

BY-LAWS OF
INTERCHANGEABLE VIRTUAL INSTRUMENTS FOUNDATION, INC.

ARTICLE I

NAME, PURPOSE AND OFFICES

Section 1.1 Name

The name of the corporation is "Interchangeable Virtual Instruments Foundation, Inc." and the corporation is referred to in these By-laws as the "Consortium".

Section 1.2 Principal Office

The principal office of the Consortium shall be located at such location within or without the state of Delaware as shall be determined by the Board of Directors from time to time.

Section 1.3 Other Offices

Branch or subordinate offices may at any time be established by the Board of Directors at any place or places.

Section 1.4 Purpose

The nature of the business or purposes to be conducted or promoted by the Consortium is to engage in any lawful act or activity for which corporations which are organized not for profit may be organized under the General Corporation Law of Delaware. The primary purpose of the Consortium is to promote the development and adoption of standard specifications for programming test instrument capabilities (the "Specifications"); to focus on the needs of the people that use and develop test systems who must take off-the-shelf instrument drivers and build and maintain high-performance test systems; to build on existing industry standards to deliver specifications that simplify interchanging instruments and provide for better performing and more easily maintainable programs that use IVI drivers; to support such specifications and solutions worldwide to ensure that a broad spectrum of goods and services is developed and available; to investigate and, if approved by the Board of Directors, participate in a program to provide for testing and conformity assessment of products implementing Specifications; to create and own distinctive trademarks; and to operate a branding program based upon distinctive

trademarks to create high customer awareness of, demand for, and confidence in products designed in compliance with the Specifications.

In practice, the Consortium plans to: (a) develop, support and maintain the Specifications, (b) consider and, if approved by the Board of Directors, participate in development and/or funding the development of interoperability and/or certification tests, (c) consider and, if approved by the Board of Directors, participate in administering or subcontracting testing services, (d) administer or subcontract a branding program, (e) create various printed and/or electronic materials for distribution to members and non-members, (f) maintain its own website, (g) coordinate marketing activities relating to the promotion of the Specifications among members, as well as create basic marketing collateral (e.g., both web pages as well as tangible materials), (h) maintain relations with (and, as appropriate, leverage off of standards developed by) other standard setting consortia to ensure coherence among specifications maintained by the Consortium and such other organizations, and (i) undertake those other activities which its Board of Directors may from time to time approve.

Section 1.5 Nonprofit Status

(a) The Consortium is organized and shall be operated as a non-stock, not for profit membership corporation organized under the General Corporation Law of the State of Delaware.

(b) The Board of Directors may, in its sole discretion, elect to seek exemption from Federal taxation for the Consortium pursuant to Section 501(a) of the Internal Revenue Code of 1986, as amended (hereinafter, the "Code"). In the event that such exemption is sought and until such time, if ever, as such exemption is denied or lost, the Consortium shall not knowingly engage directly or indirectly in any activity that it believes would be likely to invalidate its status as an organization exempt from federal income taxation under Section 501(a) of the Code as an organization described in Section 501(c) of the Code. All references to the Code contained herein are deemed to include corresponding provisions of any future United States Internal Revenue Law.

ARTICLE II

MEMBERS

Section 2.1 Classes of Membership

The Consortium shall initially have three classes of membership: Sponsor Members, General Members and Associate Members. Additional classes of voting and non-voting members may be created in the future, and the rights of existing classes of members may be amended, pursuant to Section 2.9 of these By-laws. Sponsor Members, General Members and any future classes of members which are entitled to voting rights shall be collectively referred to as "Voting Members." All Voting and non-

voting memberships in the Consortium are collectively referred to in these By-laws as "Memberships", and a person or entity holding Membership is referred to in these By-laws as a "Member".

Section 2.2 General Conditions of Membership

Any association, partnership, organization, governmental agency, company, corporation, academic or non-profit entity shall be admitted to Membership by: (a) acceptance of its written application therefor on such form as may be from time to time required by the Consortium (which acceptance shall be administered in a non-discriminatory fashion) and (b) payment of such application fees, initiation fees (if any), annual dues or other fees for such class of Membership as may from time to time be established by the Board of Directors. A Member shall remain in good standing as a Member provided all application fees, initiation fees, subsequent dues, assessments, and other fees, together with such penalties for late payment as may be determined by the Board of Directors, have been paid within the period set by the Board of Directors and the Member continues to meet all of the other requirements of Membership, as from time to time determined by the Board of Directors. Notwithstanding the foregoing, an entity shall be admitted as a Member, with the privileges of the membership class for which such entity applied, if it submits its written application for membership on or before March 1, 2001, provided that if such Member does not pay its initial membership fees within sixty (60) days following the submission of its application, it shall forfeit its membership rights, including without limitation its rights, if any, to nominate or elect a Director.

Section 2.3 Privileges of Sponsor Membership

Each Sponsor Member, while in good standing, shall be entitled to:

(a) nominate and elect a Director to serve on the Board of Directors, provided such Sponsor Member asserts that it is either an end-user implementing, or planning to implement, a solution based upon the Specifications or it is a vendor or integrator that has implemented, or is actively working on implementing, a product, system, or service based upon the Specifications (this right shall apply with respect to the first ten (10) entities which may choose to join the Consortium in this class; thereafter, any other Sponsor Member must await a vacancy of one of the Sponsor Director (as defined in Section 4.3) seats, or an expansion of the Board of Directors intended to provide additional Sponsor Director seats, and each such seat shall be allocated to the other Sponsor Members chronologically based on their date of Sponsor Membership);

(b) vote on each matter submitted to a vote of the Voting Members (other than in connection with the election of Directors, where its rights are limited to nominating and electing a Director to the automatic Board seats allocated to the Sponsor Members as described above);

(c) appoint one voting representative and an unlimited number of non-voting representatives to each Committee (other than committee(s) of the Board of Directors), and Sub-Groups (as defined in

Section 5.5(a)) that the Consortium may establish (which appointee need not be the same individual for all such committees and Sub-Groups); provided, however, that such rights with regard to the Users Committee and its Sub-Groups shall be restricted as set forth in Section 5.5(c);

(d) receive one copy, without charge, of all publications of the Consortium that are intended for regular distribution, prior to distribution to the public, including pre-public access to any specifications, technology or software under development as the Board of Directors may approve from time to time, and of all final specifications as adopted by the Consortium;

(e) attend all general and special meetings of the Membership provided for in Article III of these By-laws;

(f) receive such free or discounted services and software provided by the Consortium as the Board of Directors may designate from time to time;

(g) formally propose changes and extensions to Specifications;

(h) be eligible to provide a chairperson to either the Technical Committee, the Marketing Committee or, if permitted as to such Member in Section 5.5(c), the Users Committee, if a full-time Consortium employee is not the chair;

(i) be prominently listed in all appropriate Consortium marketing materials, as determined by the Board; and

(j) such other benefits, rights and privileges as the Board of Directors may designate or the Voting Members may from time to time institute by vote at any meeting of the Voting Members.

Section 2.4 Privileges of General Membership

Each General Member, while in good standing, shall be entitled to:

(a) submit a candidate for nomination to the Board of Directors (provided that the Member asserts that it is either an end-user implementing a solution based upon the Specifications or it is a vendor or integrator that has implemented, or is actively working on implementing, a product, system, or service based upon the Specifications) and vote with all General Members as a class to elect five (5) Directors, nominations of such representatives to be made in accordance with Section 4.3(b) below ;

(b) vote on each matter submitted to a vote of the Voting Members (other than in connection with the election of Directors, where its rights are limited to voting for Directors as described above);

(c) appoint one voting representative and an unlimited number of non-voting representatives to

each Committee (other than committee(s) of the Board of Directors) and Sub-Group that the Consortium may establish (which appointee need not be the same individual for all such committees and Sub-Groups); provided, however, that such rights with regard to the Users Committee and its Sub-Groups shall be restricted as set forth in Section 5.5(c);

(d) receive one copy, without charge, of all publications of the Consortium that are intended for regular distribution, prior to distribution to the public, including pre-public access to any specifications, technology or software under development as the Board of Directors may approve from time to time, and of all final specifications as adopted by the Consortium; and

(e) attend all general and special meetings of the Membership provided for in Article III of these By-laws;

(f) receive such free or discounted services and software provided by the Consortium as the Board of Directors may designate from time to time;

(g) formally propose changes and extensions to Specifications;

(h) be eligible to provide a chairperson to either the Technical Committee, the Marketing Committee or, if permitted as to such Member in Section 5.5(c), the Users Committee, if a full-time Consortium employee is not the chair;

(i) be listed in appropriate Consortium marketing materials, as determined by the Board of Directors; and

(j) such other benefits, rights and privileges as the Board of Directors may designate or the Voting Members may from time to time institute by vote at any meeting of the Voting Members.

Section 2.5 Privileges of Associate Membership

Each Associate Member, while in good standing, shall be entitled to:

(a) appoint one representative to each Committee (other than committee(s) of the Board of Directors) and Sub-Group that the Consortium may establish (which representative need not be the same individual for all such committees and Sub-Groups), in each case to participate in a non-voting capacity (additional non-voting representatives may be permitted at the discretion of the chair of the committee, group or meeting); provided, however, that such rights with regard to the Users Committee and its Sub-Groups shall be restricted as set forth in Section 5.5(c);

(b) receive one copy, without charge, of all publications of the Consortium which are intended for regular distribution, prior to distribution to the public as the Board of Directors may approve from

time to time, and of all final specifications as adopted by the Consortium;

(c) receive immediate access to all Consortium software upon its release to the public;

(d) attend all general meetings of the Membership provided for in Article III of these By-laws, provided, that only the Voting Members shall be entitled to vote at such meetings, except as specifically provided for in these By-laws, the Certificate of Incorporation or by law;

(e) formally propose changes and extensions to the Specifications;

(f) be listed in appropriate Consortium marketing material, as determined by the Board; and

(g) such other benefits, rights and privileges as the Board of Directors may designate or the Voting Members may from time to time institute by vote at any meeting of the Voting Members.

Section 2.6 [Intentionally Omitted]

Section 2.7 Rights in Intellectual Property

All intellectual property, specifications, guidelines and any other technology, publications or assets (collectively, "Technology") including, without limitation, any of the same which may be represented by any standards and specifications which may from time to time be submitted to or adopted by the Consortium, shall be subject to such policies and procedures as may from time to time be adopted by the Board of Directors. Any such rules or policies adopted by the Board of Directors may control all rights of ownership and publication relating to the Technology, the specific license rights which Members may be entitled to therein, and the fees (if any) which the Consortium may charge Members and third parties for access to and use of such Technology.

Section 2.8 Subsidiaries, Etc.

(a) Only the legal entity which has been accepted as a Member of the Consortium, and not any parent, subsidiary or affiliate of such entity, shall be entitled to enjoy the rights and privileges of such Membership, provided that any "Related Company" (as defined below) which would otherwise be eligible to become a Member shall be entitled to (unless otherwise determined by the Board of Directors pursuant to a determination made in a non-discriminatory fashion) (i) to receive from such Member and distribute copies of the Technology received by the Member, and (ii) with the permission of the Member, send a representative to a meeting or meetings in lieu of such Member; subject in each case to such rules as may from time to time be determined by the Board of Directors. For purposes of this Section 2.8, the term "Related Company" shall mean any entity which controls or is controlled by a Member or which, together with a Member, is under the common control of a third party, in each case where such control results from ownership, either directly or indirectly, of more than 50% of the voting

securities of the entity in question.

(b) Only one Member which is part of a group of Related Companies shall be entitled to have a representative on the Board of Directors at one time.

(c) If a Member is itself a consortium, membership organization, user group or other entity which has members or sponsors, then the rights and privileges granted to such Member shall extend only to the paid employees of such Member, and not to its members or sponsors.

(d) Memberships shall be non-transferable, non-salable and non-assignable, except that any Member may transfer its Membership for the then current year to a successor to substantially all of its business and/or assets, whether by merger, sale or otherwise; provided that the transferee agrees to be bound by these By-laws, the Certificate of Incorporation and such policies and procedures as the Board of Directors may from time to time adopt.

Section 2.9 Additional Classes of Members

The conditions, privileges, powers, and voting rights (if any) of any class of Members may be changed, and one or more additional classes of Membership in the Consortium may be created, and the conditions, voting rights (if any), powers and privileges of each such class may be prescribed, by adoption of an amendment to these By-laws pursuant to Article XIV of the By-laws.

Section 2.10 Deprivation or Suspension of Membership

Any Member in good standing may be deprived of its Membership or be suspended as a Member for cause, and any Member not in good standing may be deprived of its Membership or can be suspended as a Member without cause, by the Board of Directors. Any application fees, initial fees, annual dues, assessments, other fees and/or penalties already paid shall not be refundable upon the Member's suspension or deprivation of Membership, and all fees of such Member which may be accrued and unpaid as of such date shall remain due and payable. No deprivation or suspension of Membership (other than for non-payment of dues, assessments or fees) shall be effective, however, unless:

(a) The Member is given notice of the proposed deprivation or suspension of Membership and of the reasons therefor;

(b) Such notice is delivered personally or by certified mail, return receipt requested, or by a national overnight courier service, sent to the last address of the Member shown on the Consortium's records;

(c) Such notice is given at least thirty (30) days prior to the effective date of the proposed

deprivation or suspension of Membership; and

(d) Such notice sets forth a procedure determined by the body (said body to consist of the Board of Directors or a committee selected for that purpose by the Board) authorized to decide whether or not the proposed deprivation or suspension shall take place, whereby the Member is given the opportunity to be heard by such body, either orally (and represented by counsel if the Member so desires) or in writing, not less than five (5) days before the effective date of the proposed deprivation or suspension.

Any deprivation or suspension of Membership for non-payment of dues, assessments or fees may be effected by written notice from the President of the Consortium pursuant to such rules as the Board of Directors may from time to time adopt.

Section 2.11 Resignation by Member

A Member may resign as a Member at any time. Any application fees, initial fees, annual dues, assessments, other fees and/or penalties already paid shall not be refundable in such event, and all fees of such Member which may be accrued and unpaid as of such date shall remain due and payable.

Section 2.12 Membership Book

The name and address of each Member shall be contained in a Membership Book to be maintained at the principal office of the Consortium and posted to the Consortium website. Termination of any Membership shall be recorded in the book together with the date of such termination. Each Member shall be responsible for apprising the Consortium in writing of all changes to its name and address, and of the names and addresses of all representatives of such Member appointed to be members of committees designated by such Member in its application for Membership or to receive notices or to vote on behalf of such Member.

Section 2.13 Levy of Dues, Assessments or Fees

(a) The Consortium may levy dues, assessments or fees upon its Members in such amount as may be approved from time to time by the Board of Directors, but a Member upon learning of any increase in dues, or of any levy of any assessments or fees, may avoid liability therefor by resigning from Membership prior to the date such dues, assessments or fees are due and payable, except where the Member is, by contract with the Consortium or otherwise, independently and explicitly liable for such dues, assessments or fees. No provision of the Certificate of Incorporation or By-Laws of the Consortium authorizing such dues, assessments or fees shall, of itself, create such liability. In no event shall the failure of a Member to pay any dues or assessments give rise to any claim in favor of the Consortium for indirect or consequential damages.

(b) The President shall be permitted, in his or her discretion, to exchange memberships of the Consortium with other consortia, trade associations and similar non-profit organizations on a no-fee or reduced-fee basis, where he or she believes that such cross membership is in the best interests of the Consortium and its Members.

Section 2.14 Use of Names

Neither the Consortium nor any Member shall use the name of the other in any form of publicity without the written permission of the other, provided that the Consortium and any Member may each disclose and publicize such Member's membership in the Consortium. Notwithstanding the foregoing, if the Consortium has not made a filing under the National Cooperative Research and Production Act of 1993, as amended, a Member may request that its membership not be disclosed if it makes a written request to such effect at the time of application to the Consortium for Membership.

ARTICLE III

MEETINGS OF MEMBERS

Section 3.1 Place of Meetings

All meetings of the Members shall be held at such place within or without the State of Delaware and at such time as may be fixed from time to time by the Board of Directors or President, or if not so designated, at the registered office of the Consortium. Notwithstanding the foregoing, the Board of Directors may, in its sole discretion, determine that the meeting shall not be held at any place, but may instead be held solely by means of remote communication.

Section 3.2 Annual Meeting

Annual meetings of Members shall be held by written consent pursuant to Section 3.10, or, if in person, in the first quarter of the calendar year at such date and time as shall be designated from time to time by the Board of Directors or the President, or at such other date and time as shall be designated from time to time by the Board of Directors or the President, at which meeting Voting Members shall elect, in accordance with Section 4.3, a Board of Directors and at which meeting the Members shall transact such other business as may properly be brought before the meeting. If no annual meeting is held in accordance with the foregoing provision, the Board of Directors shall cause the meeting to be held as soon thereafter as convenient, which meeting shall be designated a special meeting in lieu of annual meeting.

Section 3.3 Special Meetings

Special meetings of the Members, for any purpose or purposes, may, unless otherwise prescribed by statute or by the Certificate of Incorporation, be called by the Board of Directors or the President or Secretary at the request in writing of a majority of the entire Board of Directors, or at the request in writing of Voting Members entitled to vote at least ten percent (10%) of the aggregate votes of all Voting Members. Such request shall state the purpose or purposes of the proposed meeting. Business transacted at any special meeting shall be limited to matters relating to the purpose or purposes stated in the notice of meeting.

Upon request by any person or persons entitled to call a special meeting of the Voting Members, the President, Vice President or Secretary shall, within twenty days after receipt of the request, cause notice to be given to the Voting Members entitled to vote at such meeting that a special meeting will be held at a time chosen by the Board of Directors, but not less than thirty-five nor more than ninety days after receipt of the request.

Section 3.4 Notice of Meetings

Except as otherwise provided by law or these By-laws, written notice of each meeting of the Members, annual or special, stating the place, if any, date and hour of the meeting, the means of remote communication, if any, by which Members and proxy holders may be deemed to be present in person and vote at such meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be given not less than ten nor more than sixty days before the date of the meeting, to each Member entitled to attend such meeting.

Section 3.5 Voting List

The officer who has charge of the Membership Book of the Consortium shall prepare and make a complete list of the Members entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each such Member. Nothing contained in this Section shall require the Consortium to include electronic mail addresses or other electronic contact information on such list. Such list shall be open to the examination of any Member, for any purpose germane to the meeting, for a period of at least ten (10) days prior to the meeting: (i) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (ii) during ordinary business hours, at the principal place of business of the Consortium. In the event that the Consortium determines to make the list available on an electronic network, the Consortium may take reasonable steps to ensure that such information is available only to Members of the Consortium. If the meeting is to be held at a place, then the list shall be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any Member who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any Member during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting.

Section 3.6 Quorum

Except as otherwise provided by statute, the Certificate of Incorporation or these By-laws, Voting Members entitled to vote more than twenty-five percent (25%) of the aggregate votes of all Voting Members, but in no event fewer than two (2) Voting Members, present in person or represented by proxy, shall constitute a quorum at all meetings of the Members for the transaction of business. Committees (other than committees of the Board of Directors) and Sub-Groups shall have the same rules relating to quorum requirements and voting majorities as provided for in these By-laws, unless otherwise approved by the affirmative vote of the Board of Directors.

Section 3.7 Adjournments

Any meeting of Members may be adjourned from time to time to any other time and to any other place, if any, at which a meeting of Members may be held under these By-laws, which time and place, if any, thereof, and the means of remote communications, if any, by which Members and proxy holders may be deemed to be present in person and vote at such adjourned meeting shall be announced at the meeting, by a majority of the Voting Members present in person or represented by proxy at the meeting and entitled to vote, though less than a quorum, or, if no Voting Member is present or represented by proxy, by any officer entitled to preside at or to act as Secretary of such meeting, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the original meeting. If the adjournment is for more than thirty days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each Member.

Section 3.8 Action at Meetings

Unless the question is one upon which, by express provision of law, the Certificate of Incorporation or these By-laws, a different vote is required (in which case such express provision shall govern and control the decision of such question), when a quorum is present at any meeting of Members, the vote of more than fifty percent (50%) of the aggregate votes of all Voting Members, present in person or represented by proxy and entitled to vote on the question, shall decide any question brought before such meeting; provided, however, in the event that any vote is to be taken of a single class of Member, then a quorum for such vote shall be not less than fifty percent (50%) of the Members of that class, and the vote of more than fifty percent (50%) of the aggregate votes of the Members of that class present in person or represented by proxy and entitled to vote on the question, shall decide such question. A "Super-Majority" vote at a meeting of the Members shall mean at least two-thirds (2/3) of the aggregate votes of all Voting Members, present in person or represented by proxy and entitled to vote on the question.

Section 3.9 Proxies

Each Member entitled to vote at a meeting of Members, or to express consent or dissent to corporate action in writing without a meeting, may authorize another person or persons to act for him or her by proxy, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period.

Section 3.10 Action Without Meeting

Any action required or permitted to be taken at any annual or special meeting of Members, or at any meeting of a Committee, Sub-Committee, Working Group or other group of Members or subset of Members, may be taken without prior notice and without a vote, if a consent in writing, setting forth the action so taken, shall be signed by Members (or class of Members, as the case may be) making up not less than that percentage of all Members as would be necessary to authorize or take such action at a meeting at which all Members (or class of Members, as the case may be) entitled to vote thereon were present and voted. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those otherwise entitled to vote thereon who have not consented in writing. A telegram, cablegram or other electronic transmission consenting to an action to be taken and transmitted by a Member or proxyholder, or by a person or persons authorized to act for a Member or proxyholder, shall be deemed to be written, signed and dated for the purposes of this section, provided that any such telegram, cablegram or other electronic transmission sets forth or is delivered with information from which the Consortium can determine (A) that the telegram, cablegram or other electronic transmission was transmitted by the Member or proxyholder or by a person or persons authorized to act for the Member or proxyholder and (B) the date on which such Member or proxyholder or authorized person or persons transmitted such telegram, cablegram or electronic transmission. The date on which such telegram, cablegram or electronic transmission is transmitted shall be deemed to be the date on which such consent was signed. No consent given by telegram, cablegram or other electronic transmission shall be deemed to have been delivered until such consent is reproduced in paper form and until such paper form shall be delivered to the Consortium by delivery to its registered office in Delaware, its principal place of business or an officer or agent of the Consortium having custody of the book in which proceedings of meetings of Members are recorded. Delivery made to a Consortium's registered office shall be made by hand or by certified or registered mail, return receipt requested. Notwithstanding the foregoing limitations on delivery, consents given by telegram, cablegram or other electronic transmission may be otherwise delivered to the principal place of business of the Consortium or to an officer or agent of the Consortium having custody of the book in which proceedings of meetings of Members are recorded if, to the extent and in the manner provided by resolution of the Board of Directors of the Consortium.

Any copy, facsimile or other reliable reproduction of a consent in writing may be substituted or used in lieu of the original writing for any and all purposes for which the original writing could be used, provided that such copy, facsimile or other reproduction shall be a complete reproduction of the entire

original writing.

Section 3.11 Action Held by Remote Communication.

If authorized by the Board of Directors in its sole discretion, and subject to such guidelines and procedures as the Board of Directors may adopt, Members and proxyholders not physically present at a meeting of Members may, by means of remote communication: (A) participate in a meeting of Members; and (B) be deemed present in person and vote at a meeting of Members whether such meeting is to be held at a designated place or solely by means of remote communication, provided that (i) the Consortium shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of remote communication is a Member or proxyholder, (ii) the Consortium shall implement reasonable measures to provide such Members and proxyholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the Members, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with such proceedings, and (iii) if any Member or proxyholder votes or takes other action at the meeting by means of remote communication, a record of such vote or other action shall be maintained by the Consortium.

Section 3.13 Nomination and Election Procedures

Subject to the provisions of Section 4.3, the Board of Directors shall establish reasonable nomination and election procedures given the nature, size, and operations of the Consortium, including a reasonable means for Members of appropriate classes to nominate a person for election as a Director, a reasonable opportunity for a nominee to communicate to the Members the nominee's qualifications and the reasons for the nominee's candidacy (if requested by such nominee), a reasonable opportunity for all nominees to solicit votes (if requested by any such nominee), and a reasonable opportunity for all Members entitled to vote thereon to choose among the nominees.

Section 3.12 Order of Business

The order of business at all meetings of Members shall be as determined by the presiding officer, but the order of business to be followed at any meeting at which a quorum is present may be changed by a vote of the Voting Members. In the event of any disagreement over proper meeting conduct, Robert's Rules of Order shall be followed.

ARTICLE IV

DIRECTORS

Section 4.1 Powers; Voting

The business and affairs of the Consortium shall be managed by its Board of Directors, which shall be, and shall possess all of the powers of, the "Governing Body" of the Consortium as a not-for-profit membership corporation under Delaware General Corporation Law. The Board of Directors may exercise all powers of the Consortium and do all such lawful acts and things as are not by statute or by the Certificate of Incorporation or by these By-laws directed or required to be exercised or done by the Members.

Section 4.2 Number of Directors

The total number of Directors shall be at least one and not more than sixteen, constituting all of the Director(s) elected by the Voting Members, and the President, who shall be a Director by virtue of his or her office as President (provided that if the President is an employee of a Voting Member, this shall not result in any such Voting Member having more than one representative on the Board); in addition, ex officio Directors may be appointed pursuant to Section 4.8. The President, when a voting Board member, is sometimes referred to in these By-laws as the "Appointed Director" and the Directors elected by the Voting Members are sometimes referred to in these By-laws as the "Elected Directors."

Section 4.3 Nomination, Election and Term of Office of Elected Directors

(a) Each of the Sponsor Members (while remaining in good standing and subject to the further requirements described in Section 2.3(a)) shall be entitled individually to nominate and elect one (1) Director (each, a "Sponsor Director") (this right shall apply with respect to the first ten (10) Sponsor Members; thereafter, any other Sponsor Member must await a vacancy of one of the Sponsor Director seats, or an expansion of the Board of Directors intended to provide additional Sponsor Director seats, and each such seat shall be allocated to the other Sponsor Members chronologically based on their date of Sponsor Membership). Each Sponsor Director shall have a term of one (1) year, and thereafter until his or her successor shall be elected and qualified, or until his or her earlier resignation or removal. The maximum number of Sponsor Directors may be increased from time to time by the approval of the Board of Directors or the Voting Members.

(b) General Members, voting with all General Members as a class, shall elect five (5) Directors ("General Directors") and the selection of nominees shall be performed under such nominating procedures as may be set by the Board of Directors from time to time. Each General Director shall have a term of one (1) year, and thereafter until his or her successor shall be elected and qualified, or until his or her earlier resignation or removal. The nominating committee shall select a slate of nominees for election as General Directors from submissions made by General Members and shall endeavor to include in such slate three (3) representatives of end-user General Members, one (1) representative of a systems integrator General Member and one (1) representative of a hardware and/or software vendor General Member.

(c) Each Sponsor Director and each General Director may, but shall not automatically, be nominated and elected for additional one (1) year terms. No Member shall be represented by more than one Director. Notwithstanding anything in these By-laws to the contrary, at the discretion of the Board, no Member shall be eligible to nominate or elect a Director if such Member's representative to the Board of Directors failed to attend a majority of the meetings of the Board in the previous year.

(d) An Elected Director shall hold office until the earliest to occur of (i) the expiration of the term for which such Elected Director was elected and such Elected Director's successor is elected and qualified, (ii) the Member which is represented by such Elected Director ceases to be a Member, (iii) the death, resignation or removal of the Elected Director, (iv) the combination, by merger, acquisition or otherwise, of two Members who are either General Members or Sponsor Member which have representatives on the Board of Directors, upon which event one of the two representatives, as designated by the surviving Member, shall be deemed to have resigned, or (v) if requested by the Board of Directors, upon the termination of the employment of such Elected Director by the Member represented by such Elected Director. In addition, during such times as a Sponsor Member or General Member is not in financial good standing, as defined in Section 2.2 above, the attendance and voting rights of any representative on the Board of Directors represented by such Member shall be suspended until such time as the Member regains good standing.

(e) Each Director (or the Member which is the employer of such Elected Director) may designate in writing (which designation may be withdrawn in writing at any time by such Director or Member) an individual to act as a Director in his or her stead, whether for a single meeting or as a standing alternate. Any such alternate Director shall be entitled to (i) attend and vote at all meetings which the designating Director does not attend, (ii) sign all written consents in lieu of the designating Director, and (iii) otherwise exercise the duties and enjoy the privileges of the designating Director in the absence or unavailability of the designating Director. In addition, in lieu of making such a substitution, any Elected Director who will be absent for any meeting may deliver a written proxy to the President of the Consortium, authorizing the President to either vote as instructed in such proxy, or to vote in the stead of such absent Elected Director in such manner as the President may believe appropriate. Any such proxy shall be valid only with respect to the meeting and such specific matters (or with respect to all matters, if so desired) as may be stated in such proxy.

(f) The Board of Directors may approve from time to time such reasonable attendance and other requirements as it shall deem to be advisable to ensure that Board seats are held by active, contributing individuals. Such rules may provide that the Member which has elected or nominated a Director, as the case may be, may lose its ability to nominate and/or elect a representative to the Board of Directors in the event that such requirements have not been met, but no such rule may be imposed retroactively.

Section 4.4 [Intentionally Omitted]

Section 4.5 Enlargement or Reduction

The number of Directors, the persons eligible to become Directors and the classes of Members eligible to elect Directors may be amended at any time by the Super-Majority vote of the Board of Directors or by the Super-Majority vote of the Voting Members.

Section 4.6 Resignation and Removal

Any Director may resign at any time upon notice to the Consortium in writing or by electronic transmission at its principal place of business or to the President or Secretary. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event. Any Elected Director who was elected by a Member under Section 4.3 may be removed, with or without cause, by that Member. Any or all of the Elected Directors who were elected by a class of Members as a class or the Board of Directors may be removed, with or without cause, by a numeric majority vote of such class of Members or Board of Directors, respectively. Unless otherwise specified by law or the Certificate of Incorporation, any Elected Director may be removed with cause by a majority of the other Directors.

Section 4.7 Vacancies

(a) Vacancies on the Board of Directors occurring as a result of death, resignation or removal of a Director by the Member who elected such person (in the case of a Director elected pursuant to Section 4.3(a)) or a class of Members (in the case of a Director elected pursuant to Section 4.3(b)) shall be filled in the manner and by the person(s) entitled to elect such Director as set forth in Sections 4.3(a) and 4.3(b). All other vacancies shall be filled by the Nominating Committee, subject to the confirmation of a majority of Directors then in office, whether or not less than a quorum, or by a sole remaining Director. The term of a Director so appointed or elected shall be the unexpired portion of the term of the Director, if any, whom the Director so appointed or elected is replacing, or until the next general election of Directors, in the case of an expansion of the Board of Directors.

(b) In the event of a vacancy in the Board of Directors, the remaining Directors, except as otherwise provided by law or these By-laws, may exercise the powers of the full Board until the vacancy is filled.

Section 4.8 Ex Officio Directors

In addition to the elected Directors provided for in Section 4.3, the Board of Directors may elect such ex officio Directors as it may find appropriate. Ex officio Directors shall be entitled to attend all meetings of the Board of Directors or of committees to which they may be appointed by the Board of Directors. However, ex officio Directors shall serve in an advisory capacity only, and shall not be

eligible to act as chairpersons of committees, nor shall they be entitled to vote at meetings of the Board of Directors or of any committee thereof.

Ex officio Directors shall serve for a term of one (1) year, unless they resign or are sooner removed, and may be reelected for additional one-year terms. An ex officio Director shall be subject to removal in the same manner and upon the same conditions as other members of the Board of Directors.

Section 4.9 Place of Meetings

The Board of Directors may hold meetings, both regular and special, either within or without the State of Delaware.

Section 4.10 Regular Meetings

Regular meetings of the Board of Directors may be held without notice at such time and at such place as shall from time to time be determined by the Board; provided that any Director who is absent when such a determination is made shall be given prompt notice of such determination. A regular meeting of the Board of Directors may be held without notice immediately after and at the same place as the annual meeting of Members.

Section 4.11 Special Meetings

Special meetings of the Board may be called by the President, Secretary, or on the written request of two or more Directors, or by one Director in the event that there is only one Director in office. Ten (10) business days' notice to each Director, either personally or by telecopy, commercial delivery service, electronic transmission, or similar means sent to his or her business or home address, or ten (10) business days' notice by written notice deposited in the mail, shall be given to each Director by the Secretary or by the officer or one of the Directors calling the meeting. A notice or waiver of notice or any waiver by electronic transmission of a meeting of the Board of Directors need not specify the purposes of the meeting.

Section 4.12 Quorum, Action at Meeting, Adjournments

At all meetings of the Board a majority of Directors then in office, but in no event less than one half of the entire Board, shall constitute a quorum for the transaction of business and the act of a majority of the Directors present at any meeting at which there is a quorum shall be the act of the Board of Directors, except as may be otherwise specifically provided by law or by the Certificate of Incorporation. For purposes of this section the term "entire board" shall mean the number of directors last fixed by the Voting Members or Directors, as the case may be, in accordance with law and these By-laws; provided, however, that if less than all the number so fixed of Directors were elected, the "entire board" shall mean the greatest number of Directors so elected to hold office at any one time

pursuant to such authorization. If a quorum shall not be present at any meeting of the Board of Directors, a majority of the Directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present. In the event that one or more of the Directors shall be disqualified from voting at any meeting upon any matter, then the required quorum as it relates to the consideration of such matter shall be reduced by one for each such director so disqualified. A "Super-Majority" vote at a meeting of the Board of Directors shall mean at least two-thirds (2/3) of the aggregate votes of all Directors present in person or represented by proxy.

Section 4.13 Action by Consent

(a) Unless otherwise restricted by the Certificate of Incorporation or these By-Laws, any action required or permitted to be taken by the Board of Directors may be taken without a meeting and without prior notice if a majority of Directors then in office (or such greater number of Directors as may be required by law or the By-laws of the Consortium for the taking of any such action at a meeting) consent thereto in writing or by electronic transmission, and the writing or writings, or electronic transmission or transmissions, are filed with the minutes of proceedings of the Board of Directors, provided that:

(i) such written consent shall have been sent simultaneously to all Directors then in office for their consideration;

(ii) prompt written notice of any action so taken is given to those Directors who have not consented in writing; and

(iii) two or more such Directors have not objected to the taking of any such action by written notice delivered to the Consortium within ten business days following the date that written notice of the Directors action is mailed or otherwise delivered to such Directors.

Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

(b) Notwithstanding the foregoing, the ability of two or more non-consenting Directors to prevent the taking of an action by written consent under clause 4.13(a)(iii) above shall not prevent any such action from being taken at a later date at an actual meeting of the Board of Directors.

(c) Unless otherwise restricted by the Certificate of Incorporation or these By-Laws, any action required or permitted to be taken at any meeting of any committee of the Board of Directors may be taken in the manner set forth in the preceding clauses 4.13(a) and (b).

(d) For purposes of this Section 4.13, the word "writing" shall be deemed to include (i) a document manually executed and transmitted by telecopy or other electronic facsimile delivery method,

and (ii) to the extent at any time otherwise not prohibited by law or the Certificate of Incorporation, a transmission by electronic mail. Accordingly, any consent evidenced in the minute books of the Consortium by telecopy consents, print-outs of electronic mail transmissions, or any combination of telecopy, print-outs and original signed copies of such consent, shall be deemed to have been duly adopted under this Section.

Section 4.14 Telephonic Meetings

Unless otherwise restricted by the Certificate of Incorporation or these By-laws, members of the Board of Directors or of any committee thereof may participate in a meeting of the Board of Directors or of any committee, as the case may be, by means of conference telephone, video conference equipment, or similar communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at the meeting.

Section 4.15 Inspection Rights

Every Director shall have the absolute right at any time to inspect, copy and make extracts of, in person or by agent or attorney, all books, records and documents of every kind and to inspect the physical properties of the Consortium.

Section 4.16 Fees and Compensation

Directors shall not receive any stated salary or reimbursements for their services as Directors; provided that, by resolution of a majority of the entire Board of Directors, the Consortium may reimburse Directors for expenses incurred while acting on behalf of the Consortium and/or expenses incurred in attending meetings of the Board of Directors, in such amounts as the Board of Directors may determine to be appropriate. Nothing herein contained shall be construed to preclude any Director from serving the Consortium in any other capacity as an officer, agent, employee, or otherwise, and receiving compensation therefor. The Directors may also provide reimbursement of expenses for members of committees in connection with their service on such committees.

ARTICLE V

EXECUTIVE COMMITTEE AND OTHER COMMITTEES

Section 5.1 Executive Committee

The Board of Directors may (but shall not be required) by resolution adopted by a majority of

the Directors then in office (provided a quorum is present), create an Executive Committee, consisting of one or more Directors. The Board of Directors may designate one or more Directors as alternate members of such committee, who may replace any absent member at any meeting of such committee. The Executive Committee, subject to any limitations imposed by the Certificate of Incorporation, by these By-laws, by statute, and/or by the Board of Directors, shall have and may exercise all of the powers of the Board of Directors which are delegated to the Executive Committee from time to time by the Board of Directors; provided, however, that the Executive Committee shall have no authority with respect to:

- (a) The approval of any action which also requires approval of the Voting Members;
- (b) The filling of vacancies on the Board of Directors;
- (c) The fixing of compensation of the Directors for serving on the Board of Directors or on any committee;
- (d) The amendment or repeal of the By-laws or the adoption of new By-laws;
- (e) The amendment or repeal of any resolution of the Board of Directors which by its express terms is not so amendable or repealable;
- (f) Amending the Certificate of Incorporation;
- (g) Adopting an agreement of merger or consolidation;
- (h) Recommending to the Members the sale, lease or exchange of all or substantially all of the Consortium's property and assets; and
- (i) Recommending to the Members a dissolution of the Consortium or a revocation of a dissolution.

Section 5.2 Other Committees of the Board of Directors

The Board of Directors may, by resolution adopted by a majority of the Directors then in office (provided a quorum is present), create such nominating, audit, compensation and other committees, each consisting of one (1) or more Directors appointed by the Board, as it may from time to time deem advisable to perform such general or special duties as may from time to time be delegated to any such committee by the Board of Directors, subject to the limitations imposed by the Certificate of Incorporation or by these By-laws. No such committee shall have the power or authority to take any action prohibited by Section 5.1 above to be taken by the Executive Committee. The Board of Directors may designate one or more Directors as alternate members of any committee, who may

replace any absent member at any meeting of the committee. Any committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board of Directors. Each committee shall keep regular minutes of its meetings and make such reports to the Board of Directors as the Board of Directors may request.

Section 5.3 Meetings of Committees of the Board of Directors

Except as otherwise provided in these By-laws or by resolution of the Board of Directors, each committee of the Board of Directors may adopt its own rules governing the time and place of holding and the method of calling its meetings and the conduct of its proceedings and shall meet as provided by such rules, but unless otherwise provided by resolution of the Board of Directors or in such rules, its business shall be conducted as nearly as possible in the same manner as is provided in these By-laws for the conduct of the business the Board of Directors.

Section 5.4 Term of Office of Members of Committees of the Board of Directors

Each member of a committee of the Board of Directors shall serve at the pleasure of the Board of Directors.

Section 5.5 Committees of the Members

(a) A Technical Committee of the Consortium shall be established. Such Committee may have such Sub-committees, Work Groups and Technical Working Groups (collectively, "Sub-Groups") as from time to time may be approved by the Technical Committee, within the strategic direction established by the Board of Directors, and the members of neither the Committee nor such Sub-Groups need be Directors. Each Member, so long as it remains a Member in good standing, shall (except as set forth below in this Section 5.5 or as otherwise from time to time determined by vote of the Board of Directors) be entitled to appoint a representative or representatives to the Technical Committee and to its Sub-Groups, as set forth in Article II, with such representative(s) to have the voting rights (if any) set forth in Article II. The Technical Committee and its Sub-Groups shall be the principal Member-level forum for the discussion and preliminary adoption of technical specifications and standards, subject to the review, and within the strategic direction established by, the Board of Directors, and such committee shall otherwise have such rights and privileges, and shall have such number of voting members, as shall from time to time be established by the Voting Members and approved by a majority of the entire Board of Directors, or as set forth in such Technical Committee rules and policies as shall have been previously adopted by the Voting Members and approved by a majority of the entire Board of Directors. The Technical Committee may make technical recommendations to the Board of Directors concerning specifications, enhancements, test suite parameters, the necessary level of support services and testing, may coordinate and implement the same, and may undertake such other tasks as may from time to time be established by the Board of Directors, provided that all specifications and standards may

only be finally adopted by the Board of Directors, except as set forth below. The Technical Committee shall adopt (subject to the approval of a majority of the entire Board of Directors), from time to time, policies and procedures which will permit any Member to formally propose technology, or changes to existing specifications, for adoption by the Consortium. In order for the Consortium or the Technical Committee to pursue any such submission or change (which shall be within the general strategic direction from time to time established by the Board of Directors), a two-thirds majority of the Voting Members then in good standing must vote to do so, and the Board of Directors must approve any such submission or change following the affirmative recommendation of the Voting Members to adopt the same.

(b) A Marketing Committee of the Consortium shall be established at such time as deemed advisable by the Board of Directors. Such Committee may have such Sub-Groups as from time to time may be approved by the Marketing Committee, within the strategic direction established by the Board of Directors, and the members of neither the Committee nor such Sub-Groups need be Directors. Each Member, so long as it remains a Member in good standing, shall be entitled to appoint a representative or representatives to the Marketing Committee and to its Sub-Groups, as set forth in Article II, such representative(s) to have the voting rights (if any) as set forth in Article II. The Marketing Committee and its Sub-Groups shall be the principal Member-level forum for the discussion of activities intended to promote the mission, specifications and brand of the Consortium generally in the industry, member recruitment, development of the Consortium's website, and participation in trade shows, white papers and cooperative advertising ventures, all subject to the review, and within the strategic direction established by, the Board of Directors, and such committee shall otherwise have such rights and privileges, and shall have such number of voting members, as shall from time to time be established by the Board of Directors, or as set forth in such Marketing Committee rules and policies as shall have been previously adopted by a majority of the entire Board of Directors. The Marketing Committee may make recommendations to the Board of Directors concerning promotional matters relating to Consortium adopted standards and specifications, may coordinate and implement the same, and may undertake such other tasks as may from time to time be permitted by the Board of Directors.

(c) A Users Committee of the Consortium shall be established at such time as deemed advisable by the Board of Directors. Such Committee may have such Sub-Groups as from time to time may be approved by the Users Committee, within the strategic direction established by the Board of Directors, and the members of neither the Committee nor such Sub-Groups need be Directors. Each Member that is end-user implementing, or planning to implement, a solution based upon the Specifications (an "End-User"), so long as it remains a Member in good standing, shall be entitled to appoint a representative or representatives to the Users Committee and to its Sub-Groups, as set forth in Article II, such representative(s) to have the voting rights (if any) as set forth in Article II. Members that are not End-Users shall be permitted to attend meetings of the Users Committee or any of its Sub-Groups only in a non-voting capacity and only at the discretion of the chair of the committee or Sub-Group. The Users Committee and its Sub-Groups shall be the principal Member-level forum for the discussion of technical issues relating to user requirements and the suitability of the Consortium's

product offerings, subject to the review, and within the strategic direction established by, the Board of Directors, and such committee shall otherwise have such rights and privileges as shall from time to time be established by the Board of Directors, or as set forth in such Users Committee rules and policies as shall have been previously adopted by a majority of the entire Board of Directors. The Users Committee may report findings concerning user requirements and usefulness of Consortium products to the Board of Directors and may undertake such other tasks as may from time to time be permitted by the Board of Directors.

(d) From time to time, the Board of Directors may establish additional committees and sub-committees whose members need not be Directors. Each Member, so long as it remains a Member in good standing, shall be entitled to appoint a representative or representatives to each such committee as set forth in Article II, such representative(s) to have voting rights (if any) as set forth in Article II. The chair of each committee established by the Board of Directors shall be selected pursuant to such procedures as shall be approved by the Board of Directors from time to time; provided, however, that each committee and Sub-Group chair shall be an employee of a Voting Member, and no Voting Member be represented by more than one committee chair.

ARTICLE VI

OFFICERS

Section 6.1 Officers

The officers of the Consortium shall be a President, a Treasurer and a Secretary. The Consortium may also have, at the discretion of the Board of Directors, one or more Vice Presidents, one or more Assistant Secretaries and/or Assistant Treasurers, and such other officers with such titles, terms of office and duties as may be elected in accordance with the provisions of Section 6.3. When the Consortium has a Chairperson (and otherwise, the President), that individual shall preside over meetings of the Board of Directors. One person may hold two or more offices unless the Certificate of Incorporation otherwise provides. The President shall be an employee or affiliate of a Sponsor Member or a General Member, provided that in the event that such officer shall cease to be such an employee or affiliate (either because such Member has ceased to be a Member, or because such officer has ceased to be an employee or affiliate of such a Member) before the appointed term of such officer has expired, then he or she may continue to be the President for a period of up to 60 days. If, by the end of such period, such officer has become an employee or affiliate of such a Member again, then he or she may continue as the President. Otherwise, his or her term shall be deemed to have expired as of the end of such 60 day period.

Section 6.2 Vacancies

A vacancy in any office because of death, resignation, removal, disqualification or any other

cause shall be filled in the manner prescribed in these By-laws for regular elections to such office.

Section 6.3 Election

The Board of Directors at its first meeting after each annual meeting of Members shall choose a President, Chairperson (if desired), a Secretary and a Treasurer. Other officers may be elected by the Board of Directors at such meeting, and all officers may be replaced, at any other meeting, or by written consent.

Section 6.4 Tenure

Each officer of the Consortium shall hold office until his or her successor is chosen and qualifies, unless a different term is specified in the vote choosing or electing him, or until his or her earlier death, resignation or removal as provided in these by-laws. Any officer elected by the Board of Directors may be removed at any time by the Board of Directors or a committee duly authorized to do so. Any vacancy occurring in any office of the Consortium may be filled by the Board of Directors, at its discretion. Any officer may resign by delivering his or her written resignation to the Consortium at its principal place of business or to the Secretary. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event.

Section 6.5 President

The President shall be the chief executive and the chief operating officer of the Consortium. In the absence of a separate individual being elected the Chairperson of the Board of Directors, the President shall preside at all meetings of the Board of Directors and the Members. At such time as there shall be a Chairperson who is not the President, the Board of Directors may allocate such duties and functions of the President as are provided for below to the Chairperson. The President shall have general and active management of the business of the Consortium and see that all orders and resolutions of the Board of Directors are carried into effect. Without limiting the foregoing, the President shall:

(a) Execute bonds, mortgages, and other contracts requiring a seal, under the seal of the Consortium, except where required or permitted by law to be otherwise signed and executed and except where the signing and execution thereof shall be expressly delegated by the Board of Directors to some other officer or agent of the Consortium;

(b) Direct and administer the affairs of the Consortium, including setting compensation (other than his or her own), and the hiring and discharge of office employees;

(c) Have complete charge of the records of the Consortium (other than corporate records maintained by the Secretary);

(d) Initiate and promote programs which serve and advance the purpose and objective of the Consortium;

(e) Coordinate, assist and monitor all committees and their programs;

(f) Direct all Consortium functions;

(g) Submit an annual budget, together with supporting documentation;

(h) Create, and update when necessary, employee job descriptions and hold individual annual reviews with each employee; and

(i) Perform such other duties as may from time to time be assigned by the Board of Directors and/or any Executive Committee.

Section 6.6 Vice-Presidents

In the absence of the President or in the event of his or her inability to act, a Vice-President, or if there be more than one Vice-President, the Vice-Presidents in the order designated by the Board of Directors (or in the absence of any designation, then in the order determined by their tenure in office) shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. The Vice-Presidents shall perform such other duties and have such other powers as the Board of Directors or the President may from time to time prescribe.

Section 6.7 Secretary

The Secretary shall have such powers and perform such duties as are incident to the office of Secretary, and shall:

(a) Prepare and maintain lists of Members and their addresses as required.

(b) Attend all meetings of the Board of Directors and all meetings of the Members and record all the proceedings of the meetings of the Consortium and of the Board of Directors in a book to be kept for that purpose and perform like duties for the standing committees when required.

(c) Give, or cause to be given, notice of all meetings of the Members and special meetings of the Board of Directors, and perform such other duties as may be from time to time prescribed by the Board of Directors, and be under their supervision.

(d) Have custody of the corporate seal of the Consortium and the Secretary, or an Assistant Secretary, have authority to affix the same to any instrument requiring it and when so affixed, it

may be attested by signature of the Secretary or by the signature of such Assistant Secretary. The Board of Directors may give general authority to any other officer to affix the seal of the Consortium and to attest the affixing by such officer's signature.

Section 6.8 Assistant Secretaries

The Assistant Secretary, or if there be more than one, the Assistant Secretaries in the order determined by the Board of Directors, the President or the Secretary (or if there be no such determination, then in the order determined by their tenure in office), shall, in the absence of the Secretary or in the event of his or her inability to act, perform the duties and exercise the powers of the Secretary and shall perform such other duties and have such other powers as the Board of Directors, the President or the Secretary may from time to time prescribe. In the absence of the Secretary or any Assistant Secretary at any meeting of Members or Directors, the person presiding at the meeting shall designate a temporary or acting Secretary to keep a record of the meeting.

Section 6.9 Treasurer

The Treasurer shall perform such duties and shall have such powers as may be assigned to him or her by the Board of Directors or the President. In addition, the Treasurer shall perform such duties and have such powers as are incident to the office of Treasurer. The Treasurer shall have the custody of the corporate funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Consortium and shall deposit all moneys and other valuable effects in the name and to the credit of the Consortium in such depositories as may be designated by the Board of Directors, taking proper vouchers for such disbursements, and shall render to the President and the Board of Directors, when the President or Board of Directors so requires, an account of all his or her transactions as Treasurer and of the financial condition of the Consortium.

Section 6.10 Assistant Treasurers

The Assistant Treasurer, or if there shall be more than one, the Assistant Treasurers in the order determined by the Board of Directors, the President or the Treasurer (or if there be no such determination, then in the order determined by their tenure in office), shall, in the absence of the Treasurer or in the event of his or her inability to act, perform the duties and exercise the powers of the Treasurer and shall perform such other duties and have such other powers as the Board of Directors, the President or the Treasurer may from time to time prescribe.

Section 6.11 Bond

If required by the Board of Directors, any officer shall give the Consortium a bond in such sum and with such surety or sureties and upon such terms and conditions as shall be satisfactory to the Board of Directors, including without limitation a bond for the faithful performance of the duties of his or

her office and for the restoration to the Consortium of all books, papers, vouchers, money and other property of whatever kind in his or her possession or under his or her control and belonging to the Consortium.

Section 6.12 Compensation

The compensation, if any, of the officers shall be fixed from time to time by the Board of Directors, and no officer shall be prevented from receiving such compensation by reason of the fact that the officer is also a Director of the Consortium.

ARTICLE VII

NOTICES

Section 7.1 Delivery

(a) Whenever, under the provisions of law, or of the Certificate of Incorporation or these By-laws, written notice is required to be given to any Director or Member, such notice may be given by mail, addressed to such Director or Member, at his, her or its address as it appears on the records of the Consortium, with postage thereon prepaid. Unless written notice by mail is required by law, the Certificate of Incorporation or another provision of these By-laws, and subject to the provisions below relating to notice by electronic transmission to Members, written notice may also be given by electronic mail, telecopy, commercial delivery service, or similar means, addressed to such Director or Member at his, her or its address as it appears on the records of the Consortium. Without limiting the manner by which notice otherwise may be given effectively to Members, any notice to Members given by the Consortium under any provision of law, the Certificate of Incorporation, or the By-laws, unless written notice by mail is required by law, the Certificate of Incorporation or another provision of these By-laws, shall be effective if given by a form of electronic transmission consented to by the Member to whom the notice is given. Any consent by a Member to receive notice by electronic transmission shall be revocable by that Member by written notice to the Consortium. Any such consent shall be deemed revoked if (1) the Consortium is unable to deliver by electronic transmission two consecutive notices given by the Consortium in accordance with such consent and (2) such inability becomes known to the secretary or an assistant secretary of the Consortium or to the transfer agent, or other person responsible for the giving of notice; provided, however, the inadvertent failure to treat such inability as a revocation shall not invalidate any meeting or other action.

(b) Notice given pursuant to this section shall be deemed given: (1) if by facsimile telecommunication (A) to a Member, when directed to a number at which the Member has consented to receive notice and (B) to a Director, when directed to the number for such Director as it appears on the records of the Consortium; (2) if by electronic mail to (A) a Member, when directed to an electronic

mail address at which the Member has consented to receive notice and (B) to a Director, when directed to the electronic mail address for such Director as it appears on the records of the Consortium; (3) if by a posting on an electronic network together with separate notice to the Member or Director of such specific posting, upon the later of (A) such posting and (B) the giving of such separate notice; (4) if by any other form of electronic transmission, when directed to the Member or Director; (5) if by in-hand delivery or oral notice, at the time it is actually given; (6) if by mail, at the time when the same shall be deposited in the United States mail; and (7) if by commercial delivery carrier or similar means, at the time when the same shall be deposited with the carrier, in each case the transmission charge to be paid by the Consortium or the person sending such notice and not by the addressee. An affidavit of the Secretary or an Assistant Secretary or of the transfer agent or other agent of the Consortium that the notice has been given by a form of electronic transmission shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

(c) For purposes of these By-laws, "electronic transmission" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process.

(d) Without limiting the foregoing, the Consortium adopts electronic mail as its principal source of communication with its Members. Each Member acknowledges and agrees that the Consortium shall not be under any obligation (except as required by law or these By-laws) to send any notice to any Member by any means other than electronic mail, and it is therefore the responsibility of each Member to avail itself of and make such arrangements as may be necessary to receive notice in such fashion.

Section 7.2 Waiver of Notice

Whenever any notice is required to be given under the provisions of law or of the Certificate of Incorporation or of these By-laws, a waiver thereof in writing, signed by the person or persons entitled to said notice, whether before or after the time stated therein, or a waiver by electronic transmission by the person entitled to notice shall be deemed equivalent thereto.

ARTICLE VIII

INDEMNIFICATION

Section 8.1 Actions other than by or in the Right of the Consortium

The Consortium shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Consortium) by reason of the

fact that he or she is or was a Director, ex officio member of the Board, officer, employee, or agent of the Consortium, or is or was serving at the request of the Consortium as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Consortium, and, with respect to any criminal action or proceedings, had no reasonable cause to believe this conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the Consortium, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

Section 8.2 Actions by or in the Right of the Consortium

The Consortium shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Consortium to procure a judgment in its favor by reason of the fact that he or she is or was a director, ex officio member of the Board, officer, employee or agent of the Consortium, or is or was serving at the request of the Consortium as a Director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection with the defense or settlement of such action or suit if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Consortium and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable unless and only to the extent that the Court of Chancery of the State of Delaware or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery of the State of Delaware or such other court shall deem proper.

Section 8.3 Success on the Merits

To the extent that any person described in Section 8.1 or 8.2 of this Article VIII has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in said Sections, or in defense of any claim, issue or matter therein, he or she shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection therewith.

Section 8.4 Specific Authorization

Any indemnification under Section 8.1 or 8.2 of this Article VIII (unless ordered by a court)

shall be made by the Consortium only as authorized in the specific case upon a determination that indemnification of any person described in said Sections is proper in the circumstances because he or she has met the applicable standard of conduct set forth in said Sections. Such determination shall be made (1) by a majority vote of a such Directors who were not parties to such action, suit or proceeding, even though less than a quorum, or (2) by the Members of the Consortium.

Section 8.5 Advance Payment

If approved by a majority of the entire Board, expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Consortium in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of any person described in said Section to repay such amount if it shall ultimately be determined that he or she is not entitled to indemnification by the Consortium as authorized in this Article VIII.

Section 8.6 Non-Exclusivity

The indemnification and advancement of expenses provided by, or granted pursuant to, the other Sections of this Article VIII shall not be deemed exclusive of any other rights to which those provided indemnification or advancement of expenses may be entitled under any By-law, agreement, vote of Voting Members or disinterested Directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office.

Section 8.7 Jurisdiction of Delaware Court of Chancery

The Delaware Court of Chancery is vested with exclusive jurisdiction to hear and determine all actions for advancement of expenses or indemnification. The Delaware Court of Chancery may summarily determine the Consortium's obligation to advance expenses (including attorney's fees).

Section 8.8 Insurance

The Board of Directors may authorize, by a vote of the majority of the entire Board, the Consortium to purchase and maintain insurance on behalf of any person who is or was a Director, ex officio member of the Board, officer, employee or agent of the Consortium, or is or was serving at the request of the Consortium as a Director, ex officio member of the Board, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Consortium would have the power to indemnify him or her against such liability under the provisions of this Article VIII.

Section 8.9 Continuation of Indemnification and Advancement of Expenses

The indemnification and advancement of expenses provided by, or granted pursuant to, this Article VIII shall continue as to a person who has ceased to be a Director, ex officio member of the Board, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

Section 8.10 Severability

If any word, clause or provision of this Article VIII or any award made hereunder shall for any reason be determined to be invalid, the provisions hereof shall not otherwise be affected thereby but shall remain in full force and effect.

Section 8.11 Intent of Article

The intent of this Article VIII is to provide for indemnification and advancement of expenses to the fullest extent permitted by Section 145 of the General Corporation Law of Delaware. To the extent that such Section or any successor section may be amended or supplemented from time to time, this Article VIII shall be amended automatically and construed so as to permit indemnification and advancement of expenses to the fullest extent from time to time permitted by law.

ARTICLE IX

BOOKS AND RECORDS

Section 9.1 Books and Records

The Consortium shall keep adequate and correct books and records of account, minutes of the proceedings of the Members, the Board of Directors and committees of the Board of Directors, and a record of the Members giving their names and addresses and the class of Membership held by each.

Section 9.2 Form of Records

Minutes shall be kept in written form. Other books and records shall be kept either in written form or in any other form capable of being converted into written form.

Section 9.3 Reports to Directors, Members and Others

The Board of Directors shall cause such reports to be prepared, filed and/or distributed as may be required.

Section 9.4 Record Date

In order that the Consortium may determine the Members entitled to notice of or Voting Members entitled to vote at any meeting of Members or any adjournment thereof, or to express consent to corporate action in writing without a meeting, or entitled to receive payment of any distribution, if any, permitted by law and the Consortium's then current federal and state tax status, or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of Membership or for the purpose of any other lawful action, the Board of Directors may fix, in advance, a record date, which shall not be more than sixty days nor fewer than ten days before the date of such meeting, nor prior to the adoption of the resolution by the Board of Directors fixing such record date. A determination of Members of record entitled to notice of or Voting Members entitled to vote at a meeting of Members shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting. If no record date is fixed, the record date for determining Members entitled to notice of or Voting Members entitled to vote at a meeting of Members shall be at the close of business on the day before the day on which notice is given or, if notice is waived, at the close of business on the day before the day on which the meeting is held. The record date for determining Members entitled to express consent to corporate action in writing without a meeting, when no prior action by the Board of Directors is necessary, shall be the day on which the first written consent is delivered to the Consortium. The record date for determining Members entitled to express consent to corporate action in writing without a meeting, when prior action by the Board of Directors is necessary, shall be at the close of business on the day on which the Board of Directors adopts the resolution taking such prior action.

Section 9.5 Registered Members

The Consortium shall be entitled to recognize the exclusive right of a person registered on its books as a Member or a representative of a Member to receive distributions, if any, and to vote, if such records indicate that such person is a Voting Member or a representative of a Voting Member, and to hold liable for fees, penalties and assessments a person or entity registered on its books as a Member, and shall not be bound to recognize any equitable or other claim to or interest in Membership on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise provided by the Delaware General Corporation Law.

ARTICLE X

CERTAIN TRANSACTIONS

Section 10.1 Transactions with Interested Parties

No contract or transaction between the Consortium and one or more of its Directors or officers, or between the Consortium and any other corporation, partnership, association, or other organization in

which one or more of its Directors or officers are directors or officers, or have a financial interest, shall be void or voidable solely for this reason, or solely because the Director or officer is present at or participates in the meeting of the Board or committee thereof which authorizes the contract or transaction or solely because his, her or their votes are counted for such purpose, if:

(a) The material facts as to his or her relationship or interest and as to the contract or transaction are disclosed or are known to the Board of Directors or the committee, and the Board or committee in good faith authorizes the contract or transaction by the affirmative votes of a majority of the disinterested Directors, even though the disinterested Directors be less than a quorum; or

(b) The material facts as to his or her relationship or interest and as to the contract or transaction are disclosed or are known to the Voting Members entitled to vote thereon, and the contract or transaction is specifically approved in good faith by vote of the Voting Members; or

(c) The contract or transaction is fair as to the Consortium as of the time it is authorized, approved or ratified, by the Board of Directors, a committee thereof, or the Voting Members.

Common or interested Directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or committee which authorizes the contract or transaction.

ARTICLE XI

GRANTS, CONTRACTS, LOANS, ETC.

Section 11.1 Grants

The making of grants and contributions, and otherwise rendering financial assistance for the purposes of the Consortium, may be authorized by the Board of Directors. The Board of Directors may authorize any officer or officers, agent or agents, in the name of and on behalf of the Consortium to make any such grants, contributions or assistance.

Section 11.2 Execution of Contracts

The Board of Directors may authorize any officer, employee or agent, in the name and on behalf of the Consortium, to enter into any contract or execute and satisfy any instrument, and any such authority may be general or confined to specific instances, or otherwise limited. In the absence of any action by the Board of Directors to the contrary, the President shall be authorized to execute such contracts and instruments on behalf of the Consortium.

Section 11.3 Loans

Any agent authorized by the Board of Directors may effect loans and advances at any time for the Consortium from any bank, trust company or other institutions or from any firm, association or individual, and for such loans and advances may make, execute and deliver promissory notes, bonds or other certificates or evidences of indebtedness of the Consortium, and when authorized by the Board of Directors so to do, may pledge and hypothecate or transfer assets of the Consortium as security for any such loans or advances. Such authority conferred by the Board of Directors may be general or confined to specific instances or otherwise limited.

Section 11.4 Checks, Drafts, Etc.

All checks, drafts and other orders for the payment of money out of the funds of the Consortium, and all notes or other evidences of indebtedness of the Consortium, shall be signed on behalf of the Consortium in such manner as shall from time to time be determined by resolution of the Board of Directors.

Section 11.5 Deposits

The funds of the Consortium not otherwise employed shall be deposited from time to time to the order of the Consortium in such banks, trust companies, or other depositories, or shall be otherwise invested, as the Board of Directors may select or direct, or as may be selected or directed by the President or the Treasurer of the Consortium to whom such power may from time to time be specifically delegated by the Board of Directors.

ARTICLE XII

GENERAL PROVISIONS

Section 12.1 Fiscal Year

The fiscal year of the Consortium shall be determined, and may be changed, by resolution of the Board of Directors. Initially, the Consortium's fiscal year shall be from January 1 to December 31.

Section 12.2 Reserves

The Board of Directors may set apart out of any funds of the Consortium a reserve or reserves for any proper purpose and may abolish any such reserve.

Section 12.3 Seal

The Board of Directors may, by resolution, adopt a corporate seal. The corporate seal shall have inscribed thereon the name of the Consortium, the year of its organization and the word "Delaware". The seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise. The seal may be altered from time to time by the Board of Directors.

Section 12.4 Proprietary Rights

(a) Except as specifically provided to the contrary in such policies and procedures as may from time to time be approved by the Board of Directors, all information disclosed by any participant during any official meeting or activity of the Consortium, including but not limited to Member meetings, Board meetings, Technical Committee meetings, Marketing Committee meetings, Users Committee meetings, Sub-Group meetings, electronic mail or the like, shall be deemed to have been disclosed on a non-confidential basis, and, subject to rights and restrictions represented by valid patents, patent applications, and Federal and international statutory copyrights (no waiver of any rights pertaining to which shall be implied from such disclosure or the terms of this Section 12.4), may be used by anyone without restriction.

(b) No express or implied right, whether by implication, estoppel, or otherwise, to any patent, copyright, trademark, trade secret, or other intellectual property right of any Member is or shall be deemed to be granted to the Consortium or to any other Member by reason of its membership in or participation in the activities of the Consortium, except as may be provided in a separate written agreement.

(c) No Member shall at any time be required to exchange proprietary information with any other Member solely by reason of its being a Member of the Consortium.

ARTICLE XIII

ANTITRUST COMPLIANCE

Section 13.1 General

The Consortium will conduct all of its activities in conformance with the federal and state antitrust laws, including the Sherman Act, the Clayton Act, the Robinson-Patman Act and the Federal Trade Commission Act. The Board of Directors and the President of the Consortium shall consult legal counsel and seek legal review whenever necessary to insure that the activities of the Consortium are conducted in conformance with such laws.

Section 13.2 Availability of Technology

It is the good faith objective of the Consortium (i) to make all Technology available as soon as its development and adoption by the Consortium is complete on the same terms to all Members who have not participated in the development or determination of such Technology as well as to all those Members who have participated, (ii) to make all such Technology available at the same point in time to all Members, and (iii) to make all such Technology available to all non-Members on fair and reasonable terms and conditions.

Section 13.3 No Obligation to Endorse

No Member shall, by reason of its membership or participation in the Consortium or otherwise, be obligated to license, use or endorse any Technology developed or endorsed by the Consortium, or to conform any of its products to any standards or specifications developed or adopted by the Consortium, nor shall any such Member be precluded from independently licensing, using or endorsing similar intellectual property, software, specifications or documentation developed by it or by others.

ARTICLE XIV

AMENDMENTS

These By-laws may be altered, amended or repealed or new By-laws may be adopted by a Super-Majority vote of (i) the Voting Members, or (ii) the Board of Directors, except where such power is expressly limited by law or the Certificate of Incorporation, at any annual meeting of the Voting Members or regular meeting of the Board of Directors or at any special meeting of the Voting Members or of the Board of Directors, provided, however, that in the case of a regular or special meeting of Voting Members, notice of such alteration, amendment, repeal or adoption of new By-laws shall be contained in the notice of such meeting.

Register of Amendments to the By-laws

<u>Date</u>	<u>Section Affected</u>	<u>Change</u>
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