

PLCopen[®] INTELLECTUAL PROPERTY RIGHTS POLICY

This PLCopen[®] Intellectual Property Rights Policy (“IPR Policy”) governs the treatment of intellectual property in the production of standards by PLCopen[®] (the “Organization”). This policy applies to all members of the Organization.

SECTION 1 DEFINITIONS

1.1 “**Affiliate**” or “**Affiliates**” means any entity that is controlled by, under common control with, or that controls the subject party. For purposes of this definition “control” means direct or indirect control of more than fifty percent (50%) of the voting power to elect directors of a corporation or, for any other entity, the power to direct management of such entity.

1.2 “**Contribution**” means a submission to a Technical Committee or the proposal of an addition to or modification of an existing Draft Specification or Official Release, or portion thereof, provided that the submission is submitted in writing (including a writing in electronic medium) and marked as a “Contribution.”

1.3 “**Compliant Portion**” means only those specific portions of products or services that:
(i) implement and are compliant with an Official Release and (ii) are within the bounds of the Scope.

1.4 “**Draft Specification**” means all versions of a technical document that have not been published as an Official Release and all Contributions thereto.

1.5 “**Official Release**” means a Draft Specification that has been published to the public as an Official Release in accordance with Section 2. For purposes of this definition, the Official Release shall not include any implementation examples unless such implementation examples are expressly identified as being subject to the patent licenses contemplated herein.

1.6 “**Member**” means all members of the Organization who have so qualified for such classification pursuant to the Articles of Association.

1.7 “**Necessary Claim(s)**” means one or more claims of a Patent that (i) at any time during the term of this IPR Policy, are both (A) owned or controlled and (B) licensable by a Member or any of its Affiliates; and (ii) would be necessarily infringed by implementing the Normative Requirements of an Official Release within the bounds of the Scope, wherein a patent claim is “necessarily infringed” because there is no commercially reasonable non-infringing alternative for implementing one or more Normative Requirements of the Official Release within the bounds of the Scope. Notwithstanding the foregoing sentence, Necessary Claims do not include any claims (a) other than those set forth above even if contained in the same patent or patent application as Necessary Claims; (b) that read solely on any implementations of any or all portions of the Official Release that are not within the bounds of the Scope; or (c) that would require a payment of royalties by the licensor to any unaffiliated third party. As used herein, the term “Patent” means all classes or types of patents (including, without limitation, originals, divisionals, continuations, continuations-in-part, extensions or reissues) throughout the world. The term “Patent” further includes utility models, inventor’s certificates, and similar rights, whether issued or registered, with respect to the protection of inventions and discoveries.

1.8 “**Normative Requirements**” means those portions of the Official Release, including text, design features, and tables, that are expressly identified as required for compliance with the Official Release including portions of the Official Release that are identified as required for compliance with an optional or alternative portion. For clarity, those portions of the Official Release, including any portions of an optional or alternative portion thereof, which are designated by the terms “must”, “shall”, “mandatory”, “normative” or “required” are expressly identified as being required for compliance under this Section 1.6.

1.9 “**Scope**” means computer software and schema, in each case limited to industry automation applications and only as described in an Official Release and only to the extent that: (1) they are described with particularity and as Normative Requirements in such Official Release; and (2) the sole purpose of such description is to enable Compliant Portions of products to interoperate, interconnect or communicate as defined within such Official Release. Notwithstanding the foregoing, the Scope shall not include (a) any enabling technologies that may be necessary to make or use any product or portion thereof that complies with an Official Release, but are not themselves expressly set forth in an Official Release (e.g., semiconductor manufacturing technology, semiconductor packaging technology, processor architecture/microarchitecture, processor instruction sets, compiler technology, etc.); or (b) the implementation or use of other specifications published and made available by any other standards body, but referred to in the body of an Official Release and not first developed in the Organization, even if required for compliance with the Official Release; or (c) any portions of any product and any combinations thereof the purpose or function of which is not required for compliance with an Official Release; or (d) reference or informational portions of the Official Release.

SECTION 2 SPECIFICATION REVIEW AND NOTICE

2.1 Draft Specifications Review. For a period of ninety (90) days from the date that the Organization sends a Draft Specification to the Members, the Members and their Affiliates may review the same for any Necessary Claims that may be implicated by the Draft Specification. While there is no requirement for a Member or its Affiliates to review its or their patent portfolios for Necessary Claims, Members are advised that unless they provide a timely Licensing Objection pursuant to Section 2.2, or notice of withdrawal pursuant to Section 2.3, before the end of this ninety (90) day period, they are committing, on behalf of themselves and their Affiliates, to the licensing provisions of Section 3 with regard to Necessary Claims implicated by the Draft Specification, if and when the Draft Specification implicating those Necessary Claims is adopted by the Organization as an Official Release in accordance with this Section 2.

2.2 Licensing Objection. In the event that the Member in good faith believes that the implementation of Necessary Claims in the Draft Specification would require a license from that Member or any of its Affiliates, and that such Member or Affiliate is unwilling to provide a license under such Necessary Claims in accordance with Section 3 below, that Member must within the review period of Section 2.1 provide written notification to the Organization of its intent not to grant licenses under such Necessary Claims (“**Licensing Objection**”). Notwithstanding the foregoing, a Member shall not have the right to submit a Licensing Objection with respect to (i) any Necessary Claims in any Contribution submitted by such Member or its Affiliate, or (ii) any Necessary Claims that were implicated in prior versions of Draft Specification currently under review (and that had been previously reviewed pursuant to this Section 2). Any such Licensing Objection will include written identification of any Necessary Claims that such Member or any of its Affiliates refuses to license hereunder, as well as the specific portion of the Draft Specification to which any such Necessary Claim applies. In the event that a Member properly submits a Licensing Objection within the license

review period set forth in Section 2.1 above, such Member and its Affiliates shall not be required to grant licenses under the identified Necessary Claims. Provided, however, any Necessary Claims for which there is no declaration by the end of the review period shall be subject to the license obligation set forth in Section 3.1.

2.3 Withdrawal. In lieu of delivering a Licensing Objection pursuant to Section 2.2, a Member who has not itself, and whose Affiliates have not, made a Contribution to the Draft Specification that is the subject of the review specified in Section 2.1 may provide notice to the Organization that it terminates its membership in the Organization pursuant to this subsection (“Notice of Withdrawal”) if that Member determines that the Draft Specification implicates Necessary Claims which that Member or its Affiliate is unwilling to license to the other Members and their Affiliates pursuant to Section 3. A Member wishing to exercise the right to withdraw under this provision must deliver notice of withdrawal not later than the end of the review period for the applicable Draft Specification referenced in Section 2.1. Said notice must include written identification of any Necessary Claims that it or its Affiliates do not wish to license hereunder, as well as the specific portion of the Draft Specification to which any such Necessary Claim applies.

2.4 Responding to any Licensing Objection or Notice of Withdrawal; Subsequent Draft Specification Reviews. As soon as practical after receipt, the Organization shall discuss any the Licensing Objection or Notice of Withdrawal, as well as alternative design options or recommendations for the applicable Draft Specification.

SECTION 3 LICENSING OF MEMBER’S INTELLECTUAL PROPERTY RIGHTS

3.1 Patent License Grant. Upon adoption of an Official Release, each Member and its Affiliates hereby grants to all other Members and their Affiliates (a granting Member or its Affiliates is hereinafter referred to as “Licensor” and a receiving Member or its Affiliates is hereinafter referred to as “Licensee”) under reasonable terms and conditions that are demonstrably free of any unfair discrimination, a royalty-free, nonexclusive, nontransferable, worldwide license (without the right to grant a sublicense) under Licensor’s Necessary Claims solely to make, have made, use, import, and directly and indirectly sell and offer to sell, and otherwise distribute and dispose of Compliant Portions by themselves or in or with Licensee products integrating such Compliant Portions; provided that such license does not extend to any part or function of a product (other than the Compliant Portion therein) in which a Compliant Portion is incorporated but that is not itself part of the Compliant Portion. However, such license grant is conditioned upon Licensee’s grant of the same reciprocal license on reasonable and non-discriminatory terms.

3.2 Copyrights. Each Member and its Affiliates hereby grants to the Organization a worldwide, irrevocable, non-exclusive, non-transferable (except as otherwise provided in the Bylaws), sub-licensable, royalty-free copyright license to reproduce, create derivatives, distribute, display, perform and edit the Contributions of the Members solely for the purposes of developing, publishing, and distributing Official Releases. Subject to the Member’s copyright ownership in their Contributions, the Organization shall own all right, title, and interest in the compilation of Contributions forming the Official Releases and related works. Upon the release of an Official Release, the Organization grants and agrees to grant each Member and its Affiliates a worldwide, non-exclusive, royalty-free copyright license to reproduce, distribute and display such Official Release as reasonably necessary to implement such Official Release. Members are allowed to disclose Contributions and Official Releases to internal contractors on a need-to-know basis, subject to the execution of confidentiality

and/or nondisclosure agreements. This Section 3.2 shall survive any termination of such granting Member's participation in the Organization.

3.3 Patent Searches. The obligations set forth in this IPR Policy do not imply any obligations on Members to perform or conduct patent searches. Further, nothing in this IPR Policy or the act of a Member submitting or approving a Contribution to a Draft Specification will be construed or otherwise interpreted as any express or implied representation that such Member does or does not hold any patents or patent applications which contain Necessary Claims.

3.4 No Other License. The Members agree no license, immunity or other right is granted under this IPR Policy by any Member or its Affiliates to any other Member or their Affiliates or to the Organization, either directly or by implication, estoppel or otherwise, other than the licenses in Section 3.1 and Section 3.2.

3.5 No Attempt to Circumvent. Each Member represents, warrants and agrees that it has not and will not, for the purpose of circumventing the obligation to grant the licenses set forth in this IPR Policy, intentionally transfer, encumber or take any other action with respect to either (a) its Necessary Claims or (b) its patent applications or inventions that such Member reasonably believes may become Necessary Claims.

3.6 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 IPR Policy. A Member may choose the manner in which it complies with the obligations of this section, provided that any agreement for transferring or assigning Necessary Claims includes 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).

SECTION 4 SURVIVAL OF OBLIGATION TO GRANT LICENSES AND RIGHT TO RECEIVE LICENSES AFTER TERMINATION

4.1 Survival of Obligation to Grant Licenses. A Member whose participation in the Organization has terminated shall continue to be obligated to grant licenses as provided in Section 3.1 for any Necessary Claims in an Official Release adopted prior to the effective date of such Member's termination.

4.2 Member's Right to Receive Licenses after Termination. All obligations of all other Members under this IPR Policy shall cease with respect to a terminating Member effective as of the effective date of such Member's termination of its membership in the Organization, except that any licenses previously granted to such terminating Member or its Affiliates prior to the effective date of such Member's termination shall survive in accordance with their terms; provided, however, that the licenses granted to such terminating Member for any Necessary Claims in an Official Release that has been finally adopted prior to the effective date of such Member's termination shall continue to survive solely to the extent that such terminating Member continues to grant reciprocal licenses under the same or similar terms and conditions as set forth in this IPR Policy.

SECTION 5 AMENDMENTS

This IPR Policy may be altered, amended or repealed, or a new IPR Policy may be adopted at any regular or special meeting of the Board of Management by an affirmative vote of at least three-fourths (3/4) of all members of the Board of Management. Notwithstanding the foregoing, no alteration, amendment or repeal of this IPR Policy shall be effective until the thirty-first (31st) day after notice, which notice may be by electronic means.

SECTION 6 GENERAL PROVISIONS

6.1 Confidentiality of Specifications. Draft Specifications are Confidential Information of the Organization. Without limiting the foregoing, Members may use such Confidential Information in products or software implementations, provided however, that such use may not include a release of the Confidential Information itself unless approved by the Board of Management pursuant to the preceding sentence.

6.2 Consideration. Members acknowledge that payment of fees for membership in the Organization constitutes partial consideration for the license rights granted under this IPR Policy.

6.3 Governing Law. This IPR Policy shall be construed and controlled by the laws of the Netherlands without reference to conflict of laws principles. Members agree to accept personal jurisdiction in the Netherlands.

6.4 No Warranty. All parties acknowledge that all information provided as part of the Draft Specification and/or Official Release development process and the Draft Specification and/or Official Release itself are all provided "AS IS" WITH NO WARRANTIES WHATSOEVER, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, AND THE PARTIES EXPRESSLY DISCLAIM ANY WARRANTY OF MERCHANTABILITY, NONINFRINGEMENT, FITNESS FOR ANY PARTICULAR PURPOSE, OR ANY WARRANTY OTHERWISE ARISING OUT OF ANY PROPOSAL, SPECIFICATION, OR SAMPLE.

6.5 Limitation of Liability. IN NO EVENT WILL THE ORGANIZATION, ANY PARTY HERETO OR ANY OTHER MEMBER OF THE ORGANIZATION BE LIABLE TO ANY OTHER PARTY OR MEMBER OF THE ORGANIZATION FOR THE COST OF PROCURING SUBSTITUTE GOODS OR SERVICES, LOST PROFITS, LOSS OF USE, LOSS OF DATA OR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, OR SPECIAL DAMAGES OF ANY PARTY INCLUDING THIRD PARTIES, WHETHER UNDER CONTRACT, TORT, WARRANTY OR OTHERWISE, ARISING IN ANY WAY OUT OF THIS OR ANY OTHER RELATED AGREEMENT, WHETHER OR NOT SUCH PARTY HAD ADVANCE NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.

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