

**BYLAWS OF INFINIBAND<sup>SM</sup> TRADE ASSOCIATION**

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# BYLAWS OF INFINIBAND<sup>SM</sup> TRADE ASSOCIATION

## ARTICLE 1 DEFINITIONS

**SECTION 1.1** **Affiliates** means an entity that directly or indirectly Controls, is Controlled by, or is under common Control with another entity, so long as such Control exists.

**SECTION 1.2** **Alternate Director** means an individual appointed to fill an Alternate Director vacancy by the Steering Committee in accordance with Section 4.6.

**SECTION 1.3** **Control** means beneficial ownership of more than fifty percent (50%) of the voting power or equity in an entity.

**SECTION 1.4** **Corporation** means System I/O, Inc., doing business as (dba) InfiniBand<sup>SM</sup> Trade Association.

**SECTION 1.5** **Member** means a Member of the Corporation that is accepted for membership in accordance with the provisions of Article 13. Member includes and refers to Steering Committee Members, Sponsoring Members, and Regular Members, unless the context otherwise requires.

**SECTION 1.6** **Regular Director** means an individual who is appointed or elected to a Regular Director position on the Steering Committee in accordance with these Bylaws.

**SECTION 1.7** **Scope**, which is a term used in InfiniBand's<sup>TM</sup> Membership Agreement, means the protocols, electrical signaling characteristics, mechanical requirements for connectors, cards and cabling, register models, data structures and verbs software interface solely to the extent disclosed with particularity in a Specification where the sole purpose of such disclosure is to enable products to interoperate, interconnect or communicate as defined within a Specification. Notwithstanding the foregoing, the Scope shall not include (i) any enabling technologies that may be necessary to make or use any product or portion thereof that complies with a Specification, but are not themselves expressly set forth in a Specification (e.g., semiconductor manufacturing technology, compiler technology, object oriented technology, basic operating system technology); (ii) the implementation of other published specifications not developed by or for InfiniBand but referred to in the body of a Specification; or (iii) application programming interfaces, device drivers, device driver models, peripheral control languages, and peripheral devices, except for the portions of peripheral devices that are required by an interconnect that is compliant with a Specification.

## ARTICLE 2 PRINCIPAL OFFICE

The principal office of the Corporation shall be at such location as the Steering Committee may at any time and from time to time determine.

## **ARTICLE 3 PURPOSE**

### **SECTION 3.1 TAX EXEMPT PURPOSES**

The Corporation is organized exclusively for one (1) or more of the purposes permitted by Section 501(c)(6) of the Internal Revenue Code, including the making of distributions to other organizations that qualify as exempt organizations under Section 501(c)(6) of the Internal Revenue Code.

### **SECTION 3.2 SPECIFIC PURPOSE**

The Corporation's specific purpose ("Specific Purpose") is to be a forum for the development of specifications and related activities that:

- (i) support the creation of interoperable, scalable and reliable I/O products, computer systems, and computer technologies;
- (ii) are based on a channel-oriented, switched-fabric communication technique that addresses the needs of a broad range of computer systems and computer technologies (including, but not limited to, both low-cost, volume-oriented computer systems and computer technologies and high-end enterprise class computer systems and computer technologies); and
- (iii) are limited to those elements required to enable, promote, or improve communications, interoperability, and connectivity between products developed in compliance with the specifications.

The Specific Purpose of the Corporation includes promoting its specifications as industry-wide standards; issuing design guidelines and programming guidelines relating to its specifications; presenting activities that promote the use of the specifications; and providing for the licensing or publication of the specifications on reasonable and non-discriminatory terms.

The Corporation's specifications may include information directing specific implementations only as necessary to enable, promote and/or improve communications, interoperability, and connectivity between products developed in compliance with the specifications.

The Corporation does not intend to include in its specifications, or provide for the licensing of, enabling technologies or other matters which the Steering Committee may exclude from the scope of a specification.

Establishing or materially changing the charter of a Working Group, or approving, adopting or releasing a Specification, Design Guideline, or Programming Guideline that materially deviates from the Requirements Document (which document is more particularly referred to in Section 4.19) is not permitted, if such action would be inconsistent with or in contradiction of the Specific Purpose as stated herein.



This Section may not be amended except by the unanimous vote of the class of Steering Committee Members. In addition, the definition of "Scope", which is set forth in Section 1.7 of these Bylaws and which is used in the Membership Agreement, may not be amended except by the unanimous vote of the class of Steering Committee Members.

## **ARTICLE 4 STEERING COMMITTEE**

### **SECTION 4.1 POWERS OF STEERING COMMITTEE**

Subject to the provisions of Oregon Corporation Law and any limitations in these Bylaws relating to action required to be taken or approved by the Members of this Corporation, the Corporation's activities and affairs shall be managed by, and all corporate powers shall be exercised by or under the direction of, its Board of Directors, which is referred to herein as the "Steering Committee."

The Steering Committee, as the Board of Directors of the Corporation, may, from time to time, establish a "Management Committee." The establishment of a Management Committee, and the enumeration of the powers of and restrictions on the Management Committee, must be approved by the affirmative vote of the number of individuals authorized to serve on the Steering Committee, minus one. Such Management Committee shall not be deemed to be a committee of the Board of Directors. The Steering Committee (by a vote of the number of individuals authorized to serve on the Steering Committee, minus one) may appoint any persons it chooses to serve on the Management Committee, including Regular Directors. Such persons shall serve at the pleasure of the Steering Committee. To the extent permitted by law, the Steering Committee may delegate tasks to the Management Committee in the same manner that the Board of Directors may delegate tasks to officers of the Corporation. Within its delegated authority, the Management Committee may make decisions on operational and management issues in accordance with practices, policies and procedures that it establishes, so long as they are not in conflict with, or violation of, those set forth in these Bylaws.

### **SECTION 4.2 NUMBER OF INDIVIDUALS ON STEERING COMMITTEE**

The Steering Committee shall consist of a minimum of three (3) and a maximum of fourteen (14) individuals. Such individuals may be referred to herein as "directors." Collectively, they shall be known as the Steering Committee. During the first three (3) years of this Corporation's existence ("Initial Period"), there shall be seven (7) individuals serving on the Steering Committee in the capacity of Regular Directors and there shall be maintained seven (7) Alternate Director vacancies, which may be filled from time to time in accordance with Section 4.6 below. The number of directors and vacancies set forth in the previous sentence shall be maintained, unless and until changed by a unanimous minus one (1) vote of the Steering Committee. After the Initial Period, the number of individuals on the Steering Committee may be changed if the change is approved by the affirmative vote of two-thirds (2/3) of the class of the Steering Committee Members of the Corporation.

### **SECTION 4.3 DUTIES OF STEERING COMMITTEE**

It shall be the duty of the Steering Committee to:

- (a) Assure that the Corporation confines its activities to those in furtherance of its Specific Purpose;
- (b) Perform all duties imposed on them collectively or individually by law, or by these Bylaws;
- (c) Meet at such times and places as required by these Bylaws;
- (d) Register the addresses of the individuals serving on the Steering Committee with the Administrator of the Corporation (in which event notices of meetings provided to the individual at such addresses shall be valid notices thereof);
- (e) Elect annually a Chair or Co-Chairs who shall perform all duties as required by these Bylaws;
- (f) Elect annually officers from the Steering Committee who shall perform all duties as required by these Bylaws;
- (g) Set the technical direction for the Corporation;
- (h) Elect annually Working Group Chairs or Co-Chairs;
- (i) Establish the charter for, form, and disband Working Groups as appropriate to conduct the work of the Corporation;
- (j) Approve the Corporation's annual budget. If the annual budget is not approved at the start of each calendar year, the Corporation shall operate based on the prior yearly budget, to the extent practical, until an annual budget is approved;
- (k) Establish annual dues for all Member classes, and establish privileges and benefits for all classes of Members consistent with these Bylaws.
- (l) Administer and establish policies consistent with the Membership Agreement.
- (m) Amend the Membership Agreement as needed.
- (n) Develop and approve Specification(s) or drafts thereof for limited or public release; and
- (o) Adopt, license and/or publish Specification(s) and Design or Programming Guidelines and revisions thereto.
- (p) Take other action that it deems appropriate in furtherance of the Specific Purpose of the Corporation.

#### **SECTION 4.4 COMPOSITION OF STEERING COMMITTEE**

For the Initial Period, the Regular Directors of the Steering Committee shall consist of individuals appointed by the class of Steering Committee Members, that is, the class of Members

which includes the following corporations: Compaq Computer Corporation, Dell Computers, Inc., Hewlett-Packard Company, International Business Machines Corporation (“IBM”), Intel Corporation, Microsoft Corporation, and Sun Microsystems, Inc. Each Steering Committee Member shall appoint one individual to the Steering Committee to serve as a Regular Director. No more than one (1) Regular Director serving on the Steering Committee may be employed by the same Steering Committee Member.

After the Initial Period, any Steering Committee Member may nominate one individual to run for election to the Steering Committee as a Regular Director for the next year. Individuals seeking a nomination to the Steering Committee as a Regular Director, but not nominated by a Steering Committee Member, may be nominated only if the nomination is supported by a written petition signed by twenty-five percent (25%) of the existing Members. The new Regular Directors of the Steering Committee will then be elected from among the nominees by a vote of all the Members as described in Section 14.7.

#### **SECTION 4.5 QUALIFICATIONS**

An individual serving on the Steering Committee as a Regular Director or an Alternate Director must be an employee of a Steering Committee Member. If an individual whose employer is not a Steering Committee Member is elected or appointed to serve on the Steering Committee, his/her employer must become a Steering Committee Member and assume all of the obligations of such membership before the individual may serve. The individual’s tenure on the Steering Committee shall automatically terminate, if he or she ceases to be an employee of the Member by whom he/she was employed at the time of his/her election or appointment, or if his/her employer ceases to be or fails to become a Steering Committee Member.

An individual serving on the Steering Committee as a Regular Director is expected to attend, in person or by telephone, at least seventy-five percent (75%) of all duly noticed Steering Committee meetings and not to miss three (3) consecutive meetings, or to make available a suitable proposed Alternate Director. If an individual does not meet this requirement, the individual is subject to removal as provided in Section 4.7.

#### **SECTION 4.6 ALTERNATE DIRECTORS**

The Steering Committee shall maintain Alternate Director vacancies, which may only be filled as provided in this Subsection. For any Regular Director who does not attend a specific meeting of the Steering Committee (an “Absent Regular Director”), the Absent Regular Director shall appoint by written notice (at least 24 hours prior to the meeting) an Alternate Director to fill one (1) of the vacancies for the Absent Regular Director. An Alternate Director must be an employee of the Steering Committee Member that employs the Absent Regular Director whose absence from the meeting permits the appointment of such Alternate Director. The Alternate Director shall serve on the Steering Committee only until the earlier to occur of (i) adjournment of the meeting at which such Alternate Director is appointed or (ii) arrival at such meeting of the Absent Regular Director whose absence resulted in the appointment of the Alternate Director. Such Alternate Director shall have all of the rights, including voting rights, and duties of a Regular Director for the duration his or her appointment.

## **SECTION 4.7 VACANCIES, RESIGNATIONS, REMOVALS**

Vacancies of the Regular Directors on the Steering Committee shall exist: (1) whenever the number of Regular Directors on the Steering Committee is increased, or (2) whenever a Regular Director on the Steering Committee is removed or resigns or his or her tenure otherwise terminates.

Any Regular Director serving the Steering Committee may resign effective upon giving written notice to the Administrator or Steering Committee, unless the notice specifies a later time for the effectiveness of such resignation.

Any Regular Director serving on the Steering Committee may be removed if, without a leave of absence approved by the Chair, the individual (or an individual appointed as an Alternate Director in his or her absence) fails to attend three (3) consecutive meetings or misses more than twenty-five percent (25%) of meetings within a twelve (12) month period.

If two (2) or more Steering Committee Members that have employees serving on the Steering Committee become Affiliates, only one (1) of their employees may remain on the Steering Committee as a Regular Director and the other employee(s) tenure on the Steering Committee shall automatically terminate.

Regular Directors on the Steering Committee may be removed by a unanimous (with the exception of the individual under consideration) vote of the Steering Committee. Only one (1) Regular Director on the Steering Committee may be removed at any one (1) Steering Committee meeting.

## **SECTION 4.8 FILLING VACANCIES OF REGULAR DIRECTORS**

During the Initial Period, a vacancy of a Regular Director shall be filled by an individual appointed by the Steering Committee Member who appointed the Regular Director whose resignation or removal created the vacancy. If such Steering Committee Member has ceased to exist, has become an Affiliate of another Steering Committee Member, or has failed to remain a Steering Committee Member, the Steering Committee, by the affirmative vote of two-thirds (2/3) of the remaining Regular Directors, may fill the vacancy by appointing an individual who is employed by a Member which is willing to become a Steering Committee Member.

After the Initial Period, the Steering Committee, by the affirmative vote of two-thirds (2/3) of the remaining Regular Directors, shall fill any vacancy of a Regular Director by appointing an individual employed by and nominated by the same Steering Committee Member which employed the Regular Director whose resignation or removal created the vacancy. If such Steering Committee Member has ceased to exist, has become an Affiliate of another Steering Committee Member, or has failed to remain a Steering Committee Member, the Steering Committee, by the affirmative vote of two-thirds (2/3) of the remaining Regular Directors, may fill the vacancy by appointing an individual who is employed by a Member which is willing to become a Steering Committee Member. Such individual appointed to fill a vacancy shall serve until the next annual meeting of the membership, at which time the position shall be filled by election of the Members.

#### **SECTION 4.9 NO LIABILITY**

No individual serving on the Steering Committee nor any of the Steering Committee Members shall be personally liable for the debts, liabilities, or other obligations of the Corporation.

#### **SECTION 4.10 TERM OF OFFICE**

During the Initial Period, Regular Directors serving on the Steering Committee shall serve a term of three (3) years or until the end of the Initial Period, subject thereafter to reelection to successive terms.

After the Initial Period, Regular Directors serving on the Steering Committee shall serve a one (1) year term, subject thereafter to reelection to successive terms.

#### **SECTION 4.11 COMPENSATION**

Except as provided in Section 6.9, individuals on the Steering Committee shall serve without compensation from the Corporation.

#### **SECTION 4.12 PLACE OF MEETINGS**

Regular Steering Committee meetings shall be held at places and times agreed to by the majority of the Steering Committee. Meetings may be held in person or by any combination of audio or video conferencing techniques, so long as the participants in the meeting may hear one another.

#### **SECTION 4.13 ANNUAL MEETING**

The annual organizational meeting of the Steering Committee shall be held in conjunction with the annual meeting of Members.

#### **SECTION 4.14 REGULAR AND SPECIAL MEETINGS**

Regular and special meetings of the Steering Committee may be called by the Chair or by one-third (1/3) of the Regular Directors of the Steering Committee, or, if different, by the persons specifically authorized under the laws of the State of Oregon to call meetings of the Steering Committee.

#### **SECTION 4.15 NOTICE OF MEETINGS**

Unless otherwise provided in these Bylaws or by provisions of law, the following provisions shall govern the giving of notice for meetings of the Steering Committee:

- (a) Annual Meetings. At least thirty (30) days' prior written notice shall be given by the Administrator to each Regular Director serving on the Steering Committee.
- (b) Regular and Special Meetings. At least seven (7) calendar days' prior written notice shall be given by the Administrator to each Regular Director (and, in addition, to one alternate

for each Regular Director who designates an alternate for purposes of notice) of each regular and special meeting of the Steering Committee.

Such notice may be given personally or by postal mail, by express mail, by courier, by facsimile machine, or by electronic message with return notification. The notice shall be deemed delivered on the day it is personally delivered, or on the next business day if it is sent by express mail or by courier. If the notice is given by electronic message or by facsimile, it shall be deemed delivered on the next business day after it is sent, or, if it is given by mail, three (3) days after it is sent by first-class mail, postage prepaid. Such notice shall state the place, date, time and proposed duration of the meeting.

A valid meeting may be scheduled and held on shortened notice if a shorter notice is approved in writing or by electronic message by all Regular Directors, or if all Regular Directors attend the meeting.

A meeting may extend beyond the proposed duration stated in the notice only if such extension is approved by all Regular Directors and Alternate Directors present at the meeting.

#### **SECTION 4.16 AGENDA REQUIREMENTS – POSTPONEMENT OF A MEETING**

The notice required by Section 4.15 shall also state all agenda items known at the time the notice is given. Additional agenda items may be added up to twenty-four (24) hours' prior to the time of the meeting. A matter not on the agenda may be taken up at a meeting provided that at least three (3) Regular Directors or Alternate Directors present at the meeting determine that such matter is of an urgent nature and approve placing the matter on the agenda.

However, no action may be taken or motion passed at any meeting, if the adoption of the action or passage of the motion requires more than the affirmative vote of a majority of individuals authorized to serve on the Steering Committee, unless the subject matter of the proposed action or motion was generally stated on an agenda delivered at least seven (7) days prior to the meeting, or unless each Regular Director who is not present at the meeting has agreed prior to the meeting that the action or motion may be considered and passed. Further, even if seven (7) days notice was given, the Steering Committee shall (on a "one time" basis) postpone consideration of any action or motion for at least fourteen (14) additional days, upon the written request received prior to the meeting from any Regular Director who is unable to be present at the noticed meeting when such matter was to be first considered, and who is also unable to send to the meeting a suitable nominee as Alternate Director.

Nothing in this Section shall apply to the appointment of Alternate Directors.

#### **SECTION 4.17 QUORUM FOR MEETINGS**

A quorum shall consist of two-thirds (2/3) of the number of individuals authorized to serve on the Steering Committee as Regular Directors. However, an Alternate Director who is appointed for a particular meeting shall be counted as a Regular Director in determining whether a quorum exists for that particular meeting. Accordingly, for example, so long as the Steering Committee is composed of seven Regular Directors, the quorum is five, where the five may be

comprised of either or both Regular Directors or Alternate Directors present at a meeting in person or as provided by Section 4.21.

#### **SECTION 4.18 STEERING COMMITTEE ACTION**

Every motion, act or decision passed, done or made by the affirmative vote of Regular Directors and Alternate Directors in attendance at a meeting, if the number of affirmative votes equals or exceeds the number equal to a majority of the individuals authorized to serve as Regular Directors on the Steering Committee, is the motion, act or decision of the Steering Committee, unless Section 4.19, another section of these Bylaws, or provisions of law require a greater or different voting percentage or different rules for approval of a matter by the Steering Committee.

#### **SECTION 4.19 REQUIRED VOTING PERCENTAGES**

Except as otherwise provided in Section 3.2, the following voting percentages shall be required for any motion, act or decision to be a valid motion, act, or decision of the Steering Committee:

<u>Matter to be Voted On</u>	<u>Number of Affirmative Votes Required</u>
(a) General business matters	- majority of the number of Regular Directors authorized to serve on the Steering Committee.
(b) Establishing the charter of, or materially changing the charter of, a Working Group	- two-thirds of the number of Regular Directors authorized to serve on the Steering Committee.
(c) Approval, adoption and/or release of Specification or a Design Guidelines or Programming Guidelines	- two-thirds of the number of Regular Directors authorized to serve on the Steering Committee.
(d) Approval, adoption and/or release of a Specification or a Design Guideline or Programming Guideline that materially deviates from the "Requirements Document," a copy of which is attached as Exhibit B to the Letter of Intent executed on or about September 30, 1999 by the seven original Steering Committee Members and entitled "Summary of Merged Requirements of SI/O."	- the number of Regular Directors authorized to serve on the Steering Committee, minus one.

- (e) Amend the Requirements Document referred to in the preceding subsection - the number of Regular Directors authorized to serve on the Steering Committee, minus one.
- (f) Revocation of the Steering Committee Member Status of a Steering Committee Member - the number of Regular Directors authorized to serve on the Steering Committee, minus one.
- (g) Termination of the membership of a Steering Committee Member - the number of Regular Directors authorized to serve on the Steering Committee, minus one.
- (h) Termination of the membership of a Sponsoring Member or Regular Member - the number of Regular Directors authorized to serve on the Steering Committee, minus one.
- (i) Termination of the membership of a Sponsoring Member of Regular Member - The number of Regular Directors authorized to serve on the Steering Committee, minus one.

“Individuals authorized to serve on the Steering Committee” or “number of Regular Directors authorized to serve on the Steering Committee,” as used in these Bylaws, refers to the number of authorized Directors set forth in Section 4.2 of these Bylaws. If an individual serving on the Steering Committee, whether a Regular Director or an appointed Alternate Director, is present at a meeting, but abstains from voting on a matter, for purposes of that vote, the number of “individuals authorized to serve on the Steering Committee” or “number of Regular Directors authorized to serve on the Steering Committee” shall be deemed reduced by one (1) for each individual abstaining, provided that the total number may not be reduced to less than five (5). Amendment to the Requirements Document (identified above) shall also require the approval of the class of Steering Committees Members by the affirmative vote of all Steering Committee Members, minus one.

**SECTION 4.20 CONDUCT OF MEETINGS**

The Steering Committee shall be presided over by the Chair or Co-Chairs or, in his, her or their absence, by the Vice-Chair or by a temporary Chair chosen by a majority of the Steering Committee present at the meeting. The Secretary of the Corporation shall act as secretary of all meetings of the Steering Committee, provided that, in his or her absence, the presiding officer shall appoint another person to act as secretary of the meeting.

Meetings shall be governed by such procedures as may be approved from time to time by the Steering Committee, insofar as such rules are not inconsistent with or in conflict with these Bylaws or with provisions of law.

**SECTION 4.21 MEETINGS BY TELEPHONE OR VIDEO CONFERENCE**



Steering Committee individuals may participate in a regular or special meeting through use of conference telephone, videoconference, or similar communications device, or in person,

so long as all people participating in such meeting can hear one another. Participation in a meeting pursuant to this Section constitutes presence at such meeting for all purposes, including the existence of a quorum and voting.

#### **SECTION 4.22 STEERING COMMITTEE ACTION WITHOUT A MEETING**

Any action that the Steering Committee is required or permitted to take may be taken without a meeting if all Regular Directors on the Steering Committee consent in writing or by electronic message to that action. Such action by written consent shall have the same force and effect as any other validly approved action of the Steering Committee. All consents shall be filed with the minutes of the proceedings of the Steering Committee.

#### **SECTION 4.23 INDEMNIFICATION**

The Corporation shall indemnify individuals serving on the Steering Committee and Steering Committee Members to the fullest extent permissible under the laws of the State of Oregon.

#### **SECTION 4.24 INSURANCE FOR CORPORATE AGENTS**

Except as may be otherwise provided under provisions of law, the Steering Committee may adopt a resolution authorizing the purchase and maintenance of insurance on behalf of any agent of the Corporation (including individuals serving on the Steering Committee and employees or other agents of the Corporation) against liabilities asserted against or incurred by the agent in such capacity or arising out of the agent's status as such, whether or not the Corporation would have the power to indemnify the agent against such liability under these Bylaws or provisions of law.

### **ARTICLE 5 ADMINISTRATION**

#### **SECTION 5.1 ADMINISTRATOR**

The Administrator of the Corporation shall be selected by the affirmative vote of two-thirds (2/3) of the individuals authorized to serve on the Steering Committee and serve as Administrator for a one (1) year term. The administrator shall be a Member of the Corporation. The Administrator of the Corporation may resign at any time by submitting ninety (90) days' written notice to the Steering Committee.

#### **SECTION 5.2 ADMINISTRATOR DUTIES**

Subject to policies and procedures adopted by, or specific directions from, the Steering Committee, the Administrator of the Corporation agrees to perform such undertakings as are necessary to manage the day-to-day needs of the Corporation, including:

- (a) Scheduling and setting up meetings of the Steering Committee and membership;
- (b) Facilitating communication between Members, including providing timely notices of meetings;

- (c) Acting as the liaison to other consortiums or associations with which the Corporation may choose to associate;
- (d) Providing individuals on the Steering Committee and Members with timely minutes, summaries and other reports with respect to the activities of the Corporation;
- (e) Receiving and processing membership applications;
- (f) Receiving and holding in trust for the Corporation all membership dues, fees and assessments to be applied solely for the purposes as set forth in these Bylaws; and
- (g) Such other activities delegated or authorized by the Steering Committee.

Subject to approval by the Steering Committee, the Administrator may engage third parties to undertake such activities, provided that the Administrator enters into appropriate contracts protective of the Corporation, and ensures compliance with terms and conditions of these Bylaws including confidentiality obligations.

### **SECTION 5.3 DISPOSITION OF MEMBERSHIP DUES AND ASSESSMENTS**

The Administrator shall have the authority to collect dues, fees, and assessments, as determined by the Steering Committee. The Administrator may use the dues, fees and assessments it collects only (i) to pay such administrative costs as the Steering Committee reasonably deems appropriate; (ii) to pay the expenses of any materials or workshops that the Corporation may furnish to the Members; and (iii) for any other purposes that the Steering Committee may authorize consistent with these Bylaws and the Membership Agreement. The Administrator shall open, in the name of the Corporation, such federally insured bank accounts as the Administrator reasonably may deem appropriate and shall hold all dues and fees it collects from Members in those accounts until disbursement in accordance with the policies and procedures established by the Steering Committee.

## **ARTICLE 6 OFFICERS**

### **SECTION 6.1 DESIGNATION OF OFFICERS**

The officers of the Corporation shall be a Chair, a Vice Chair, a Secretary, and a Treasurer. The Corporation may also have one (1) or more Vice Chairs, Assistant Secretaries, Assistant Treasurers, and other such officers with such titles as may be determined from time to time by the Steering Committee. Officers shall be employees of Steering Committee Members during the Initial Period. The Chair, Co-Chairs, and Vice Chairs shall be Regular Directors. The Secretary and the Treasurer may be, but need not be, Regular Directors. The same person may hold more than one office.

### **SECTION 6.2 ELECTION AND TERM OF OFFICE**

Officers shall be elected by the Steering Committee at an initial organizing meeting and at each annual meeting thereafter of the Steering Committee, and each officer shall hold office until he or she resigns or is removed or is otherwise disqualified to serve, or until his or her

successor shall be elected, whichever occurs first. During the first year that the Corporation is in existence, the Steering Committee shall elect co-Chairs, who shall be two (2) individuals serving on the Steering Committee, one (1) of whom shall be an employee of Intel Corporation and one (1) of whom shall be an employee of IBM.

### **SECTION 6.3 REMOVAL AND RESIGNATION**

Subject to the provisions of Section 6.2, any officer may be removed, either with or without cause, by the Steering Committee at any time. Any officer may resign at any time by giving written notice to the Steering Committee or to the Chair or Secretary of the Corporation. Any such resignation shall take effect at the date of receipt of such notice or at any later date specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

### **SECTION 6.4 VACANCIES**

Any vacancy caused by the death, resignation, removal, disqualification, or otherwise, of any officer shall be filled by the Steering Committee. In case of a vacancy in any office other than that of Chair, such vacancy may be filled temporarily by appointment by the Chair until the Steering Committee shall fill the vacancy. Vacancies occurring in offices of officers appointed at the discretion of the Steering Committee may or may not be filled, as the Steering Committee shall determine.

### **SECTION 6.5 DUTIES OF CHAIR**

The Chair shall be the president and chief executive officer of the Corporation and shall, subject to the control of the Steering Committee, supervise and control the affairs of the Corporation and the activities of the officers. He or she shall perform all duties incident to his or her office and such other duties as may be required by law, by the Articles of Incorporation, or by these Bylaws, or which may be prescribed from time to time by the Steering Committee.

Except as otherwise expressly provided by law, by the Articles of Incorporation, or by these Bylaws, the Chair shall, in the name of the Corporation, execute such deeds, mortgages, bonds, contracts, checks, or other instruments which may from time to time be authorized by the Steering Committee.

During the first year of this Corporation's existence and, thereafter, in the discretion of the Steering Committee, the duties of Chair shall be jointly carried out by the two (2) individuals who are elected as Co-Chairs.

### **SECTION 6.6 DUTIES OF VICE CHAIR**

In the absence of a Chair, or in the event of his or her inability or refusal to act, the Vice Chair shall perform all the duties of the Chair, and when so acting shall have all the powers of, and be subject to all the restrictions on, the Chair.

The Vice Chair shall have other powers and perform such other duties as may be prescribed by law, by the Articles of Incorporation, or by these Bylaws, or as may be prescribed by the Steering Committee.

## **SECTION 6.7 DUTIES OF SECRETARY**

The Secretary shall:

Certify and keep at the principal office of the Corporation the original, or a copy, of these Bylaws as amended or otherwise altered to date.

Keep at the principal office of the Corporation or at such other place as the Steering Committee may determine, a book of minutes of all meetings of the Steering Committee, and, if applicable, meetings of committees of the Steering Committee and of Members, recording therein the time and place of holding, whether regular or special, how called, how notice thereof was given, the names of those present or represented at the meeting, and the proceedings thereof, including all ballots and proxies.

See that all notices are duly given in accordance with the provisions of these Bylaws or as required by law. Advise the Members in writing of all results of any election of Steering Committee Members.

Be custodian of the records and of the seal of the Corporation and affix the seal, as authorized by law or the provisions of these Bylaws, to duly executed documents of the Corporation.

Keep at the principal office of the Corporation a membership book containing the name and address of each and any Members, and, in the case where any membership has been terminated, he or she shall record such fact in the membership book together with the date on which such membership ceased.

Exhibit at all reasonable times to any Steering Committee Member of the Corporation, or to his or her agent or attorney, on request therefor, the Bylaws, a list of Members, and the minutes of the proceedings of the Steering Committee.

Exhibit at all reasonable times to any Member of the Corporation, or to such Member's agent or attorney, on request therefor, the Bylaws, a list of Members, and the minutes of the proceedings of the Members of the Corporation.

Act as secretary at Steering Committee meetings.

In general, perform all duties incident to the office of Secretary and such other duties as may be required by law, by the Articles of Incorporation, or by these Bylaws, or which may be assigned to him or her from time to time by the Steering Committee.

## **SECTION 6.8 DUTIES OF TREASURER**

The Treasurer shall:

Have charge and custody of, and be responsible for, all funds and securities of the Corporation, and deposit all such funds in the name of the Corporation in such banks, trust companies, or other depositories as shall be selected by the Steering Committee.

Receive, and give receipt for, monies due and payable to the Corporation from any source whatsoever.

Disburse, or cause to be disbursed, the funds of the Corporation as may be directed by the Steering Committee, taking proper vouchers for such disbursements.

Keep and maintain adequate and correct accounts of the Corporation's properties and business transactions, including accounts of its assets, liabilities, receipts, disbursements, gains and losses.

Exhibit at all reasonable times the books of account and financial records to any Steering Committee Member, or to his or her agent or attorney, on request therefor.

Render to the Steering Committee Members, whenever requested, an account of any or all of his or her transactions as Treasurer and of the financial condition of the Corporation.

Prepare, or cause to be prepared, and certify, or cause to be certified, the financial statements to be included in any required reports.

Be responsible for overseeing tax matters for the Corporation.

In general, perform all duties incident to the office of Treasurer and such other duties as may be required by law, by the Articles of Incorporation of the Corporation, or by these Bylaws, or which may be assigned to him or her from time to time by the Steering Committee.

## **SECTION 6.9 COMPENSATION**

The officers shall serve without compensation, unless compensation is authorized by the affirmative vote of two-thirds (2/3) of the individuals authorized to serve on the Steering Committee.

Nothing herein contained shall be construed to preclude any officer from serving the Corporation in any other capacity as an agent, employee, or otherwise, and receiving compensation therefore as long as such compensation is approved by a majority of disinterested Steering Committee Members.

## **ARTICLE 7 WORKING GROUPS**

### **SECTION 7.1 WORKING GROUPS**

The Corporation shall have such Working Groups as may from time to time be determined by the Steering Committee. There may be Primary Working Groups, Subordinate Working Groups and Task Groups. There initially will be two (2) standing Primary Working Groups, which shall be the Technical Working Group and the Marketing Working Group. In

addition to employees from Steering Committee Members and Sponsoring Members, the Working Groups may further consist of persons who are not employees of Steering Committee Members or Sponsoring Members. The Primary Working Groups shall act in an advisory capacity to the Steering Committee and report to the Steering Committee. Task Groups shall report to Primary or Subordinate Working Groups. The Technical Working Group shall coordinate, review, approve or disapprove all architectural matters relating to Specifications (subject to the ultimate authority of Steering Committee). The Marketing Working Group shall be responsible for all marketing and public communications activities of the Corporation except that all critical positioning and any official collateral indicating such critical positioning must be approved by the Steering Committee.

## **SECTION 7.2 MEETINGS AND ACTION OF WORKING GROUPS**

Meetings of the Working Groups shall be governed by, noticed, held and taken in accordance with policies and procedures established by the Working Groups, as approved or ratified by the Steering Committee. Notice of the time and place and purpose of holding any meeting of a Working Group shall be given by the Chair to the persons entitled to participate in such meeting at least seven (7) calendar days prior to the scheduled date for the meeting. The Steering Committee may also adopt rules and regulations pertaining to the conduct of meetings of Working Groups to the extent that such rules and regulations are not inconsistent with the provisions of these Bylaws.

## **SECTION 7.3 COMPOSITION OF WORKING GROUPS**

The Steering Committee shall select the Chair or Co-Chairs of a Working Group. Such Chair or Co-Chairs shall serve for a one (1) year term. All active Members of the Corporation in good standing are eligible to submit a request to a Working Group Chair or Co-Chairs to have an employee included in a Working Group. Each Steering Committee Member and Sponsoring Member shall be entitled to have an employee included in any Working Group. From the other Member requests, a Working Group Chair or Co-Chairs shall select the remaining individuals to serve on a Working Group. If a Working Group Co-Chairs cannot decide on the remaining individuals to serve, the Steering Committee shall select the remaining individuals to serve on a Working Group. For reasons of operational efficiency of a Working Group, the Chair or Co-Chairs have the discretion to limit the size of a Working Group.

## **SECTION 7.4 TASK GROUPS**

A Working Group may, at its convenience, establish Task Groups subordinate to a Working Group to deal with individual topics or sections of a proposal. A Working Group Chair or Co-Chairs will appoint the chair or co-chairs, if any, of each Task Group. Each Member shall submit a request to a Working Group Chair or Co-Chairs to have an employee included in the Task Group. Each Steering Committee and Sponsoring Member shall be entitled to have an employee participate in any Task Group. From the other Member requests, a Working Group Chair or Co-Chairs shall select the remaining individuals to serve on the Task Group. If a Working Group Co-Chairs cannot decide on the individuals to serve on a Task Group, the Steering Committee shall select the individuals to serve on the Task Group. For reasons of

operational efficiency of a Task Group, a Working Group Chair or Co-Chairs have the discretion to limit the size of a Task Group.

#### **SECTION 7.5 SCHEDULE OF MEETINGS**

At the first meeting of a Working Group or an established subgroup, a schedule for meetings and completion dates will be proposed.

#### **SECTION 7.6 CONDUCT OF MEETINGS**

The Working Groups will maintain minutes of their meetings. Representatives of at least two-thirds (2/3) of the Members represented on a Working Group, in attendance in person or by electronic means, shall be necessary to constitute a quorum for the submission of a proposal to the Steering Committee or Working Group, as appropriate.

#### **SECTION 7.7 VOTING**

Each Member with a representative(s) on a Working Group may have only one (1) vote on matters put before such Working Group. Each Member with a representative on a Working Group must have had a representative (or a substitute representative) present at three (3) of the last four (4) meetings of a Working Group in order for its representative to be eligible to vote. A majority vote of Working Group Members represented at a meeting at which a quorum is present shall be required to adopt any resolution or proposal before a Working Group. Upon completion of a recommendation, a Working Group must agree by a majority vote before submitting the recommendation to the Steering Committee or Working Group, as appropriate.

### **ARTICLE 8 EXECUTION OF INSTRUMENTS, DEPOSITS AND FUNDS**

#### **SECTION 8.1 EXECUTION OF INSTRUMENTS**

The Steering Committee, except as otherwise provided in these Bylaws, may by resolution authorize any agent of the Corporation to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances. Unless so authorized, no agent or employee shall have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit or to render it liable monetarily for any purpose or in any amount.

#### **SECTION 8.2 CHECKS AND NOTES**

Except as otherwise specifically determined by resolution of the Steering Committee, or as otherwise required by law, checks, drafts, promissory notes, orders for the payment of money, and other evidence of indebtedness of the Corporation shall be signed by the Administrator, the Treasurer, the Steering Committee Chair or a Steering Committee Co-Chair, except in cases where the amount exceeds a first pre-determined threshold set by the Steering Committee; in such cases a check shall require a second signature by the Treasurer, the Steering Committee Chair or a Steering Committee Co-Chair, and except in cases where the amount exceeds a second pre-determined threshold set by the Steering Committee; in such cases a check shall require the



signature of both the Treasurer and either the Steering Committee Chair or a Steering Committee Co-Chair.

### **SECTION 8.3 DEPOSITS**

All funds of the Corporation shall be deposited from time to time to the credit of the Corporation in such banks, trust companies, or other depositories as the Treasurer may select.

## **ARTICLE 9 CORPORATE RECORDS, REPORTS AND SEAL**

### **SECTION 9.1 MAINTENANCE OF CORPORATE RECORDS**

The Corporation shall keep at its principal office:

- (a) Minutes of all meetings of Steering Committee, committees of the Steering Committee, and all meetings of Members, indicating the time and place of holding such meetings, whether regular or special, how called, the notice given, and the names of those present and the proceedings thereof including all proxies;
- (b) Adequate and correct books and records of account, including accounts of its properties and business transactions and accounts of its assets, liabilities, receipts, disbursements, gains and losses;
- (c) A record of its Members, if any, indicating their names and addresses and, if applicable, the class of membership held by each Member and the termination date of any membership;
- (d) A copy of the Corporation's Articles of Incorporation and these Bylaws, as amended to date, which shall be open to inspection by the Members, if any, of the Corporation at all reasonable times during office hours.

### **SECTION 9.2 CORPORATE SEAL**

The Steering Committee may adopt, use, and, at will, alter, a corporate seal. Such seal shall be kept at the principal office of the Corporation. Failure to affix the seal to corporate instruments, however, shall not affect the validity of any such instrument.

### **SECTION 9.3 MEMBERS' INSPECTION RIGHTS**

Every Steering Committee Member shall have the absolute right at any reasonable time to inspect and copy all books, records and documents of every kind and to inspect the physical properties of the Corporation. Steering Committee Members and other Members shall have such other rights to inspect the books, records and properties of this Corporation as may be required by law.

#### **SECTION 9.4 RIGHT TO COPY AND MAKE EXTRACTS**

Any inspection under the provisions of this Article may be made in person or by agent or attorney and the right to inspection shall include the right to copy and make extracts.

#### **SECTION 9.5 PERIODIC REPORT**

The Steering Committee shall cause any annual or periodic report required under law to be prepared and delivered to an office of the state of incorporation of the Corporation, if required by law, and to the Members of this Corporation, if and within the time required by law.

### **ARTICLE 10 TAX EXEMPT PROVISIONS**

#### **SECTION 10.1 LIMITATION ON ACTIVITIES**

Notwithstanding any other provisions of these Bylaws, the Corporation shall not carry on any activities not permitted to be carried on by a Corporation exempt from federal income tax under Section 501(c)(6) of the Internal Revenue Code.

#### **SECTION 10.2 PROHIBITION AGAINST PRIVATE INUREMENT**

No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to, its Members, officers, or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes of the Corporation.

#### **SECTION 10.3 DISTRIBUTION OF ASSETS UPON DISSOLUTION**

Upon the dissolution of the Corporation, its assets remaining after payment, or provision for payment, of all debts and liabilities of the Corporation shall be distributed as determined by the Steering Committee, in accordance with the requirements of Section 501(c)(6) of the Internal Revenue Code.

### **ARTICLE 11 AMENDMENT OF BYLAWS**

These Bylaws may be altered, amended, or repealed and new Bylaws adopted by the affirmative vote of two-thirds (2/3) of the individuals authorized to serve on the Steering Committee (as defined in Section 4.19 of these Bylaws). In addition, an amendment shall also require: (i) the affirmative vote of two-thirds (2/3) of the class of Steering Committee Members if the amendment adversely affects any class's rights, powers, or benefits; (ii) the affirmative vote of a majority of the class of Sponsoring Members if the amendment adversely affects such class's rights, powers, or benefits; and (iii) the affirmative vote of a majority of the class of Regular Members if the amendment adversely affects such class's rights, powers, or benefits.

Notwithstanding the foregoing, (i) Section 3.2 may only be amended as provided in Section 3.2; (ii) Section 4.2 specifying the size of the Steering Committee during the Initial Period may not be amended, except by the affirmative vote of the number of Regular Directors authorized to serve as Steering Committee Members, minus one (1) vote; and (iii) any

amendment of a provision requiring a supermajority vote of a class of Members or of authorized Regular Directors may only be amended if passed by the supermajority of the applicable class or authorized Regular Directors required by the provision being amended.

## **ARTICLE 12 CONSTRUCTION AND TERMS**

Should any of the provisions or portions of these Bylaws be held unenforceable or invalid for any reason, the remaining provisions and portions of these Bylaws shall be unaffected by such holdings.

All references in these Bylaws to the Articles of Incorporation shall be to the Articles of Incorporation or other founding document of the Corporation filed with an office of the State of Oregon and used to establish the legal existence of the Corporation.

## **ARTICLE 13 MEMBERSHIP PROVISIONS**

### **SECTION 13.1 CLASSES OF MEMBERS — DIFFERENT RIGHTS**

The Corporation shall have three (3) separate classes of members: Steering Committee Members, Sponsoring Members, and Regular Members.

During the Initial Period, only the class of Steering Committee Members shall have the right to appoint the individuals who will serve on the Steering Committee as Regular Directors. Other classes of Members shall not have the right to vote on the appointment or election of Regular Directors during the Initial Period. After the Initial Period, all Members, regardless of class, shall have the right to vote on the election of Regular Directors to the Steering Committee. After the Initial Period, Steering Committee Members (but not other Members) shall have the right, acting singly, to nominate an individual for election to the Steering Committee as a Regular Director.

Only the class of Steering Committee Members shall have the right to vote on proposed amendments to Section 3.2 of these Bylaws. Only the class of Steering Committee members shall have the right to vote on amendments to the Requirements Document identified in Section 4.19. The class of Steering Committee Members and other classes of Member shall also have the voting rights with respect to other amendments as set forth in Article 11.

Steering Committee Members and Sponsoring Members shall have the right to have one of their employees included in any Working Group of the Member's choice. Steering Committee Members and Sponsoring Members shall also have the right to have their company logos displayed at public events sponsored by the Corporation.

Otherwise, Members shall have such other rights, privileges, benefits, and restrictions established by these Bylaws, by the Steering Committee, or by law.

### **SECTION 13.2 QUALIFICATIONS FOR MEMBERSHIP CLASSES**

The qualifications for membership in this Corporation are as follows:

Subject to Section 13.3 specifying the Members in or membership criteria for particular classes, membership will be available to all commercial enterprises that are users, manufacturers, sellers, or suppliers of computers, computer parts or components, peripherals, software, or related products or services, and that expect to support the design, development or application of hardware or software products which will implement or comply with Specifications.

All Members shall agree to adhere to the Corporation's Membership Agreement, as amended from time to time, to these Bylaws as amended from time to time, and to policies and procedures duly adopted by the Steering Committee.

Government entities, schools and universities, and nonprofit organizations are not eligible for membership. However, the Steering Committee may authorize such entities otherwise to participate in the Corporation's activities, subject to such policies, procedures and limitations as may be established by the Steering Committee.

### **SECTION 13.3 ADMISSION TO MEMBERSHIP CLASSES**

The class of Steering Committee Members shall consist of the following companies only: Compaq Computer Corporation, Dell Computer Corporation, Inc., Hewlett-Packard Company, Intel Corporation, IBM, Microsoft Corporation and Sun Microsystems, Inc. Additional Steering Committee Members may be admitted in the discretion of the class of Steering Committee Members upon a unanimous minus one (1) vote of the class of Steering Committee Members.

After the Initial Period, the employer of any individual elected to the Steering Committee, which is not then a Steering Committee Member, shall be entitled to become a new Steering Committee Member, provided that the employer assumes the duties and obligations of a Steering Committee Member, including, without limitation, the obligation to pay the dues for Steering Committee Members. A new Steering Committee Member that becomes a Steering Committee Member by reason of this subparagraph shall remain a Steering Committee Member only for so long as its employee serves on the Steering Committee.

Any Steering Committee Member's status as a Steering Committee Member may be revoked upon a unanimous minus one (1) vote of the class of Steering Committee Members, provided that the Steering Committee Member is first given thirty (30) days prior written notice and the opportunity to be heard on the issue of revocation. In the event of a revocation of status as a Steering Committee Member, the former Steering Committee Member shall be entitled to a pro-rata refund of dues.

A Steering Committee Member, if it ceases to be a Steering Committee Member, shall have the right to become a Sponsoring Member if it wishes.

The class of Sponsoring Members shall consist of commercial enterprises that meet the requirements of Section 13.2, that are selected in the discretion of the Steering Committee by the affirmative vote of two-thirds (2/3) of the Regular Directors authorized to serve on the Steering Committee, that execute a Membership Agreement as a Sponsoring Member, and that tender the appropriate dues within a deadline established by the Steering Committee.

An enterprise selected as a Sponsoring Member shall serve as a Sponsoring Member during the Initial Period. After the Initial Period, Sponsoring Members shall serve one (1) year terms, subject to reselection as provided in this Section 13.3 by the Steering Committee to successive one (1) year terms.

Qualified commercial enterprises may be admitted to membership in the class of Regular Member upon execution of a Membership Agreement and a Membership application and upon payment of the applicable annual dues as specified by the Steering Committee.

#### **SECTION 13.4 FEES AND DUES**

The annual dues payable to the Corporation by each class of Members shall be established and may be changed from time to time by resolution of the Steering Committee. Dues may vary between Member classes and within a class based on reasonable and nondiscriminatory criteria approved by the Steering Committee. Initial dues shall be nine thousand five hundred dollars (\$9,500) for Regular Members, fifteen thousand dollars (\$15,000) for Sponsoring Members, and twenty-five thousand dollars (\$25,000) for Steering Committee Members. Dues shall be due and payable upon becoming a Member of the Corporation or admission to a different class of Membership. Dues shall be for the twelve (12) months from the date of the Member's joining and shall be due and payable each successive year on that same date provided membership is retained by the Member. If any Member is delinquent by more than thirty (30) days in the payment of dues, such Member's rights, including voting rights, shall be deemed suspended upon written notice from the Corporation until all delinquent dues are paid. A Member is not in good standing if its dues have not been paid within the time required.

#### **SECTION 13.5 NUMBER OF MEMBERS**

There is no limit on the number of Members that the Steering Committee may admit to any class of Members.

#### **SECTION 13.6 MEMBERSHIP RECORDS AND DESIGNATION OF REPRESENTATIVE**

The Corporation shall keep a membership record containing the name and address of each Member and the date upon which the applicant became a Member. Termination of the membership of any Member shall be recorded in the record, together with the date of termination of such membership. Such record shall be kept at the Corporation's principal office or at the office of the administrator or secretariat. The Member shall designate in writing one (1) individual as the representative authorized to vote and otherwise act on behalf of the Member. The Member may change its representative by written notice to the Corporation. The Member may designate in writing a substitute representative to exercise its voting rights at any meeting of Members. The representative and substitute representative must be employees of the Member.

#### **SECTION 13.7 NON-LIABILITY OF MEMBERS**

No Member of this Corporation is, as such, individually liable for the particular debts, liabilities, or obligations of the Corporation. A Member exercising management powers or responsibilities for or on behalf of the Corporation will not have personal liability to the Corporation or its Members for damages for any breach of duty in that capacity, provided that

nothing in this Section shall eliminate or limit: (a) the liability of any Member if a judgment or other final adjudication adverse to him or her establishes that his or her acts or omissions were in bad faith or involved intentional misconduct or a knowing violation of law, or that he or she personally gained in fact a financial profit or other advantage to which he or she was not legally entitled, or that, with respect to a distribution to Members, his or her acts were not performed in accordance with the applicable provisions of the Corporations Code of the State of Oregon.

### **SECTION 13.8 NON-TRANSFERABILITY OF MEMBERSHIPS**

No Member may transfer a membership or any right arising therefrom unless approved by the Steering Committee. All rights of membership cease upon the Member's dissolution.

### **SECTION 13.9 AFFILIATED ENTITIES – ONE MEMBER**

Notwithstanding status as separate legal entities or payment of more than one (1) membership fee, Affiliates shall be treated as one (1) Member entitled collectively to only one (1) vote. This section shall apply to Members that become Affiliates before or after becoming Members of the Corporation.

### **SECTION 13.10 TERMINATION OF MEMBERSHIP**

The membership of a Member shall terminate upon the occurrence of any of the following events:

- (1) Upon the Member's decision to terminate its membership in the Corporation, upon written notice to the Corporation;
- (2) Upon a failure of a Member to initiate or renew membership by paying dues on or before their due date, such termination to be effective thirty (30) days after a written notification of delinquency is sent to such Member by the Administrator of the Corporation. A Member may avoid such termination by paying the amount of delinquent dues within a thirty (30) day period following the Member's receipt of the written notification delinquency;
- (3) After providing the Member with prior written notice of the proposed termination and the reason(s) therefor, in no event less than fifteen (15) days, and an opportunity to be heard either orally or in writing not less than five (5) days before the effective date of termination, upon a determination by the affirmative vote of the number of Regular Directors authorized to serve on the Steering Committee, minus one (1): (i) that the Member is in breach of these Bylaws or its Membership Agreement; (ii) that the Member fails to satisfy the qualifications for membership; or (iii) that there are other grounds supporting termination that are fair and reasonable under the circumstances.

All rights of a Member in the Corporation shall cease on termination of membership as herein provided. A Member terminated from the Corporation (whether voluntarily or involuntarily) shall not receive a refund of dues already paid for the current dues period.

## **SECTION 13.11 NO OWNERSHIP INTEREST**

Members shall not have any ownership interest in or right to possess the assets of the Corporation, except as expressly provided in the Member's Membership Agreement.

## **ARTICLE 14 MEETINGS OF MEMBERS**

### **SECTION 14.1 PLACE OF MEETINGS**

Meetings of Members shall be designated from time to time by resolution of the Steering Committee and be held at places and times reflecting the global nature of the Corporation and to encourage maximum participation. Meetings may be held in person or by any combination of audio or video teleconferencing techniques.

### **SECTION 14.2 REGULAR MEETINGS**

There will be an Annual Meeting of Steering Committee Members and an Annual Meeting of all Members. Annual Meetings of the Steering Committee Members shall be held for the purpose of transacting any business that may properly come before the meeting. After the Initial Period, the Annual Meeting of all Members shall be held for the purpose of electing Regular Directors and transmitting other business as may come before the meeting.

Other regular meetings of the Members shall be held on dates and at times to be determined by the Steering Committee.

### **SECTION 14.3 SPECIAL MEETINGS OF THE MEMBERS**

Special meetings of the Members for any purpose may be called by the Steering Committee, or by written request of two-thirds (2/3) of any class of Members.

### **SECTION 14.4 NOTICE OF MEETINGS**

Unless otherwise provided by these Bylaws or provisions of law, written notice stating the place, day and hour of a meeting of Members and, in the case of a special meeting of Members, the purpose or purposes for which the meeting is called, shall be delivered to each Member not less than fifteen (15) days before the date of the meeting, at the direction of the Steering Committee Chair or the Administrator, or the persons calling the meeting by personal delivery, by postal mail, by express mail, by electronic mail with return notification, by facsimile transmission, or by other electronic means. If mailed, such notice shall be deemed to be delivered three (3) days after being deposited in the mail addressed to the Member's prime contact at his or her address as it appears on the records of the Corporation, with postage prepaid, or, if sent by express mail, such notice shall be deemed delivered on the following business day. If the notice is sent by electronic mail, by facsimile transmission or by other electronic means, the notice shall be deemed delivered the first business day following the day it is sent. If the notice is personally delivered, the notice shall be deemed delivered on the day it is personally delivered.

The notice of any meeting of Members at which Regular Directors are to be elected by the Members shall also state the names of all those who are nominees or candidates for election to the Steering Committee at the time notice is given or as soon thereafter as such information is known.

Whenever any notice of a meeting of Members is required to be given to any Member of this Corporation under provisions of these Bylaws or the law of this state, a waiver of notice in writing signed by the Member, whether before or after the time of the meeting, shall be equivalent to the giving of such notice.

#### **SECTION 14.5 QUORUM FOR MEETINGS**

A majority of the class of Steering Committee Members, a majority of the class of Sponsoring Members, and at least twenty-five percent (25%) of the class of Regular Members, present in the person of a duly authorized employee or present by proxy, shall constitute a quorum for meetings of the Membership.

#### **SECTION 14.6 MEMBERSHIP ACTION**

Every act or decision done or made by a majority of each class of Members present in person or by proxy at a duly held meeting is the act of the Members, unless these Bylaws or provisions of law require a greater number or different method of calculation.

#### **SECTION 14.7 ELECTION OF STEERING COMMITTEE**

Election of individuals to the Steering Committee shall be by electronic or written ballot. Only the class of Steering Committee Members are entitled to appoint the individuals to serve on the Steering Committee during the Initial Period. Thereafter, all Members in good standing are entitled to vote for the election of Regular Directors. Such electronic or written ballots shall be distributed with the notice of the Annual Meeting to those Members eligible to vote. Such ballots shall be due by the date specified on the ballot. Each Member eligible to vote may vote for Steering Committee nominees up to the current number of authorized Regular Directors. The number of nominees equal to the current number of authorized Regular Directors receiving the highest number of votes, with all classes of Members voting together as a single class, shall be elected to the Steering Committee as Regular Directors.

#### **SECTION 14.8 VOTING PROCEDURE**

Each Member shall have one (1) vote on each matter submitted to a vote by the Members, except during the Initial Period, during which time only Steering Committee Members shall have a vote for election of individuals to the Steering Committee. Voting on all matters other than election of Steering Committee Members at meetings shall be by a show of hands if held in person, or by voice ballot if held by audio or video teleconferencing, unless otherwise required, or by secret ballot if requested by a majority of any class of Members. Results of all ballots shall duly be distributed to all Members within thirty (30) days of each ballot.



## **SECTION 14.9 ACTION BY WRITTEN OR ELECTRONIC BALLOT**

Except as otherwise provided under these Bylaws or provisions of law, any action which may be taken at any regular or special meeting of Members may be taken without a meeting if the Corporation distributes a written or electronic ballot to each Member.

The ballot shall:

- (1) Set forth the proposed action;
- (2) Provide an opportunity to specify approval or disapproval of each proposal;
- (3) State the percentage of approvals necessary to pass the measure submitted; and
- (4) Shall specify the date by which the ballot must be received by the Corporation in order to be counted. The date set shall afford Members a reasonable time within which to return the ballots to the Corporation.

Ballots shall be mailed or delivered in the manner required for giving notice of membership meetings as specified in these Bylaws.

## **SECTION 14.10 CONDUCT OF MEETINGS**

Meetings of Members shall be presided over by the Chair or Co-Chair of the Steering Committee or, in his or her absence, by another individual serving on the Steering Committee or, in the absence of all of these persons, by the Administrator. The Administrator of the Corporation shall act as secretary of all meetings of Members, provided that, in his or her absence or when the Administrator is presiding, the presiding officer shall appoint another person to act as secretary of the Meeting.

Meetings shall be conducted to allow for active, fair and open participation by all Members attending the meeting. All participants shall have the right to express opinions on the subject matter, whether or not the opinions differ from those of the majority. Where a decision is called for, it shall be determined by voice vote, and each Member shall have the opportunity to vote on the outcome. Meetings may not be adjourned until questions, opinions and comments from all participating Members are voiced and duly recorded by the presiding officers, subject to reasonable limitations on the time and duration of meetings.

## **SECTION 14.11 PROXIES**

Every Member shall have the right to vote either in person or by one (1) or more agents authorized by a proxy validly executed by the Member. A proxy may be executed by written authorization signed, or by electronic transmission authorized, by the Member, giving the proxy holder(s) the power to vote on behalf of the Member. A proxy shall be deemed signed if the Member's name or other authorization is placed on the proxy (whether by manual signature, typewriting, telegraphic or electronic transmission or otherwise) by the Member. A proxy may only be held by a Member of the Corporation.

A validly executed proxy that does not state that it is irrevocable shall continue in full force and effect unless revoked by the person executing it, prior to the vote pursuant thereto, by a writing delivered to the cooperation stating that the proxy is revoked or by a subsequent proxy executed by, or attendance at the meeting by the person executing the proxy; provided, however, that no such proxy shall be valid after the expiration of eleven (11) months from the date of such a proxy, unless otherwise provided in the proxy. The revocability of a proxy that states on its face that it is irrevocable shall be governed by the applicable provisions of the Corporations Code of the State of Oregon.

## **SECTION 14.12 NON-LIABILITY OF MEMBERS**

The Members do not have any liability for the obligations or liabilities of the Corporation, except to the extent provided by the Corporate Code of the State of Oregon.

## **ARTICLE 15 SPECIFICATION DEVELOPMENT**

Before approving specifications, design guidelines, or programming guidelines, the Steering Committee shall adopt and publish to the Membership, policies and procedures for the development and approval of such documents. Such policies and procedures shall be in conformity with these Bylaws and approved by the affirmative vote of two-thirds (2/3) of the number of Regular Directors authorized to serve on the Steering Committee. The policies and procedures shall give Working Groups and Members the opportunity to make proposals for changes or additions to the Corporation's specifications, design guidelines, and programming guidelines. The policies and procedures shall also give Members a reasonable opportunity to review draft specifications, design guidelines, and programming guidelines, before such documents are finally approved by the Steering Committee.

## **ARTICLE 16 ANTITRUST**

Each Member acknowledges that the Members are committed to fostering competition in the development of new products and services and that the Corporation's specifications are intended to promote such competition. The Members further acknowledge that some of them may compete with one another in various lines of business and that it is therefore imperative that they and their representatives act in a manner that does not violate any applicable antitrust laws and regulations. Without limiting the generality of the foregoing, the Members acknowledge that the Members that are competitors shall not discuss issues relating to product costs, product pricing, methods or channels of product distribution, any division of markets, or allocation of customers or any other topic that would be prohibited by applicable antitrust laws. Accordingly, each Member hereby assumes responsibility to provide appropriate legal counsel to its representatives acting according to these Bylaws regarding the importance of limiting their discussions to subjects that relate to the purposes of the Corporation, whether or not such discussions take place during formal meetings, informal gatherings, or otherwise.

Each Member consents to the Corporation's giving notice of Member's membership in the Corporation, to the extent necessary for the Corporation to invoke the protection of the National Cooperative Research and Production Act of 1993. (15 U.S.C. §§4301 et seq.)

## **ARTICLE 17 VOLUNTARY DISSOLUTION**

The Corporation may dissolve voluntarily upon the affirmative vote of two-thirds (2/3) of the individuals authorized to serve as Regular Directors on the Steering Committee and the approval of a majority of Members (voting together as a single class) that are eligible to cast votes. In addition, the Corporation shall dissolve if less than four (4) Regular Directors are appointed or elected to serve on the Steering Committee.

In the event that the Corporation shall be dissolved or wound up at any time, all of the remaining properties, monies, and assets of the Corporation, after provision has been made for its known debts and liabilities as provided by law, shall be distributed in the manner determined by the Steering Committee, in accordance with the requirements of Section 501(c)(6) of the Internal Revenue Code.

## **ARTICLE 18 MISCELLANEOUS**

### **SECTION 18.1 FREEDOM OF ACTION**

Neither participation in the Corporation nor the Corporation's approval or release of a specification shall require any Member to use or implement the specification, to preclude any Member from developing or employing additional, competing, or alternative products or specifications, or to foreclose taking a different course of action should any Member so desire. No provision of these Bylaws or the Membership Agreement shall be interpreted to prevent any Member from engaging in any other activities or business ventures, independently or with others, whether or not competitive with the activities contemplated herein or those of any Member and regardless of the effect thereof on the Corporation.

### **SECTION 18.2 GOVERNING LAW**

These Bylaws shall be governed by, and construed in accordance with, the laws of the State of Oregon.

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