



ethernet alliance

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**Bylaws**  
**of**  
**The Ethernet Alliance**  
**A California Nonprofit Mutual Benefit Corporation**

**Version 2.4**  
**June 21<sup>st</sup>, 2017**

## Document Revision History

Version	Date Approved by Board of Directors	History
Version 2.4	June 21, 2017	Updated to include of PoE Certification Membership class and removal of Sustaining Member class. Member benefits modified accordingly.
Version 2.3	February 24, 2017	Updated section 5.10 (e) to reflect 48 hour notice
Version 2.2	August 29, 2016	Updated section 1.2 (e) outlining the Ethernet Alliance position
Version 2.1		Updated Section 5.10 (e) to allow for special meetings to be called 48 hours in advance of meeting date
Version 2.0	March 20, 2014 (anticipated)	Updated Section 3.2 to include Associate Membership class
Version 1.9	May 6, 2013	Revised 3.2(e) per unanimous consent of the BoD
Version 1.8a	March 14, 2013	Revised Article II per motion of February 20, 2013 members meeting.
Version 1.7	April 6, 2011	Revised 1.2(b) Mission and 1.2(c) Charter statements per motion of February 3, 2010 members meeting
Version 1.6	September 16, 2010	Update Section 5.10.e – 3 days notice required
Version 1.5	February 4, 2009	Maximum number of directors decreased to 9
Version 1.4	December 18, 2007	Added Section 5.14 Removal of Director and Updated Section 5.10 Director Meetings; corrected spelling errors; updated physical address
Version 1.3	October 10, 2006	No applications to join the Corporation as a Sustaining Member will be accepted after October 10, 2006
Version 1.2	May 16, 2006	Updated Section 3.2 Membership Rights and Privileges
Draft 1.1	September 13, 2005	Maximum number of directors increased to 11
Draft 1.0		Initial Draft



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## ARTICLE I PURPOSES AND OBJECTS

### Section 1.1 General Purpose

The name of this corporation is THE ETHERNET ALLIANCE ("the Corporation"). The Corporation is a nonprofit mutual benefit corporation organized under the Nonprofit Mutual Benefit Corporation Law of the State of California. The business of the Corporation shall not be conducted for the financial profit of its members. The purpose of the Corporation is to engage in any lawful act or activity for which a corporation may be organized under such law.

### Section 1.2 Specific Purposes

The following are the specific purposes of the Corporation.

#### (a) Purpose

The Corporation is to promote Ethernet technologies based on existing standards and the development of new standards by appropriate standards organization, and to encourage the utilization and implementation of Ethernet as a key networking technology for connectivity of various computing, data and telecommunications devices.

#### (b) Mission

The mission of the Corporation will be to promote industry awareness, acceptance and advancement of technology and products based on, or dependent upon, both existing and emerging IEEE 802 Ethernet standards and their management. To accelerate industry adoption and remove barriers to market entry by providing a cohesive, market responsive, industry voice. Provide resources to establish and demonstrate multi-vendor interoperability.

#### (c) Charter

The charter of the Corporation will be comprised of the following major goals:

- (1) Support existing Ethernet standards;
- (2) Encourage individuals to support Ethernet standards effort conducted in IEEE 802;
- (3) Encourage individuals to support technology and standards dependent upon Ethernet standards;
- (4) Promote industry awareness, acceptance, and advancement of Ethernet standards and technologies;  
and
- (5) Provide resources to establish, demonstrate and promote multi-vendor Ethernet interoperability events.

#### (d) Activities

The activities of the Corporation will include, but not be limited to:

- (1) Participate in tradeshows, industry conferences, market development, and interoperability activities;
- (2) Communicate to the public, press, and analysts with a single, comprehensive message regarding Ethernet technology, infrastructure, and the Ethernet market in general;
- (3) Support and facilitate private and public demonstrations of multi-vendor interoperability;
- (4) Support and facilitate development of technical whitepapers; and Perform other activities as permitted under these Bylaws in furtherance of the goals of the Corporation.
- (5) Certification programs for testing products against Ethernet Alliance developed specifications, such as the PoE Certification Program.

#### (e) Members

The members of the Corporation ("Members") are individually and collectively committed to open competition in the development of products, technology, and services, and the Members are not restricted in any way from designing, developing, marketing, and/or procuring hardware, software, systems, technology, or services. Any Ethernet Alliance position approved by its membership that is related to the development, in another organization, of a standard, specification, implementers agreement, etc. outside of the Ethernet Alliance, shall not be deemed as direction to or an obligation upon any Member company in that entity-based organization, or individual, who is employed by or affiliated with a Member company, in that individual-based organization.

### **Section 1.3 Limitations on Corporate Activities**

Notwithstanding anything herein to the contrary, nothing contained in these Bylaws shall authorize the Corporation directly or indirectly to engage in any act or thing incidental to or connected with the purposes set forth in Article I hereof or in advancement thereof which would cause the Corporation to be disqualified as a business league within the meaning of Section 501(c)(6) of the United States Internal Revenue Code. No part of the Corporation's net earnings or assets will inure to the benefit of any Member, Director or private person.

### **Section 1.4 General Operation of the Corporation**

The business of the Corporation, including meetings of the working committees, shall be conducted in accordance with fair and democratic procedure.

## **ARTICLE II OFFICES OF THE CORPORATION**

The principal office of the Corporation shall be located at such location either within or outside the State of California as determined from time to time by the Board of Directors ("Board"). The Board of Directors may change the principal office from one location to another within or outside the State of California. The Board of Directors may establish other offices within or outside the State of California as appropriate for fulfilling the purposes of the Corporation.

## **ARTICLE III MEMBERSHIP**

### **Section 3.1 Membership Candidates**

Any individual or legal entity, private or governmental, interested in promoting the purposes of the Corporation may become a member of the Corporation in accordance with these Bylaws, provided that the Board may from time to time establish membership requirements that are designed to further the purposes of the Corporation. The Corporation does not restrict membership on the basis of race, color, disability, sex, religion, or national origin.

### **Section 3.2 Membership Rights and Privileges**

#### **(a) Classes of Membership; Eligibility**

The Corporation shall have five classes of membership designated as: Principal Member, Participating Member, Associate Member, Power-over-Ethernet Certification Member, and Consulting Member. Any person or entity dedicated to the purposes of the Corporation and meeting any requirements established pursuant to Section 3.1 shall be eligible for membership upon the Corporation's approval of the applicant's signed member agreement along with signed copies of any other policy documents as determined by the Board of Directors, and the payment of such dues and fees as apply at the time.

#### **(b) Principal Members Benefits**



The Corporation's Principal Members are committed to active participation in the activities conducted by the Corporation to achieve its goals. Principal Members in good standing are entitled to:

- (1) The right to vote on all matters, as set forth in these Bylaws. In addition, Principal Members shall have all rights afforded voting members under the California Nonprofit Mutual Benefit Corporation Law.
- (2) Attend and participate in all meetings of Members; will be eligible to attend and participate in any working committee that might be formed; will be eligible to participate in any show, activities, seminars and conferences sponsored by the Corporation.
- (3) One (1) vote at all membership meetings (annual, general and special), at all elections (Board of Directors, officers, working committee chair/vice-chair) and in all circumstances where a Principal Member may cast a ballot.
- (4) The right to run for a Board of Directors' seat and to serve as an Officer of the Corporation and a working committee chair or vice-chair.
- (5) Use the Corporation's Member logo and Member plaque, denoting involvement in the Alliance in accordance with the Corporation's logo licensing policies.
- (6) All documentation and materials generated by or on behalf of the Corporation, including: access to all Working Committee working documents, meeting minutes, and written contributions.
- (7) Propose new working committees to address specific issues.
- (8) Receive priority over Participating Members to participate in marketing activities.
- (9) Receive priority over Participating Members to participate in interoperability events hosted by the Corporation.
- (10) Submit written contributions.
- (11) Subscribe to all general e-mail reflector lists maintained by the Corporation.
- (12) Receive priority over Participating Members for Member's name posted on the Corporation's web site.
- (13) Participate in the PoE Certification Program.

#### **(c) Participating Members Benefits**

The Corporation's Participating Members are committed to active participation in the activities conducted by the Corporation to achieve its goals. Participating Members shall not have voting rights in the Corporation. Participating Members in good standing are entitled to:

- (1) Attend and participate in all meetings of Members; will be eligible to attend and participate in any working committee that might be formed; will be eligible to participate in any show, activities, seminars and conferences sponsored by the Corporation.
- (2) The right to serve as a working committee chair or vice-chair.
- (3) Use the Corporation's Member logo and Member plaque, denoting involvement in the Alliance in accordance with the Corporation's logo licensing policies.
- (4) All documentation and materials generated by or on behalf of the Corporation, including: access to all Working Committee working documents, meeting minutes, and written contributions.
- (5) Propose new working committees to address specific issues.
- (6) Receive priority over Associate Members to participate in marketing activities.
- (7) Receive priority over Associate Members to participate in interoperability events hosted by the Corporation.
- (8) Submit written contributions.
- (9) Subscribe to all general e-mail reflector lists maintained by the Corporation.
- (10) Receive priority over Sustaining Members for Member's name posted on the Corporation's web site.
- (11) Participate in the PoE Certification Program.

#### **(d) Associate Members Benefits**

The Corporation's Associate Members are committed to active participation in the activities conducted by the Corporation to achieve its goals. Associate Members shall meet certain eligibility requirements (e.g., limitations on annual revenues) as determined by the Board of Directors. All Associate Members shall be subject to the same eligibility requirements in any given calendar year. Associate Members shall not have voting rights in the Corporation. Associate Members in good standing are entitled to:

- (1) Attend and participate in all meetings of Members; will be eligible to attend and participate in any working committee that might be formed; will be eligible to participate in any show, activities, seminars and conferences sponsored by the Corporation.
- (2) Use the Corporation's Member logo and Member plaque, denoting involvement in the Alliance in accordance with the Corporation's logo licensing policies.
- (3) All documentation and materials generated by or on behalf of the Corporation, including: access to all Working Committee working documents, meeting minutes, and written contributions.
- (4) Participate in marketing activities.
- (5) Participate in interoperability events hosted by the Corporation.
- (6) Submit written contributions.
- (7) Subscribe to all general e-mail reflector lists maintained by the Corporation.
- (8) Receive priority over Sustaining Members for Member's name posted on the Corporation's web site.
- (9) Participate in the PoE Certification Program.

#### **(e) Power over Ethernet Certification Member Benefits**

The Corporation's Power over Ethernet (PoE) Certification members are solely focused on participating in the Ethernet Alliance's PoE Certification program. PoE Certification Members are committed to active participation in the PoE Certification program activities conducted by the Corporation. PoE Certification Members shall not have voting rights in the Corporation. PoE Members in good standing are entitled to:

- (1) Access to all Power-over-Ethernet documentation and materials generated by or on behalf of the Ethernet Alliance, including: access to all Working Committee working documents, meeting minutes, and written contributions.
- (2) Apply to perform PoE Certification Program 1st Party Testing
- (3) Use the Ethernet Alliance's Member logo and Member plaque, denoting involvement in the Ethernet Alliance PoE Certification program, in accordance with the Ethernet Alliance's PoE Certification Program and CMLA, as well as Ethernet Alliance logo licensing policies.
- (4) Have member's name posted on the Ethernet Alliance's web site.

#### **(f) Consulting Members Benefits**

Consulting membership may be offered to any individual or entity with the approval of the Board of Directors. Consulting memberships shall be subject to confirmation by the Principal Members on an annual basis. Consulting Members have no voting rights at any meeting of Members of the Corporation and are not entitled to participate in any activity sponsored by the Corporation except by invitation of the Board. Consulting Members in good standing are entitled to:

- (1) Attend and participate in all meetings of Members; will be eligible to attend and participate in any working committee that might be formed.
- (2) Use the Corporation's Member logo and Member plaque, denoting involvement in the Alliance in accordance with the Corporation's logo licensing policies.
- (3) All documentation and materials generated by or on behalf of the Corporation, including: access to all Working Committee working documents, meeting minutes, and written contributions.
- (4) Submit written contributions.
- (5) Subscribe to all general e-mail reflector lists maintained by the Corporation.

(6) Member's name posted on the Corporation's web site.

### **Section 3.3 Member Representatives**

#### **(a) Representatives**

Each Member company shall be entitled to have an unlimited number of participants in the Corporation's events, however, each Member company shall be responsible for designating a single person (and may designate additional persons as alternates) who shall be authorized to act as the representative of that Member where an action on behalf of that Member is required. The designated representative of any Member company, and any alternate, must be an employee or authorized agent or contractor of that company and no person may simultaneously act as the authorized representative of more than one Member.

#### **(b) Affiliates**

For purposes of these Bylaws a Member company and its Affiliates shall be deemed as one (1) Member. "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.

Affiliates of a single Member company may participate as part of the Member company but may not hold a separate Membership in the Corporation

Consulting companies affiliated with a Member company may participate as part of the Member company but may not hold a separate Principal Membership in the Corporation.

#### **(c) Authorized Representatives**

An authorized representative of a Member, including a member of the Board of Directors or any officer, cannot continue to act in such capacity in the event that person ceases to be affiliated with the Member he or she represents, or upon termination of that person's authority by the Member giving written notice of such termination to the Corporation and designating a new authorized representative. A person who has, for any reason, ceased to be an authorized representative of a Member may at any time thereafter become an authorized representative for any other Member. If such person was formerly acting as an officer of the Corporation or a member of the Board, the Board may reappoint such person to the same or any other office and/or may appoint such person to fill the vacancy on the Board pursuant to the requirements of these Bylaws.

### **Section 3.4 Member Working Committees**

#### **(a) Creation; Composition**

Working committees may be created by the Board to address specific issues or topics. Each working committee shall have a working committee chair. Each working committee may have vice-chairs such as the Board deems reasonable and necessary. The Board shall appoint the working committee chair and any vice-chairs, who shall serve at the pleasure of the Board. The participants will be comprised of all interested Members as well as any other individuals or groups invited by the committee chair.

**(b) Representatives**

Members may be requested to provide qualified representatives to further the work of various working committees. The working committees may organize themselves in any way they deem appropriate in order to complete a given assignment, but in all cases subject to these Bylaws and the policies and procedures of the Corporation. The working committees may meet as often as they determine necessary and will be responsible for reporting their progress to the Members.

**(c) Committee Chair**

The working committee chair shall be responsible for the generation of documentation related to the activity being pursued. Upon completion of a working committee activity, the results will be submitted to the Membership. In addition to participating in working committees, the Members are expected to participate in seminars, conferences, and other activities on a periodic basis to help further the goals of the Corporation.

### **Section 3.5 Dues, Fees, and Assessments**

**(a) Dues, Fees, and Assessments**

Each Member must pay, within the time and on the conditions set forth by the Board of Directors, the dues, fees, and assessments. The dues, fees, and assessments shall be equal for all Members of a membership class. Annual membership dues for each year shall be the same as the dues for the prior fiscal year for a membership class, unless an adjustment in the dues has been approved by majority vote of the Principal Members.

**(b) Special Assessments**

The Board of Directors may at any time levy special assessments upon the Members to cover any extraordinary, unusual, or unanticipated operating expenses or operating deficits of the Corporation; provided, however, that unless approved by majority vote of the Principal Members, the total amount of all special assessments levied within the same fiscal year shall not exceed fifty percent (50%) of the annual membership dues charged to the Members for that fiscal year.

**(c) Non-payment**

Non-payment of membership dues shall be grounds for suspension or expulsion pursuant to Section 3.8. A Member who has been suspended pursuant to this paragraph may be reinstated upon payment by the delinquent Member of the unpaid dues or assessment plus a reasonable administrative fee.

### **Section 3.6 Charges for Participation in Special Events or Activities**

**(a) Establishment of Charges**

The Board may establish charges payable by Members for participation in any special events or activities conducted by the Corporation, including, but not limited to, trade shows and interoperability tests. The charge may be less or more than the costs associated with the event or activity.

**(b) Advance Payments**

The Board may require advance payment of any portion or all of the charges for participation in a special event or activity and may deny participation to any Member failing to make such payment as and when it becomes due. In the event a Member participates in a special event or activity and fails or refuses to pay the amount charged to that Member for such participation, the Board may exercise the same rights and remedies as would be available in the case of delinquency in payment of annual dues.

### **Section 3.7 Change of Control**

In the event a Member's assets are totally or substantially transferred to another entity through merger, acquisition or other cause, that Member's membership may be transferred to the new entity, provided all appropriate membership documents and the membership application are properly executed in the name of the new entity. Any such transfer of membership shall be subject to approval by the Board. The Corporation has no obligation to refund any dues, fees or assessments in the event of merger or acquisition. In no case shall a merger or acquisition eliminate the obligations of a Member.

### **Section 3.8 Termination of Membership**

The membership of any Member shall terminate upon the occurrence of any one or more of the following:

**(a) Resignation**

Any Member may resign from the Corporation by filing a written statement of termination with the Secretary of the Corporation. Resignation shall not release the resigning Member from the payment of any membership fees, dues or assessments due for the current year. No pro rata refund of any membership fees, dues or assessments shall be made for the balance of the year in which the resignation is effective, or otherwise.

**(c) Expiration**

A membership issued for a fixed period of time shall expire when such period of time has elapsed unless the membership is renewed.

**(d) Dues and Assessments**

Membership shall terminate upon the failure of the Member to pay dues or assessments within the time periods established by the Board.

**(e) Expulsion or Suspension**

Membership shall terminate upon the determination of a two-thirds (2/3) majority vote of the Board, after a hearing duly held in accordance with this Section 3.8(e), that the Member has failed in a material respect to observe the rules of conduct promulgated from time to time by the Board and applicable to Members, or otherwise has failed in some material respect to merit continued membership privileges in the Corporation. Following the determination by the Board that a Member should be expelled or suspended, the following procedures shall be implemented:

- (1) A notice shall be sent by mail by prepaid, first-class, certified or registered mail to the most recent address of the Member as shown on the Corporation's records setting forth the expulsion or suspension and the reasons therefore. Such notices shall be sent at least fifteen (15) days before the proposed effective date of the expulsion or suspension.
- (2) The Member being expelled or suspended shall be given an opportunity to be heard, either orally or in writing, at a hearing to be held no fewer than five (5) days before the effective date of the proposed suspension or expulsion. The hearing shall be held by the Board. The notice to the Member of its proposed expulsion or suspension shall state that such Member is entitled, upon request, to such

hearing, shall state that a date, time and place of the hearing will be established upon receipt of request therefore, and shall state, that in the absence of such a request, the effective date of the proposed suspension or expulsion.

- (3) Following the hearing, the Board shall vote upon whether the Member in question should in fact be expelled, suspended, or sanctioned in some other way. The decision of the Board shall be final.
- (4) Any action challenging an expulsion or suspension of membership, including any claim alleging defective notice, must be commenced within one (1) year after the date of the expulsion or suspension.

### **Section 3.9 Reinstatement**

A Member suspended or expelled pursuant to Section 3.8(e) may be reinstated upon a two-thirds (2/3) majority vote of the Board.

### **Section 3.10 Good Standing**

All Members which have not had the membership terminated pursuant to Section 3.8 shall be deemed to be in good standing.

## **ARTICLE IV MEETINGS OF MEMBERS**

### **Section 4.1 General Provisions Concerning Meetings**

All meetings of the Board and Members of the Corporation and working committees thereof, shall be pursuant to a written agenda. Minutes shall be taken of all meetings of the Board and Members and are encouraged but not essential for working committees. The conduct of any meeting shall be limited to subjects within the proper purposes and objectives of the Corporation.

### **Section 4.2 Annual Meeting**

The annual meeting of the Members of the Corporation, at the direction of the Board, may be held inside or outside the State of California, shall be on such date and time within sixty (60) days after the close of the Corporation's fiscal year, and at such place as shall be designated by the Board, as stated in the notice of the meeting. In the absence of such determination of place, Members meetings shall be held at the Corporation's principal office. At the annual meeting, the Principal Members shall elect the Directors to replace all Directors whose terms are expiring, and shall transact such other business as may properly come before the meeting. If the Corporation fails to hold an annual meeting (or circulate a written ballot to the Principal Members for election of Board members) as set forth in this, any Member may petition the superior court of the proper county to order such meeting or ballot, as permitted by Section 7510 of the California Nonprofit Corporations Law.

### **Section 4.3 General Meetings**

General meetings of the Members of the Corporation may be held at any place designated by the President or the Board, upon call by the President or the Board. General meetings are intended to be a vehicle to discuss the work plan of the Corporation and the progress thereof, and to solicit Member contributions.

### **Section 4.4 Special Meetings**

**(a) General Provisions**

Special meetings of the Members of the Corporation may be called by the Chairman of the Board, the President, the Board of Directors, or by Principal Members representing twenty-five percent (25%) of the voting power of the Corporation. A special meeting called by any person (other than an officer or the Board) entitled to call such a meeting shall be called by written request, specifying the general nature of the business proposed to be transacted, and submitted to the Chairman of the Board, the President, or the Secretary of the Corporation. The officer receiving the request shall cause notice to be given promptly to the Members, in accordance with Section 4.5 of these Bylaws, stating that a meeting will be held at a special time and date fixed by the Board; provided, however, that the meeting date shall be not less than fifteen (15) or more than ninety (90) days after receipt of the request. If the notice is not given within ten (10) days after receipt of the request, the person or persons requesting the meeting may give the notice. Nothing in this Section shall be construed as limiting, fixing, or affecting the time at which a meeting may be held when the meeting is called by the Board. No business, other than the business of the general nature of which was set forth in the notice of the meeting, may be transacted at a special meeting. Minutes of the meeting will be kept and archived by the Secretary.

**(b) Special Notice Provisions**

The Board has the option to approve a sequence of meetings beyond the ninety (90) day limit in support of a committee wishing to establish a regular schedule. The Board has the option to approve meetings beyond the ninety (90) day limit for the purpose of negotiating lower costs with hotels or other facility providers. In such event, notice of such meeting shall be re-sent to all Members not less than fifteen (15) nor more than ninety (90) days prior to such meeting.

**Section 4.5 Notice**

**(a) Notices**

Written and/or electronic notice of the time and place and purpose of holding any annual meeting or general meeting of the Members of the Corporation shall be given to each Member who on the record date of notice is permitted to attend such meeting, not less than fifteen (15) or more than ninety (90) days prior to the scheduled date for the meeting. The notice of such a meeting will include the proposed agenda for that meeting. All notices shall be given to the Member's address on file with the Corporation either personally or by facsimile, electronic mail, first class, registered, or certified mail. Notice of a meeting need not be given to any Member who signs a waiver of notice, whether before or after the meeting. The attendance of any Member at a meeting in person shall constitute a waiver of notice by that Member unless such Member is attending solely for the stated purpose of protesting the sufficiency of the notice given for that meeting.

**(b) Advance Notice Provisions**

Advance notice of meetings scheduled beyond the ninety (90) day limit may be given for the advance planning and convenience of Members. Such advance notice shall not constitute fulfillment of the requirements for notification prescribed above and a separate notice of the meeting shall be given in accordance with such requirements.

**Section 4.6 Quorum**

Principal Members representing not less than one-third of the voting power shall constitute a quorum for any annual, general or special meeting of Members. Upon approval by the Board and subject to such restrictions or conditions as the Board may prescribe, Members may attend any meeting by means of teleconferencing, video conferencing, or other electronic means, so long as each Member attending the meeting in such fashion is able to hear and participate in the meeting to the same extent as any Member who is physically present at the meeting.

## **Section 4.7 Voting**

### **(a) General Voting Provisions**

If a quorum is present, the affirmative vote of a majority of the Principal Members represented at the meeting and entitled to vote thereon shall be the act of the Members. Cumulative voting shall not be authorized for the election of Directors or for any other purpose. The Secretary will provide to any Member in good standing, upon request, complete voting tallies of any balloted vote, except that ballots for Directors shall remain secret.

### **(b) Proxies**

Voting by proxy is allowed at any meeting of the Members.

## **Section 4.8 Written Consents**

### **(a) General Provisions**

Any action required or permitted to be taken at a meeting of the Members of the Corporation, including the election of directors, may be taken without a meeting and without prior notice upon compliance with this.

### **(b) Balloting**

Approval by written or electronic ballot pursuant to this Section shall be valid if the number of ballots cast equal or exceed the specified total number of ballots that must be received by a designated time at a meeting authorizing the action.

### **(c) Ballot Distribution Process**

If action by Members is proposed to be taken without a meeting, the Secretary of the Corporation shall distribute one written ballot to each Principal Member entitled to vote on the matter. Such ballots shall be mailed or delivered in the manner required by Section 4.5 of these Bylaws. All solicitations of votes by written ballot shall:

- (1) Describe in reasonable detail the matter to be voted upon by the Principal Members;
- (2) Indicate the number of responses needed to meet majority requirements;
- (3) State the percentage of approvals necessary (greater than 50%) to pass the measure or measures, and
- (4) Specify the time by which the ballot must be received in order to be counted, which time must afford the Principal Member a reasonable opportunity to return the ballot to the Secretary of the Corporation.

Whenever action is taken pursuant to this Section, the written consents of the Principal Members consenting thereto shall be filed with the minutes of proceedings of Members.

## **Section 4.9 Record Date for Member Notice**

For the purposes of determining which Principal Members are entitled to receive notice of any meeting, to vote, to give consent to corporate action without a meeting, or to take other action, the Board may fix, in advance, a "record date," which shall not be more than ninety (90) nor fewer than fifteen (15) days before the date of any such meeting, nor more than sixty (60) days before the date on which ballots are to be submitted for any proposed action to be taken



without a meeting. Only Principal Members of record on the date so fixed are entitled to notice, to vote, to give consents, or take other action, as the case may be.

## **ARTICLE V DIRECTORS**

### **Section 5.1 Powers**

The Board of Directors is responsible for the overall management and well-being of the Corporation.

### **Section 5.2 General Management of the Corporation**

Subject to the provisions and limitations of the California Nonprofit Mutual Benefit Corporation Law and any other applicable laws, and subject to any limitations in the Articles of Incorporation and these Bylaws regarding actions that require the approval of the Principal Members, the Corporation's activities and affairs shall be managed, and all corporate power shall be exercised, by or under the Board's direction.

### **Section 5.3 Specific Powers**

Without prejudice to the general powers set forth in Section 5.2 of these Bylaws, but subject to the same limitations, the Directors shall have the power to:

- (1) Appoint and remove at the pleasure of the Board all the Corporation's officers, agents, and employees; prescribe powers and duties for them that are consistent with the law, with the Articles of Incorporation, and with these Bylaws; and fix their compensation and require from them security for faithful performance of their duties.
- (2) Change the principal office or the principal business office in California from one location to another; conduct its activities within or outside California; and designate any place within or outside California for holding any meeting of Members.
- (3) Adopt and use a corporation seal; adopt forms of Membership certificates consistent with the provision of Section 7313 of the California Nonprofit Mutual Benefit Corporation Law; and alter the forms of the seal and certificates.
- (4) Without prejudice to the general powers set forth in these Bylaws, but subject to the same limitations, the Directors shall not have the power unless authorized by a majority of the Principal Members to borrow money on behalf of the Corporation and cause to be executed and delivered for the Corporation's purposes, in the corporate name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecation, and other evidences of debt and securities.
- (5) Appoint such standing or special committees as may be found necessary or desirable to carry out the objectives and purposes of the Corporation, and to fix their powers and prescribe their duties.
- (6) Select an Administrator for administering the day-to-day activities necessary for the conduct of the Corporation's business of, and fix and prescribe its duties. Such Administrator may be a paid independent contractor and need not be a Member of the Corporation or a Member's representative.
- (7) Designate depositories for the Corporation, to rent safety deposit vaults, and to provide the manner of signing checks, notes, bills, and other evidences of indebtedness of the Corporation.
- (8) Invest and reinvest the funds of the Corporation and to change such investments from time to time, keeping the safety and security of the funds as a priority.
- (9) Pay as they become due the ordinary and necessary operating expenses of the Corporation.
- (10) Subject to the provisions of and hereof, create, eliminate or modify membership classes of the Corporation, and modify the membership terms and benefits applicable thereto.
- (11) In general do all lawful things and exercise all such lawful powers as are not vested in the Members of the Corporation and which will promote the objectives and purposes of the Corporation.

## **Section 5.4 Authorized Number of Directors**

The authorized number of Directors shall be no less than five (5) and no more than nine (9). The Board shall by resolution approve the number of Director positions to be filled at each annual meeting.

## **Section 5.5 Election, Designation and Term of Office**

### **(a) Annual Elections**

The Directors shall be elected annually at the annual meeting of the Corporation's Members. Any representative of a Principal Member in good standing may run for election to the Board. A candidate for election to the Board who is the representative of a Principal Member shall provide written evidence that such Member has no objection to the assumption by the candidate of the additional duties, responsibilities and time commitment required for service on the Board of Directors and acknowledge that these duties and responsibilities include a fiduciary responsibility to the Corporation.

### **(b) Election by Membership**

Each Director shall be elected by the Principal Members, or as otherwise specified herein. The length of term for each Director position to be filled at each annual meeting shall be one (1) year.

### **(c) Mandatory Resignation**

The resignation of a Director who is a representative of a Principal Member company shall be considered automatic if his or her employer ceases to be a Principal Member in good standing or if the Director leaves the employment of the Principal Member. In the event that person subsequently joins another company who is or becomes a Principal Member of the Corporation, her or she may be designated as the representative of his or her new employer and may run for a position on the Board pursuant to the limitations of Section 5.5(b).

### **(d) Chairman of the Board; Officers**

The Chairman of the Board, if any, and the President shall be elected by the Board from the members of the Board of Directors. The Vice President(s), if any, the Secretary and the Treasurer may also serve as a member of the Board of Directors. Officers who are not members of the Board of Directors shall be ex-officio members but shall not be voting members of the Board.

### **(e) General Voting Procedures**

No Principal Member may have more than one representative on the Board of Directors. The Board of Directors can conduct itself by majority vote on decisions required of it and can do so by voice or email. Proxy votes of any kind are not permitted in any vote taken by the Board. The Board shall prepare a report on the annual activities to be presented to the Members at the annual meeting.

### **(f) Terms; Vacancies**

All Directors shall take office at each annual meeting of Principal Members and will hold office until the next annual meeting; however, if any Directors are not elected at an annual meeting, they may be elected at any special Members' meeting held for that purpose or by written ballot. Each Director, including a Director elected to fill a vacancy or elected at a special Members' meeting or by written ballot, shall hold office until a successor has been elected and qualified in the annual elections.

## **Section 5.6 Vacancies of Board**

A vacancy or vacancies on the Board shall exist on the occurrence of any of the following events:

- (1) The death or resignation of any Director;
- (2) The declaration by resolution of the Board of a vacancy in the office of a Director who has been declared of unsound mind by an order of court or convicted of a felony;
- (3) The vote of a 2/3 majority of Principal Members, to remove any Director(s);
- (4) The failure of the Principal Members, at any meeting of Members at which any Director or Directors are to be elected, to elect the number of Directors required to be elected at that meeting.

### **Section 5.7 Resignations**

Except as provided below, any Director may resign by giving written notice to the Chair of the Board, if any, or to the President or the Secretary of the Corporation. The resignation shall be effective when the notice is given unless it specifies a later time for the resignation to become effective.

### **Section 5.8 Filling Vacancies**

In the event of the death, resignation, removal, or disqualification of any Director, the Board shall fill the vacancy with a Principal Member in good standing who is not currently represented on the Board. If the Board does not act, a special meeting of the Principal Members may be called in the manner prescribed in these Bylaws to nominate and vote for a Director to fill any vacancy or vacancies not filled by the Board to serve until the next annual meeting.

### **Section 5.9 No Removal on Reduction of Number of Directors**

No reduction of the authorized number of directors shall have the effect of removing any Director before that Director's term of office expires.

### **Section 5.10 Director's Meetings**

#### **a) Place of Meetings**

Meetings of the Board shall be held at any place within or outside California that has been designated by resolution of the Board or in the notice of the meeting.

#### **b) Meetings by Telephone**

Any meeting can be held by conference telephone or similar communication equipment, as long as all Directors participating in the meeting can hear one another. All such Directors shall be deemed to be present in person at such a meeting.

#### **c) Annual Meetings**

Immediately after each annual meeting of Members, the Board shall hold a regular meeting for purposes of organization, election of officers, and the transaction of other business.

#### **d) Other Regular Meetings**

Other regular meetings of the Board may be held at such time and place as the Board may fix from time to time. Regularly scheduled general meetings of the Board shall occur no less than four times per year.

#### **e) Special Meetings**

Special meetings of the Board of Directors may be called by the Chair of the Board, if any, the President, the Secretary, the Treasurer, or any two Directors, by giving at least 48 hours' notice of the date, time, and place of the meeting. Such notice must be given either personally, by mail, or by electronic transmission.

**f) Quorum**

A majority of the authorized number of Directors shall constitute a quorum for the transaction of business, except to adjourn. Every action taken or decision made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be the act of the Board, subject to any more stringent requirements as may be contained in the California Nonprofit Mutual Benefit Corporation Law or these Bylaws. A meeting at which a quorum is initially present may continue to transact business, despite the withdrawal of Directors, if any action taken or decision made is approved by at least a majority of the required quorum for that meeting.

**g) Proxy Votes Prohibited**

Proxy votes are not permitted on any votes taken by the Board of Directors.

**h) Waiver of Notice**

Notice of a meeting need not be given to any Director, who, either before or after the meeting, signs a waiver of notice, a written consent to the holding of the meeting, or an approval of the minutes of the meeting. The waiver of notice or consent need not specify the purpose of the meeting. All such waivers, consents and approvals shall be filed in the corporate records or made a part of the minutes of the meetings. Notice of a meeting need not be given to any Director who attends the meeting and does not protest, before or at the commencement of the meeting, lack of notice to him or her.

**i) Attendance Policy**

An attendance problem occurs if any of the following conditions exist in regard to a Director's attendance at board meetings:

1. The Director has two un-notified absences in a row.
2. The Director has three notified absences in a row.
3. The Director misses one third of the total number of board meetings in a twelve-month period.

An un-notified absence is where a Director fails to inform both the Chair of the Board and the Secretary at least 5 days prior to the upcoming meeting that he or she will be unable to attend.

Once an attendance problem exists regarding a Director, the Chair of the Board shall promptly contact the Director to discuss the problem. At the next board meeting the Chair of the Board shall report any response. The board shall then decide what action to take. If present, the Director with the attendance problem shall withdraw from the meeting during this item. If the board decides to remove the Director, this shall be conducted per this policy defined in Section 5.14

**j) Adjournment**

A majority of the Directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. Notice of the time and place of holding an adjourned meeting need not be given unless the original meeting is adjourned for more than 24 hours. If the original meeting is adjourned for more than 24 hours, notice of any adjournment to another time and place shall be given, before the time of the adjourned meeting, to the Directors who were not present at the time of the adjournment.

## **Section 5.11 Action Without a Meeting**

Any action that the Board is required to take may be taken without a meeting if all members of the Board consent in writing or electronic mail to that action. Such action by written consent shall have the same force and effect as any other validly approved action of the Board. All such consents shall be filed with the minutes of the proceedings of the Board.

### **Section 5.12 Reimbursement**

Directors may receive such reimbursement of expenses as determined by resolution of the Board to be just and reasonable to the Corporation at the time the resolution is adopted.

### **Section 5.13 Committees**

#### **(a) Committees of the Board**

The Board, by resolution, may create committees, each consisting of two or more Directors, to serve at the pleasure of the Board. Persons who are not Directors of the Corporation may not be appointed to a committee of the Board. The Board may appoint one or more Directors as alternate members of any such committee, who may replace any absent member at any meeting. Any such committee, to the extent provided in the Board resolution, shall have all the authority of the Board except that no committee, regardless of Board resolution, may:

- (1) Take any final action on any matter that, under the California Nonprofit Mutual Benefit Corporation Law, also requires approval of the Principal Members or approval of a majority of all the Principal Members;
- (2) Fill vacancies on the Board or on any committee that has the authority of the Board;
- (3) Fix compensation of the Directors for serving on the Board or on any committee;
- (4) Amend or repeal Bylaws or adopt new Bylaws;
- (5) Amend or repeal any Board resolution that by its express terms is not so amendable or repealable; and
- (6) Create any other committees of the Board or appoint the Members of committees of the Board.

#### **(b) Meetings and Actions of Committees**

Meetings and actions of committees of the Board shall be governed by, held, and taken in accordance with, the provisions of these Bylaws concerning meetings and other Board actions except that the time for regular meetings of such committees and calling of special meetings of such committees may be determined either by Board resolution, or if there is none, by resolution of the committee. Minutes of each meeting of any committee of the Board shall be kept and shall be filed as corporate records. The Board may adopt rules for the government of any committee that are consistent with these Bylaws or, in the absence of rules adopted by the Board, the committee may adopt such rules.

#### **(c) Particular Board Committees**

The Board may establish particular committees, e.g., an executive committee, audit committee, nominating committee, compensation committee and finance committee. The Board cannot, however, delegate the powers listed in Corporations Code Section 7212(a)(1)-(8) to any committee. If any committee is to have any non-director committee members, it is not a committee of the Board. The Board may delegate management of the Corporation's activities to the same extent that those powers could be delegated to anyone under Corporations Code Section 7210. If the committee does not exercise the authority of the Board, paragraphs (a) and (b) of this Section 5.13 need not apply to it.

### **Section 5.14 Removal of Director**

A Director may be removed with cause upon the determination of a two-thirds (2/3) majority vote of the Board, after a hearing duly held in accordance with this Section. Following the determination by the Board that a Director should be removed, the following procedures shall be implemented:

- 1) A notice shall be sent by mail by prepaid, first-class, certified or registered mail to the most recent address of the Director as shown on the Corporation's records setting forth the removal and the reasons therefore. Such notice shall be sent at least fifteen (15) days before the proposed effective date of the removal.
- 2) The Director being removed shall be given an opportunity to be heard, either orally or in writing, at a hearing to be held no fewer than five (5) days before the effective date of the proposed removal. The hearing shall be held by the Board. The notice to the Director's removal shall state that such Director is entitled, upon request, to such hearing, shall state that a date, time and place of the hearing will be established upon receipt of request therefore, and shall state, that in the absence of such a request, the effective date of the removal.
- 3) Following the hearing, the Director in question shall withdraw and the Board shall vote upon whether the Director should in fact be removed. The decision of the Board shall be final.
- 4) Any action challenging a removal, including any claim alleging defective notice, must be commenced within one (1) year after the date of the removal.

## **ARTICLE VI OFFICERS**

### **Section 6.1 Officers of the Corporation**

The officers of the Corporation shall be a Chair of the Board, if any, a President, a Secretary, and a Treasurer. The Corporation may also have, upon approval of the Board, one or more Vice Presidents, one or more assistant secretaries, one or more assistant treasurers, and such other officers as may be appointed in accordance with Section 6.3 of these Bylaws. Officer positions may be combined by the Board (e.g. Secretary/Treasurer).

### **Section 6.2 Election, Designation and Term of Office**

The officers of the Corporation, except those appointed under these Bylaws, shall be elected by the Board at the annual meeting and shall serve a one (1) year term at the pleasure of the Board, subject to the rights, if any, of any officer under any contract of employment. An officer need not be a designated representative of a Member company. A candidate for election as an officer shall provide written evidence that such Member has no objection to the assumption by the candidate of the additional duties, responsibilities and time commitment required for service as an officer of the Corporation and acknowledges that these duties and responsibilities include a fiduciary responsibility to the Corporation.

### **Section 6.3 Other Officers**

The Board may appoint and may authorize the Chair of the Board, the President, or other officer to appoint any other officers that the Corporation may require. Each officer so appointed shall have the title, hold office for the period, have the authority, and perform the duties specified in the Bylaws or determined by the Board.

### **Section 6.4 Removal of Officers**

Without prejudice to any rights of an officer under any contract of employment, an officer may be removed with or without cause by the Board, and also, if the officer was not chosen by the Board, by any officer on whom the Board may confer that power of removal.

### **Section 6.5 Resignation of Officers**

Any officer may resign at any time by giving written or electronic notice to the Corporation. The resignation shall take effect as of the date the notice is received or at any later time specified in the notice and, unless otherwise specified in the notice, the resignation need not be accepted to be effective. Any resignation shall be without prejudice to the rights, if any, of the Corporation under any contract to which the officer is a party.

### **Section 6.6 Vacancies in Office**

A vacancy in any office because of death, resignation, removal, disqualification, or any other cause shall be filled in the manner prescribed in these Bylaws for regular appointments to that office, provided, however, that vacancies need not be filled on an annual basis.

### **Section 6.7 Chair of the Board**

The Chair of the Board (if any) shall set the agenda and preside at all meetings of the Board of Directors. The Chair of the Board shall also act as liaison from and spokesperson for the Board of Directors and shall participate in long term planning for the Corporation. The Chair of the Board shall perform all such other duties as pertain to the Office of the Chair of the Board and shall perform such other duties as the Board of Directors shall prescribe by resolution. In the event that the Chair is unable to attend a meeting, the Chair is responsible to designate another board member to act in his or her stead.

### **Section 6.8 President**

Subject to such supervisory powers as the Board may give to the Chair of the Board and subject to the control of the Board, the President shall be the general manager of the Corporation and shall supervise, direct, and control the Corporation's activities, affairs, and officers. The President shall be a member ex-officio of all committees of the Corporation. The President shall perform all such other duties as pertain to the office of the President and shall see that all resolutions of the Board of Directors are carried into effect. In the absence of the Chair of the Board from any meeting of the Corporation's Members or the Board of Directors, the President shall preside.

### **Section 6.9 Vice Presidents**

In the absence or disability of the President, the Vice Presidents or a Vice President (if any) designated by the Board shall perform all duties of the President. When so acting, a Vice President shall have all powers of and be subject to all restrictions on the President. The Vice Presidents shall have such other powers and perform such other duties as the Board or the Bylaws may prescribe.

### **Section 6.10 Secretary**

The Secretary of the Corporation has the following duties:

- (1) The Secretary shall be the custodian of the corporate records, except those pertaining to the office of the Treasurer.
- (2) The Secretary shall keep or cause to be kept, at the Corporation's principal office or at a place determined by Board resolution, a record of the Corporation's Members, showing each member's name, address, and class of Membership.
- (3) The Secretary shall keep or cause to be kept, at the Corporation's principal office or such other place as the Board may elect, a book of minutes of all meetings, proceedings, and actions of the Board, of committees of the Board, and of Members' meetings. The minutes of meetings shall include the time and place of holding, whether the meeting was annual, regular, or special and, if special, how authorized, the notice given, the names of those present at Board and committee meetings, and the number of Members present or represented at Members' meetings.
- (4) The Secretary shall be responsible for attendance lists, drafting the minutes of meetings, providing timely notice of meetings, establishing electronic mail communication with Members, publication of minutes,

agendas, proposals, reports and other documents transmitted by the Corporation to its Members and listing the action items generated at meetings. Distribution via email or posting to the Corporation's website is acceptable in lieu of hard copy material. The records may be kept in electronic, disk, or other format so long as a written form may be printed and accessed.

- (5) The Secretary shall keep or cause to be kept, at the principal office in California, a copy of the Articles of Incorporation and Bylaws, as amended to date.
- (6) The Secretary shall give, or cause to be given, notice of all meetings of Members, of the Board, and of committees of the Board required by these Bylaws to be given. The Secretary shall keep the corporate seal (if any) in safe custody.
- (7) The Secretary shall have such other powers and perform such other duties as the Board or the Bylaws may prescribe.

## **Section 6.11 Treasurer**

The Treasurer of the Corporation has the following duties:

- (1) The Treasurer shall keep and maintain, or use a service provider to keep and maintain, adequate and correct books and accounts of the Corporation's properties and transactions consistent with Generally Accepted Accounting Principles. The Treasurer shall send or cause to be given to the Members and Directors such financial statements and reports as are required by law, by these Bylaws, or by the Board to be given. The books of account shall be open to inspection by any Director at all reasonable times. The Board of Directors may choose to authorize an audit of the membership and financial records at any time by 30 days written notice to the Treasurer.
- (2) The fees charged by a service provider shall be agreed to by vote of the Board of Directors on an annual basis. In the event such charges are on a time and materials basis, the Board of Directors may require that a "not to exceed" provision be implemented in any agreement with the service provider.
- (3) The Treasurer, or designated service provider as approved by the Board, shall receive, disburse, and collect any money due and belonging to the Corporation and shall deposit, or cause to be deposited, all money and other valuables in the name and to the credit of the Corporation with such depositories as the Board may designate. The Treasurer shall pay all bills and disburse the Corporation's funds as the Board may order. The Treasurer shall render to the President, Chair of the Board, and the Board, when requested, an account of all transactions and of the financial condition of the Corporation, and shall prepare and file all state and federal information and tax returns as may be required by law. The Treasurer shall have such other powers and perform such other duties as the Board or the Bylaws may prescribe.
- (4) If required by the Board, the Treasurer shall furnish to the Corporation a bond in the amount and with the surety or sureties specified by the Board, the cost of such bond to be paid by the Corporation, for faithful performance of the duties of the office and for restoration to the Corporation of all its books, papers, vouchers, money and other property of every kind in the possession or under the control of the Treasurer on his or her death, resignation, retirement or removal from office.

## **ARTICLE VII INDEMNIFICATION**

### **Section 7.1 Right of Indemnity**

To the fullest extent permitted by law, including, but not limited to the provisions of Section 7237 of the California Nonprofit Corporation Law, the Corporation shall indemnify its directors, officers, employees and other persons described in Section 7237(a), including persons formerly occupying any such position, against all expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred by them in connection with any



"proceeding," as defined in Section 7237(a), and including an action by or in the right of the Corporation, by reason of the fact that the person is or was a person described in that Section. The term "expense" includes, without limitation, attorneys' fees and any expenses of establishing a right of indemnification under these Bylaws.

## **Section 7.2 Approval of Indemnity**

### **(a) Successful Defense**

To the extent that an agent of the Corporation has been successful on the merits in defense of any proceeding referred to in Sections 7237(b) or 7237(c) or in defense of any claim, issue or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection therewith.

### **(b) Authorization of Indemnification**

Except as provided in Paragraph (a) of this Section 7.2, on written request to the Board by any person seeking indemnification under Section 7237(b) or Section 7237(c), the Board shall promptly determine under Section 7237(e) whether the applicable standard of conduct set forth in Section 7237(b) or Section 7237(c) has been met and, if so, the Board shall authorize indemnification. If the Board cannot authorize indemnification because the number of Directors who are parties to the proceeding with respect to which indemnification is sought prevents the formation of a quorum of Directors who are not parties to that proceeding, the Board shall promptly call a meeting of Members. At that meeting, the Members shall determine under Section 7237(e) whether the applicable standard of conduct set forth in Section 7237(b) or Section 7237(c) has been met and, if so, the Principal Members present at the meeting shall authorize indemnification.

## **Section 7.3 Advancement of Expenses**

To the fullest extent permitted by law and except as otherwise determined by the Board in a specific instance, expenses incurred by a person seeking indemnification under and of these Bylaws in defending any proceeding covered by those Sections shall be advanced by the Corporation before the final disposition of the proceeding, on receipt by the Corporation of an undertaking by or on behalf of that person that the advance will be repaid unless it is ultimately determined that the person is entitled to be indemnified by the Corporation for those expenses.

## **Section 7.4 Indemnity Insurance**

The Corporation shall purchase and maintain insurance (e.g. bond) on behalf of any individual who is or was a Director or officer of the Corporation, against any liability asserted against or incurred by such individual in such capacity, or arising out of such individual's status as such, whether or not the Corporation would have the power to indemnify such individual against such liability under the provisions of this Bylaw in such amounts as the Board deems is necessary and appropriate.

## **ARTICLE VIII CONTRACTS AND LOANS WITH DIRECTORS AND OFFICERS**

### **Section 8.1 Self-Dealing Transactions**

As used in this section, a "self-dealing contract" is any contract or transaction (i) between the Corporation and one or more of its Directors, or between the Corporation and any corporation, firm or association in which one or more Directors has a material financial interest, or (ii) between the Corporation and a corporation, firm or association of which one or more of its directors are Directors of this Corporation (collectively, "Interested Director(s)"). Pursuant to Section 7233 of the California Nonprofit Corporation Law, no self-dealing contracts shall be void or voidable

because such Interested Director(s) or corporation, firm or association are parties or because such Interested Director(s) are present at the meeting of the Board or committee which authorizes, approves or ratifies the self-dealing contract, if:

**(a) Membership Approval**

All material facts are fully disclosed to or otherwise known by the members and the self-dealing contract is approved by a separate vote of the majority of the Principal Members without including the vote of any membership owned by such Interested Director(s); or

**(b) Board or Committee Approval**

All material facts are fully disclosed to or otherwise known by the Board or committee and the Board or committee authorizes, approves or ratifies the self-dealing contract in good faith (without counting the vote of such Interested Director(s)), and, in the case of a self-dealing contract described above, the Board or committee resolves and finds that the contract is just and reasonable at the time it is authorized, approved or ratified; or

**(c) Just and Reasonable Contract**

The person asserting the validity of the self-dealing contract sustains the burden of proving that the contract was just and reasonable as to the Corporation at the time it was authorized, approved or ratified. Interested Director(s) may be counted in determining the presence of a quorum at a meeting of the Board or a committee thereof which authorizes, approves or ratifies a contract or transaction as provided in this Section 8.1.

## **Section 8.2 Loans to Directors and Officers**

The Corporation shall not make any loan of money or property to or guarantee the obligation of any Director, officer, employee, agent or Member.

## **ARTICLE IX RECORDS AND REPORTS**

### **Section 9.1 Maintenance of Corporate Records**

**(a) Records**

The Corporation shall keep:

- (1) Adequate and correct books and records of account;
- (2) Written minutes of the proceedings of its Members, Board and committees of the Board;
- (3) A record of each Member's name, address and class of membership.

**(b) Electronic Format**

All records may be maintained electronically, on disk or other format, so long as a written form may be printed and accessed.

### **Section 9.2 Inspection of Membership Records**

**(a) Inspection Rights**

Subject to Division 2, Part 3, Chapter 13, Article 3 (commencing at Section 8330) of the California Corporations Code and unless the Corporation provides a reasonable alternative as provided below, any Member may do either or both of the following for a purpose reasonably related to the Member's interest as a Member:

- (1) Inspect and copy the records of Members' names, addresses, and voting rights during usual business hours on five (5) days' prior written demand on the Corporation, which demand must state the purpose for which the inspection rights are requested; or
- (2) Obtain from the Secretary of the Corporation, on written demand and tender of a reasonable charge, a list of names, addresses and voting rights of Members who are entitled to vote for the election of Directors as of the most recent record date for which that list has been compiled, or as of the date, after the date of demand, specified by the Member. The demand shall state the purpose for which the list is requested. The Secretary shall make this list available to the Member on or before the later of ten (10) days after (i) the demand is received or (ii) the date specified in the demand as the date as of which the list is to be compiled.

**(b) Alternative Inspection**

The Corporation may, within ten (10) days after receiving a demand under this Section, make a written offer of an alternative method of reasonable and timely achievement of the proposed purpose specified in the demand without providing access to or a copy of the Membership list. Any rejection of this offer must be in writing and must state the reason that the proposed alternative does not meet the proper purpose of the demand. If the Corporation reasonably believes that the information will be used for a purpose other than one reasonably related to a person's interest as a Member, or if it provides a reasonable alternative under this Section, it may deny the Member access to the Membership list.

**(c) General Procedures**

Any inspection and copying under this Section may be made in person or by the Member's agent or attorney. The right of inspection includes the right to copy and make extracts. Any right of inspection extends to the records of any subsidiary of the Corporation.

### **Section 9.3 Inspection of Accounting Records and Minutes**

On written demand to the Corporation, any Member may inspect, copy and make extracts of the accounting books and records and the minutes of the proceedings of the Members, the Board, and committees of the Board at any reasonable time for a purpose reasonably related to the Member's interest as a Member. Any such inspection and copying may be made in person or by the Member's agent or attorney. Any right of inspection extends to the records of any subsidiary of the Corporation.

### **Section 9.4 Maintenance and Inspection of Articles and Bylaws**

The Corporation shall keep at its principal office the original or a copy of the Articles of Incorporation and Bylaws, as amended to date, which shall be open to inspection by the Members at all reasonable times during office hours. The Secretary shall, on the written request of any Member, furnish to that Member a copy of the Articles of Incorporation and Bylaws as amended to date.

### **Section 9.5 Inspection by Directors**

Every Director shall have the absolute right at any reasonable time to inspect the Corporation's books, records, documents of every kind, physical properties, and the records of each of its subsidiaries. The inspection may be made in person or by the Director's agent or attorney. The right of inspection includes the right to copy and make extracts

of documents.

## **Section 9.6 Fiscal Year and Annual Report**

### **(a) Fiscal Year**

The Corporation's fiscal year shall be a calendar year commencing on January 1st and ending on December 31st.

### **(b) Annual Reports**

An annual report shall be prepared within 120 days after the end of the Corporation's fiscal year. That report shall contain the following information in appropriate detail:

- (1) A balance sheet as of the end of the fiscal year, and an income statement of changes in financial position for the fiscal year, accompanied by a report on them by independent accountants, or, if there is no such report, by the certificate of an authorized officer of the Corporation that they were prepared without audit from the books and records of the Corporation.
- (2) A statement of the place where the names and addresses of current Members are located.
- (3) Any information that is required by Section 9.7.

### **(b) Notice and Rights**

The Corporation shall notify each Member annually of the Member's right to receive a financial report under this section. On written request by a Member, the Board shall promptly cause the most recent annual report to be sent to the requesting Member.

## **Section 9.7 Annual Statement of Certain Transactions and Indemnification**

### **(a) Disclosure Statement**

As part of the annual report to all Members, or as a separate document furnished to all Members within 120 days after the end of the fiscal year if no annual report is issued for that year, the Board of Directors of the Corporation shall provide a disclosure statement of any transaction or indemnification of the following kind which may have occurred during the preceding fiscal year:

- (1) Any contract or transaction or series of contracts or transactions between the Corporation and any Member, Director, or officer of the Corporation or other entity in which any Member, Director, or officer of the Corporation holds a financial interest, having a value or consideration in excess of \$50,000; and
- (2) Any resolution adopted by the Board of Directors for indemnification of any Director or officer of the Corporation.

### **(b) Exceptions**

Notwithstanding the foregoing, no such disclosure statement shall be required if the contract or transaction was previously approved by the Principal Members pursuant to Section 8.1(b) of these Bylaws, or if the indemnification of the Director or officer was previously approved by the Principal Members pursuant to Section 7.2(b) of these Bylaws.

### **(c) Details of Notice**

The statement shall include a brief description of the transaction, the names of interested persons involved, their relationship to the Corporation, the nature of their interest in the transaction, and, when practicable, the amount

of that interest, provided that, in the case of a partnership in which such person is a partner, only the interest of the partnership need be stated.

## **ARTICLE X INTELLECTUAL PROPERTY RIGHTS**

### **Section 10.1 Member Intellectual Property**

All patents, copyrights, or other intellectual property owned or created by any Member outside the Corporation or its work shall remain the property of that Member and ownership and rights thereunder shall not be affected in any way by the Member's participation in the Corporation. Any intellectual property rights that may arise from a disclosure by an individual Member to a standards development organization shall be the sole responsibility of that Member and the standards development organization.

### **Section 10.2 Confidentiality**

The Board of Directors shall promulgate policies regarding the terms and conditions under which the confidentiality of material presented to the Corporation, including various committees, shall be deemed of a non-confidential nature and hence for public distribution or shall be deemed confidential and, thus, subject to obligations of confidentiality. The Board of Directors shall also promulgate policies outlining the obligations of confidentiality for contributions deemed confidential.

### **Section 10.3 Intellectual Property Policy**

The Board of Directors shall promulgate Intellectual Property Policies concerning contributions to and publications by the Corporation. Such Intellectual Property Policies shall be consistent with a "Just Publish" model of intellectual property ownership and licensing. Consequently, such Intellectual Property Policies shall, inter alia:

- (1) Not require the disclosure or licensing of any patent, patent application or similar intellectual property rights with respect to contributions to the Corporation;
- (2) Provide for notification of the reservation of patent and similar intellectual property rights by individual Members;
- (3) Provide for ownership and licensing of copyrights in contributions to the Corporation, publications by the Corporation and modifications thereto; and
- (4) Provide for the usage of Corporation trademarks.

Any intellectual property rights that might arise from a co-operation between individual Members shall be the sole responsibility of such Members.

## **ARTICLE XI DISCLAIMER OF WARRANTIES**

The Corporation and its Members, Directors, officers, employees, agents and representatives make no express or implied warranty as to any matter whatsoever, including the conditions of the research or any invention or product, whether tangible or intangible, made or developed by the Corporation or in the course of its activities, or the ownership, merchantability, or fitness for a particular purpose, or any research, invention, product, or submission, and all such matters are presented "as is". This provision shall survive resignation, expulsion or cessation of business of any member or dissolution of the Corporation.

## **ARTICLE XII DISTRIBUTION OF PROPERTY ON DISSOLUTION**

### **Section 12.1 Return of Certain Property to Members**

In the event of dissolution of the Corporation, any property in the possession of the Corporation which is being held subject to a valid condition requiring the return of such property on dissolution to the Member who is the lawful owner of such property, shall be returned to such Member not later than the time when the assets of the Corporation are distributed pursuant to Section 12.2 of these Bylaws.

## **Section 12.2 Distribution of Corporate Assets**

Except for distributions required by Section 12.1 above, all of the assets of the Corporation, if any, remaining after payment of all Corporate debts, obligations and expenses, shall be distributed to either an entity which qualifies under Section 501(c)(6) of the Internal Revenue code of 1986, as amended (or any successor provision in any future Federal Income Tax law) and which has substantially similar purposes as this Corporation, or to an entity which qualifies under Section 501(c)(3) of the Internal Revenue Code, as amended (or any successor provision in any future Federal Income Tax Law). The selection of a recipient of the Corporation's assets shall be made by the Board of Directors.

## **ARTICLE XIII CONSTRUCTION AND DEFINITIONS**

### **Section 13.1 General Definitions**

Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the California Nonprofit Corporation Law shall govern the construction of these Bylaws. Without limiting the generality of the preceding sentence, the masculine gender includes the feminine and neuter, the singular includes the plural and the plural includes the singular, and the term "person" includes both a legal entity and a natural person. All references in these Bylaws to a certain number of days shall mean calendar days.

### **Section 13.2 Definition of "Majority"**

All references to "majority" shall mean an amount which is more than fifty percent (50%). For example, where the vote of a majority of Principal Members is required for passage of an act, a "majority" would be that number of Principal Members which is greater than fifty percent (50%).

## **ARTICLE XIV EFFECTIVE DATE AND AMENDMENTS**

### **Section 14.1 Effective Date**

These Bylaws shall become effective immediately upon their adoption. Amendments to these Bylaws shall become effective immediately upon their adoption unless, at the time of adoption, the amendment is declared to become effective at a later date or only upon the occurrence of a specified event.

### **Section 14.2 Amendments**

#### **(a) Action by Board; Membership Approval**

Pursuant to Section 7150 of the California Nonprofit Mutual Benefit Corporation Law, these Bylaws may be amended or repealed and new Bylaws adopted by the vote of the majority of the members of the Board of Directors then in office upon proper notice, unless the action would result in any of the following circumstances, in which event the amendment or repeal must be approved by the Principal Members:

- (1) Materially and adversely affect the rights of Principal Members as to voting, dissolution, redemption, or transfer;
- (2) Establish an authorized number of Principal Members ;
- (3) Effect an exchange, reclassification or cancellation of all or a part of Principal Memberships; or
- (4) Authorize a new class of membership which has a right to vote on any of the following:

- (i) the election of the Board of Directors;
- (ii) disposition of substantially all of the assets of the Corporation;
- (iii) dissolution of the Corporation.

### **(b) Principal Membership Approval Procedures**

Bylaws affecting the following may be adopted, amended or repealed only by the affirmative vote of a majority of the Principal Members represented and voting at a duly held meeting of the Members at which a quorum is present, or by written ballot:

- (1) Any amendment that would result in any of the circumstances described in Paragraphs (1) through (4) of Section 14.2(a) above or any of the circumstances described in Section 7150(b) of the Corporations Code that would affect the Principal Members;
- (2) A Bylaw specifying or changing the maximum or minimum number of Directors;
- (3) A Bylaw increasing the term of office of Directors;
- (4) A Bylaw increasing the quorum of Members.

## **ARTICLE XV FORM OF COMMUNICATIONS**

Electronically transmitted communications (electronic mail) shall be considered acceptable substitutes for all other forms of communication, including postal mail.

### **Section 15.1 Written Ballots**

Ballots submitted in facsimile or electronic form shall be considered acceptable substitutes for printed ballots for all purposes.

### **Section 15.2 Waiver of Postal Mail**

Members may waive the right to receive any notices or other communications via postal mail and instead receive such notices and communications via electronic mail.

## **ARTICLE XVI LAWS**

Notwithstanding anything contained in these Bylaws to the contrary, these Bylaws shall apply to Members of the Corporation and shall be interpreted in a manner consistent with all federal and state laws and the California Nonprofit Corporation Law. "Members of the Corporation" applies to Principal Members. Other classes of membership are not "Members of the Corporation" for purposes of CA Nonprofit Corporation Law, state or federal laws.