

SUNSPEC ALLIANCE

LIMITED PARTICIPANT IP AGREEMENT

1. Incorporation

The SunSpec Alliance is organized as a nonprofit corporation under the laws of the State of California and has filed for tax-exempt status under Section 501(c)(6) of the Internal Revenue.

2. Purposes of Alliance

The SunSpec Alliance is a non-profit mutual benefit corporation formed to accelerate the growth of the distributed energy industry by specifying data models, communication standards, and best practices. The SunSpec framework leverages existing and developing international standards wherever possible. The purposes for which the SunSpec Alliance is organized are to:

- a) Enable growth of the renewable energy market worldwide by defining open interface standards for the renewable energy industry, thus enabling renewable energy systems to interact with information technology systems in a predictable and reliable manner;
- b) Make appropriate use of standards created by other standards bodies, agencies and associations wherever possible;
- c) Promote the ratification, approval and adoption of such specifications recommendations developed by the SunSpec Alliance to manufacturers, systems integrators and regulatory agencies, and energy consumers;
- d) Establish certification guidelines and procedures to ensure compatibility and interoperability of the standard recommendations among third party products;
- e) Provide a forum and environment whereby SunSpec Alliance Members and and Limited Participants may meet to define and publish recommendations; and provide a forum whereby users may meet with developers and providers of related products and services to identify requirements for interoperability and general usability; and
- f) Educate the business, regulatory and consumer communities as to the value, benefits and applications for such a standard in consumer and commercial products and services through public statements, publications, trade shows, demonstrations, seminar sponsorships and other programs established by the SunSpec Alliance.

3. Duties and Rights of Limited Participants

The duties and rights of Limited Participants are to honor the terms of this Limited Participants IP agreement and to participate in work group activities of the Alliance on a voluntary basis.

4. Intellectual Property Rights

Participant agrees to the terms and conditions of the Intellectual Property Rights (“IPR”) Policy attached hereto as Exhibit 1. Limited Participant acknowledges and understands that the IPR Policy may be revised from time to time in accordance with the provisions of the Corporate Bylaws.

5. Confidential Information

Except as otherwise identified by Limited Participant, any information Limited Participant submits or discloses to the Alliance, including any committee or working group thereof, shall be treated as non-confidential and shall be available to all Members and Limited Participants without restriction.

6. Prohibited Activities

Limited Participant agrees to the terms and conditions of the Antitrust Guidelines attached hereto as Exhibit 2.

7. Term and Termination

(a) Term

Limited Participant acknowledges that the Alliance shall have a perpetual corporate term. This Limited Participation Agreement shall commence on the acceptance date and remain in effect for six months or until the earlier of: (i) expiration of the Alliance’s corporate term; (ii) such time as Limited Participant or SunSpec elects not to renew the Limited Participants status as provided in Section 3; (iii) such time as Limited Participant elects to voluntarily withdraw as provided in Section 9(b); and (iv) termination of Limited Participant status as a Limited Participant as provided in Section 6 (c); or upon receipt of written notice of by Limited Participant to the Alliance that Limited Participant has withdrawn from Participant activities.

(b) Termination of Participation

The Alliance shall have the right to terminate Limited Participant’s status as a Limited Participant for cause. The term “for cause” shall mean Limited Participant’s failure to materially comply with its obligations under this Limited Participant IP Agreement. Upon such termination, the terms of Section 7(c) shall apply.

(c) Survival

Upon expiration or termination of a Limited Participant’s status as a Limited Participant: (i) the following terms shall survive: (A) this Section 6(c) and Sections 5, 8 and 9 of this Limited Participation Agreement IP; and (B) Sections 2 and 3 of the IPR Policy with respect to Necessary Claims of the Limited Participant and of other Participants incorporated into or a part of any Adopted Specifications existing prior to the effective date of expiration or termination of such Participant’s status as a Limited Participant; and (ii) the terms of Sections 2 and 3 of the IPR Policy shall not apply to any portions of Proposed Specifications which have been expressly identified and affirmatively withdrawn from the Proposed Specifications by such Limited Participant prior to the effective date of expiration or termination of such Limited Participant’s status as a Limited Participant.

8. Disclaimer of Warranties

NEITHER PARTY HERETO MAKES ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO ANY SOFTWARE, DOCUMENTATION, INTERFACES, SAMPLE IMPLEMENTATIONS, SPECIFICATIONS OR ANY OTHER ITEMS PROVIDED OR MADE AVAILABLE TO PARTICIPANT, THE ALLIANCE OR ANY OTHER MEMBER OF THE ALLIANCE, OR WITH RESPECT TO ANY STANDARD OR INTERFACE OR SPECIFICATIONS APPROVED, PROMOTED OR ENDORSED BY THE ALLIANCE OR ANY OTHER MEMBER OF THE ALLIANCE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT ANY OF THE FOREGOING ITEMS DO NOT INFRINGE OR CONSTITUTE A MISAPPROPRIATION OF THE PROPRIETARY RIGHTS OF ANY THIRD PARTIES. EACH PARTY AGREES THAT ALL SUCH ITEMS ARE PROVIDED OR MADE AVAILABLE HEREUNDER "AS IS."

9. Limitation of Liability

Except for the indemnity obligations under Section 10 below, neither party shall be liable to the other for any indirect, special, exemplary, consequential, special or punitive damages, including without limitation, lost profits even if advised of the possibility of such damages. In addition to the foregoing, with respect to Participant's participation in the activities of the Alliance, the Alliance shall not be liable to Limited Participant for any direct, indirect, incidental, consequential, special or punitive damages including, without limitation, lost profits, sustained or incurred by Limited Participant that are not attributable to the actions or inactions of the Alliance under this Limited Participant IP Agreement.

10. Indemnification

Limited Participant shall indemnify, defend and hold harmless the Alliance and its directors, officers, employees, representatives, agents, attorneys, successors and assigns (collectively, the "indemnified Parties") from and against any and all claims, suits, proceedings, liabilities, obligations, judgments, causes of action, costs and expenses (including reasonable attorneys' fees) to the extent arising out of or resulting from Limited Participant's failure to materially comply with any of its obligations under this Limited Participant IP Agreement. The Indemnified Parties promptly shall notify Limited Participant of any such claims, suits or proceedings and, at Limited Participant's sole cost and expense, reasonably cooperate with Limited Participant in the defense of such claims, suits or proceedings. Limited Participant's cumulative liability pursuant to this Section 9 shall not exceed One Hundred Thousand Dollars (\$100,000).

11. Insurance

The Alliance shall purchase and maintain insurance on behalf of each person who is or was a director, committee member, officer, employee or working group member of the Alliance covering the activities of such persons related to the business of the Alliance with coverage limits determined by the Board of Directors.

12. Notices

Any written notice required or permitted to be delivered pursuant to this Limited Participant IP Agreement shall be in writing and shall be deemed delivered: (a) upon delivery if delivered in person; (b) three (3) business days after deposit in the United States mail, registered or certified mail, return receipt requested, postage prepaid; (c) upon transmission if sent via facsimile, with a confirmation copy sent via overnight mail,

provided that such overnight delivery is received by the sender; and/or (d) one (1) business day after deposit with a national overnight courier, provided that such overnight delivery is received by the sender, in each case addressed to the following:

If Limited Participant:

The Contact/Representative at the address entered by Limited Participant electronically at <http://sunspec.org/limitedparticipant-agreement/> and attached to this Agreement.

If to the Alliance:

SunSpec Alliance
4030 Moorpark Avenue, Suite 109
San Jose, CA 95117
Attention: Executive Director

or to such other individual or address as may be specified by either party hereto upon notice given to the other.

13. Binding Nature and Assignment; Transfer of Participation Interest

This Limited Participant Agreement shall be binding on the parties and their successors and assigns. Limited Participant may assign or otherwise transfer its participation interest of this Limited Participant IP Agreement, or any part hereof, whether by operation of law, change of control (including a merger, exchange of stock or otherwise) or otherwise, without the prior written consent of the Alliance. Any assignment or transfer or attempted assignment or transfer by Limited Participant in violation of the terms of this Section shall be null and void and of no force or effect.

14. Media Releases and Use of Trademarks and Logos

Limited Participant shall have no right to list the Alliance's name or logo on Limited Participant's web site, advertising, or promotional materials. Except as provided above or as may be allowed pursuant to written instructions or guidelines issued by a party, neither party shall use the name or any trademark or logo of the other party without such other party's prior consent. By executing this Limited Participant IP Agreement, Participant agrees that the Alliance shall have the right to list Participant's name and logo on the Alliance web site and advertising and promotion materials, in accordance with written instructions and limitations provided to the Alliance by Limited Participant.

15. Severability

If any provision of this Limited Participant IP Agreement is found by a court of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable any other part of this Limited Participant IP Agreement, but this Limited Participant IP Agreement shall be construed as not containing the particular provision or provisions held to be invalid or unenforceable.

16. Waiver

No delay or omission by either party to exercise any right occurring upon any noncompliance or default by the other party with respect to any of the terms of this Limited Participant IP Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the parties hereto of any of the covenants, conditions or agreements to be performed by the other shall not be construed to be a

waiver of any succeeding breach thereof or of any covenant, condition or agreement herein contained.

17. Governing Law

This Limited Participant IP Agreement, and all the rights and duties of the parties arising from or relating in any way to the subject matter of this Limited Participant IP Agreement or the transaction(s) contemplated by it, shall be governed by, construed and enforced in accordance with the laws of the State of California (excluding any conflict of laws, provisions of the State of California that would refer to and apply the substantive laws of another jurisdiction).

18. Relationship of Parties

Nothing set forth in this Limited Participant IP Agreement shall be deemed or construed to render the parties as joint venturers, partners or employer and employee.

19. Entire Agreement; Modifications

This Limited Participant IP Agreement sets forth the entire, final and exclusive agreement between the parties as to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, between the parties. This Limited Participant IP Agreement may be modified only pursuant to a writing executed by authorized representatives of the Alliance and Limited Participant.

EXHIBIT 1
SUNSPEC ALLIANCE INTELLECTUAL PROPERTY RIGHTS POLICY FOR
PARTICIPANTS

From and after the date that this Intellectual Property Rights Policy (“IPR Policy”) is adopted, the IPR of the Alliance, its Members and Limited Participant shall be governed prospectively by this IPR Policy, all in accordance with the terms of the SunSpec Alliance Bylaws. Recognizing that the Alliance is an open participation organization whose activities are focused to accelerate the growth of the renewable energy industry through standardization of monitoring and management interfaces for energy system components, this IPR Policy is designed to maximize wide-spread adoption of Specifications. In furtherance of the objective of widespread adoption, the Alliance and its Members agree that barriers to industry use of Adopted Specifications should be limited as much as possible. Capitalized terms used in this Exhibit are defined in Section 7 of this Exhibit.

1. IPR Categories. IPR shall be categorized as follows:

- (a) Adopted Specifications;
- (b) Alliance IPR; and
- (c) Joint IPR

With each category subject to the further terms set forth in this IPR Policy.

2. Disclosure of Necessary Claims. Each Member shall disclose whether such Member has any Necessary Claims or Related Patent Applications (including without limitation, any Necessary Claims or Related Patent Applications of an Affiliate of a Member and/or a Non-Member) relating to the applicable Proposed Specifications and/or Adopted Specifications. The declaration form, attached as Annex 1, is to be used by Members in disclosing the above. Should a Member fail to disclose a Necessary Claim or Related Patent Application, Member agrees to grant to all other Members a worldwide, non-exclusive, sublicensable, royalty-free, perpetual, irrevocable right to make, use, sell, offer for sell, and import the claimed invention that is the subject matter of the Necessary Claim or Related Patent Application.

3. RAND License for Necessary Claims. Each Limited Participant and Member agrees to negotiate in good faith for the grant to each other Participant and Member a RAND License to any Necessary Claims upon such terms and conditions as may be agreed to between such Participant and Members. If a Limited Participant or Member (“Licensor Member”) licenses to another Limited Participant or Member (“Licensee Member”) any Necessary Claims on a fee-based or other royalty-based arrangement, Licensor Member agrees that any existing and future licenses granted to it in connection with any Necessary Claims in existing or future Adopted Specifications by Licensee Member, including, without limitation, any Royalty Free Licenses or other non-fee based arrangements, may be converted to a fee-based or other royalty-based license arrangement as determined by the Licensee Member.

4. Alliance IPR and IPR Contributed to the Alliance. All right, title and interest in and to any and all IPR, software and documentation created or developed by individuals employed or retained by the Alliance for creation or development of same shall vest in the Alliance (“Alliance IPR”), and the Alliance shall be free to use and publish any research results, ideas, algorithms, techniques and other in-formation developed for or by the Alliance as determined by the Board of Directors. Members shall have a Royalty

Free License to Alliance IPR. Limited Participants shall not have a Royalty Free License to Alliance IPR.

5. Joint IPR. IPR developed jointly by the Alliance and either: (a) a Member pursuant to a separate agreement with the Alliance defining the scope of the work to be performed by such Member; or (b) a contractor acting in their capacity as such, shall be jointly owned by the Alliance and the applicable Member ("Joint IPR"). Each joint owner shall be entitled to exercise all rights of ownership as provided by law without, however, an obligation of accounting from one to the other. The Member acknowledges and agrees that the Alliance will make Joint IPR available to all Members pursuant to terms and conditions determined by the Board of Directors. For the purposes of the foregoing, the term "jointly" shall mean that at least one Member employee and one Alliance employee or contractor assigned to the Alliance qualify as co-inventors as a matter of U.S. patent law, in the case of patentable subject matter, or qualify as co-authors as a matter of U.S. copyright law, in the case of copyrightable subject matter.

6. Clearinghouse Activities. The Alliance may serve, upon such terms and conditions as may be established by the Board of Directors, as a clearinghouse for the purposes of collecting and distributing any royalties or license fees due to any applicable Members and/or Non-Members in connection with the licensure and/or use of Adopted Specifications.

7. Definitions.

"Adopted Specifications" means the Specifications that have been approved or adopted by the Alliance pursuant to the procedures set forth in the Corporate By-laws.

"Alliance IPR" is defined in Section 4.

"Fully Comply" means products or technology that meet all mandatory portions of the applicable Adopted Specifications. If the Adopted Specifications contain optional components, and the product or technology incorporates the optional components, then the products or technology must also meet the optional specifications of such Adopted Specifications.

"Interfaces" means a set of message and message sequences on the information flowing across a reference point between two identified functional entities or the method by which information, including data and control information, is conveyed between cooperative systems or devices, such as radio frequency communications-related subsystems.

"IPR" means intellectual property rights, whether by patent, copyright, trade secret or other form of intellectual property.

"Joint IPR" is defined in Section 5.

"Licensee Member" is defined in Section 3.

"Licensor Member" is defined in Section 3.

"Member" means any Member, collectively or individually, as applicable.

“Necessary Claims” means those claims of all issued patents throughout the world, that a Member or a Non-Member, as applicable, owns or has a right to, and that: (a) cover or directly relate to one or more of the Proposed Specifications and/or the Adopted Specifications, as applicable; and (b) reasonably might be necessarily in-fringed by an implementation of any Proposed Specifications, if approved as Adopted Specifications, and/or Adopted Specifications, as applicable, where such infringement could not have been avoided by another commercially reasonable non-infringing implementation of such Proposed Specifications and/or Adopted Specifications, as applicable, and such infringement is necessary to meet the implementation requirements of the Proposed Specifications and/or Adopted Specifications, as applicable. Necessary Claims shall not include any claims of any patents or patent applications covering any enabling technologies that are used in the manufacture of products that comply with the Proposed Specifications and/or Adopted Specifications, but are not expressly designated in the Proposed Specifications and/or Adopted Specifications (e.g., semiconductor manufacturing technology, compiler technology, object oriented technology, basic operating system technology, etc.). If a Member asserts that any claim is not a Necessary Claim on the basis that there is a commercially reasonable alternative to the infringing implementation of the Adopted Specification, such Member shall provide the Board of Directors with sufficient documentation evidencing the availability of such a commercially reasonable alternative.

“Member” means any Member in the Alliance that has executed the SunSpec Member Agreement. “Limited Participant” means any Participant in the Alliance that has executed the SunSpec Limited Participant IP Agreement. The Limited Participant may only attend, comment and contribute to workgroup meetings. The Limited Participant is not a SunSpec member and has no voting rights or other member rights in the SunSpec Alliance.

“Proposed Specifications” means Specifications and/or any additions and/or modifications to existing Adopted Specifications (but not the underlying Adopted Specifications) recommended for review to the Alliance by the Board of Directors.

“RAND License” means a non-exclusive license on fair, reasonable and nondiscriminatory terms and conditions, without a right to sublicense, to make, have made, use, import sell, offer to sell, license, promote or otherwise distribute and dispose of the resulting product or technology that Fully Comply with the applicable Adopted Specifications. Such RAND License to Necessary Claims shall be transferable by the licensee only with the written consent of the licensor; such consent may not be unreasonably withheld or delayed.

“Related Patent Applications” means all pending patent applications throughout the world, existing now or hereafter filed, that a Member or a Non-Member, as applicable, owns or has a right to, and that disclose subject matter that relates to any Proposed Specifications and/or Adopted Specifications, where possible infringement of any eventually issued claim(s) could not be avoided by another commercially reasonable non-infringing implementation of such Proposed Specifications and/or Adopted Specifications, as applicable. Related Patent Applications shall not include any patent applications covering any enabling technologies that are used in the manufacture of products that comply with the Proposed Specifications and/or Adopted Specifications, but are not expressly designated in the Proposed Specifications and/or Adopted Specifications (e.g., semiconductor manufacturing technology, compiler technology,

object oriented technology, basic operating system technology, etc.). If a Member asserts that any pending patent application is not a Related Patent Application on the basis that there is a commercially reasonable alternative to the infringing implementation of the Adopted Specification, such Member shall provide the Board of Directors with sufficient documentation evidencing the availability of such a commercially reasonable alternative.

“Royalty Free License” means a no cost, worldwide, perpetual, non-exclusive, nontransferable, unrestricted license to the Necessary Claims, as applicable, but does not include any right to grant sublicenses, solely to make, have made, use, import, sell, offer to sell, license, promote or otherwise distribute and dispose of the resulting product or technology.

“Specifications” means documents or specifications that define or specify one or more aspects of an Interface. Interfaces may be defined and/or specified by using either message oriented descriptions or a protocol specification.

EXHIBIT 2 SUNSPEC ALLIANCE ANTITRUST GUIDELINES

Certain types of activities conducted by industry Members and Limited Participant may be subject to scrutiny under antitrust laws as being anti-competitive. In order to minimize exposure of the Alliance, its Members (together, and collectively with any other class of Members of the Alliance, the "Members") and Limited Participant to antitrust liability, the Alliance, each Member and Limited Participants agree to abide by the following guidelines when participating with, for or on behalf of the Alliance:

1. Neither the Alliance nor any of its committees shall be used for the purpose of bringing about or attempting to bring about any understanding or agreement, written or oral, formal or informal, express or implied, among and between competitors with regard to prices, terms or conditions of sale, distribution, volume of production, territories, customers, credit terms or marketing practices.
2. The Alliance, its Members and Limited Participants shall not discuss, communicate or engage in any other exchange between or among Members and Limited Participants with regard to prices, pricing methods, production quotas or other limitations on either the timing, costs or volumes of production or sale, or allocation of territories or customers.
3. Neither the Alliance nor its Members nor Limited Participants shall engage in any activity or communication that might be construed as an attempt to prevent any person or business entity from gaining access to any market or customer for goods and services, or to prevent any business entity from obtaining a supply of goods or services or otherwise purchasing goods or services freely in the market.
4. The qualifications for membership or participation in the Alliance are set forth in the Corporate Documents. No applicant for membership or participation, who otherwise meets the qualifications set forth therein, shall be rejected for any anti-competitive purpose or for the purpose of denying such applicant the benefits of membership or participation.
5. The Alliance shall not compel or coerce any Members into accepting or complying with any Adopted Specification.
6. Adherence to Adopted Specifications or sample implementations shall be voluntary on the part of the Members of the Alliance or non-member and shall in no way be compelled, directed or coerced by the Alliance, it being solely a voluntary decision on the part of the particular Member or non-member of the Alliance as to whether to adhere to or comply with any such Adopted Specifications or sample implementations.
7. Any Adopted Specifications or sample implementations shall be based solely and exclusively upon technical considerations and upon the merits of objective judgments and thorough procedures and shall in no way be based upon any effort, intention or purpose of any of its Members or Limited Participants to reduce or eliminate competition in the sale, supply and furnishing of products and services.

8. If information, materials or reports of the Alliance for the use of the membership or participation is significant to third parties or others in the industry, then such information, material and reports will be made available by the Alliance to all such persons, on such reasonable terms and conditions as it may prescribe, in order to carry out its purposes.

9. To the extent that the purposes of the Alliance, as set forth in its Corporate Documents, require collaboration by two or more Members or representatives of Members in furthering those purposes, the Members or their representatives shall undertake such collaboration only to the extent necessary to achieve such purposes, and shall report the results of any collaboration undertaken in behalf of the Alliance to the Alliance. Any such collaboration shall exclude:

(a) The exchange of information between or among members and Limited Participants relating to any aspect of competition among the Members, except to the extent that the exchange is reasonably required to accomplish the purposes of the Alliance and is unlikely to have any impact on competition between or among Members and Limited Participants. In case of doubt, the collaborating Members should consult counsel for the Alliance with regard to the proposed exchange or the format in which the exchange should take place.

(b) Any agreement or conduct restricting the production of any product by any Member, limiting the manner in which any Member markets or promotes any product, requiring the purchase or sale of any product by any Member, or limiting the sharing of intellectual property by, between, or among Members. The collaborating Members should consult counsel forth Alliance with respect to any limitation the Alliance may desire lawfully to impose on behalf of the Alliance with respect to the results of the collaboration.