (RFTG). As to such RFTCs and RFTGs, this RF Policy shall supplement the Code of Conduct and shall take precedence as to anything in the Code of Conduct to the contrary. References in this RF Policy to “Standards” mean Ecma International Standards and Ecma Technical Reports, and references to “Draft Standards” mean drafts of Standards. When used in this RF Policy, “Affiliates” shall refer to entities that are related as described in 3.2 of the Ecma By-laws. In the text that follows RFTC/RFTG is standing for RFTC and RFTG.

E.2 Designation of an RFTC/RFTG is done by the General Assembly and may only occur prior to formation of such RFTC/RFTG (in other words, a standards development activity may not retroactively be designated as an RFTC/RFTG). If work done elsewhere is brought into an RFTC/RFTG, this RF Policy has no effect on any patent-related matters as to that pre-existing work as such. This RF Policy applies to that work only to the extent that it is included in a Standard resulting from the RFTC/RFTG. For Ecma members not participating in any particular RFTC/RFTG, the Code of Conduct, not this RF Policy, applies to such member with respect to the work of that RFTC/RFTG.

E.3 Participation in RFTC/RFTGs and Registration Form: Participation in each RFTC/RFTG shall be limited to those individuals where each entity on whose behalf the individual participates has submitted a “Registration Form” that includes a royalty-free patent license statement that applies to any patent claims owned or controlled by such entity and its Affiliates that are required to implement (are “Essential” to) any Standards that result from the RFTC/RFTG designated on the Registration Form. The Registration Form shall be subject to the opt-out provisions in this RF Policy. The Registration Form shall state that the submitting entity (“RFTC/RFTG Member Organization”) is prepared to grant licenses free of charge to an unrestricted number of applicants on a worldwide, non-discriminatory basis, and under other reasonable terms and conditions to make, use, sell, and import implementations of all Standards that result from the RFTC/RFTG designated on the Registration Form. As to future versions of such Standards, the scope of the patent commitment shall be the same as is described in 4.2 of the Code of Conduct. An RFTC/RFTG Member Organization shall be considered “in” or “a participant in” an RFTC/RFTG from the time of submission of a Registration Form until withdrawal (see E.7), if any. Submission of a Registration Form shall be via a mechanism provided by Ecma International.

E.4 Opt-Out of Identified Patents: An RFTC/RFTG Member Organization may exclude from the royalty-free patent license commitment, via an identification mechanism provided by Ecma International (see E.6.), specific patents and/or patent applications that the RFTC/RFTG Member Organization believes may be or become Essential (“Identified Patents”). This opt-out opportunity must be exercised prior to the end of the corresponding Opt-Out Review Window. The RFTC/RFTG Member Organization may only exclude Identified Patents to the extent that the

Essentiality of the patents is due to material that (a) was added to the Draft Standard since the version of the Draft Standard for the previous Opt-Out Review Window (if any; see E.5), and (b) was not material that the RFTC/RFTG Member Organization contributed to the RFTC/RFTG. In this context, “material” refers to the technical substance of what is being specified of the Draft Standard, not to specific words in a document. In other words, the opt-out of Identified Patents only applies to new material added to the Draft Standard since the previous opt-out opportunity and, for clarity, specifically does not apply to minor revisions or editorial changes.

E.5 Opt-Out Review Windows: Each Opt-Out Review Window shall be initiated by Ecma Secretariat in consultation with the TC and RFTG chairs. An Opt-Out Review Window shall apply to one or more particular Draft Standards. An Opt-Out Review Window shall be at least 60 days long. All RFTC/RFTG Member Organizations in an RFTC/RFTG shall be notified of each Opt-Out Review Window prior to the beginning of the period and such notification shall clearly identify the end of the period. Opt-Out Review Windows shall be initiated for each Draft Standard at intervals of no less than 4 months (except with the agreement of all RFTC/RFTG Member Organizations in the corresponding RFTC/RFTG) and no longer than 18 months. There shall be an Opt-Out Review Window for each final version of a Draft Standard, and such window shall be timed such that it ends before the Draft Standard becomes a Standard.

E.6 Opt-Out Patent Information: The opt-out identification mechanism (see E.4) shall require: (a) identification of the Identified Patents; (b) identification of the Standard or Draft Standard; and (c) indication of whether, with respect to such Identified Patents and such Standard (or a Standard resulting from such Draft Standard), the RFTC/RFTG Member Organization (i) is prepared to grant licenses under paragraph 2.2 (RAND terms) of the Code of Conduct, or (ii) is not prepared to grant such licenses.

E.7 Withdrawal from an RFTC/RFTG: Ecma International shall provide a mechanism by which an RFTC/RFTG Member Organization in an RFTC/RFTG can withdraw from the RFTC/TG. No participation in the RFTC/RFTG on behalf of a withdrawn RFTC/RFTG Member Organization shall be permitted following such withdrawal (unless the RFTC/RFTG Member Organization rejoins with a corresponding new Registration Form). The patent commitment in the Registration Form of a withdrawn RFTC/RFTG Member Organization: (a) shall continue to apply to material in a Draft Standard (i) for which the corresponding Opt-Out Review Window has ended, and (ii) that the RFTC/RFTG Member Organization has contributed to the RFTC/RFTG; and (b) shall not apply as to other material in a Draft Standard. In addition, after an RFTC/RFTG Member Organization withdraws from the RFTC/RFTG, the Code of Conduct applies to that Ecma member as it does to other non-participating Ecma members.

E.8 Late-Joining and Re-Joining Participants: A Registration Form for an RFTC/RFTG applies to all Draft Standards for all Opt-Out Review Windows prior to such joining, including those that passed before the RFTC/RFTG Member Organization began participation in the RFTC/RFTG. However, an RFTC/RFTG Member Organization may, immediately prior to beginning participation in an RFTC/RFTG, use the opt-out mechanism to opt-out Identified Patents, which shall be effective as to material in Draft Standards in Opt-Out Review Windows that passed when the RFTC/RFTG Member Organization was not a participant in the RFTC/RFTG. For an RFTC/RFTG Member

Organization that has previously withdrawn, the new opt-out shall only apply to material in Draft Standards in Opt-Out Review Windows that passed after that prior withdrawal. A party that joins during an Opt-Out Review Window will have the remainder of that Opt-Out Review Window to exclude a patent or patent application.