

**CORPORATE BYLAWS**

**OF**

**ZIGBEE ALLIANCE**

**(a nonprofit mutual benefit corporation)**

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# **CORPORATE BYLAWS**

**OF**

## **ZIGBEE ALLIANCE**

**(a nonprofit mutual benefit corporation)**

### **ARTICLE I**

#### **OFFICES**

**1.1 Principal Office.** The principal office of the Corporation shall be located at such location within the State of California as the Board of Directors so prescribes. The principal office may be changed from time-to-time to another location within the State of California by the Board of Directors.

**1.2 Other Offices.** Branch or subordinate offices may at any time be established by the Board of Directors at any place or places where this Corporation is qualified to do business.

### **ARTICLE II**

#### **PURPOSES**

**2.1 Purposes.** The Corporation is a non-profit mutual benefit corporation formed to create, evolve and promote universal, open, global standards for wireless device-to-device communications for the Internet of Things (IoT).

The purposes for which the Corporation is organized are to:

(a) Bring about the existence of a broad range of interoperable consumer and industrial devices by establishing open industry specifications for unlicensed, untethered, peripheral, control and entertainment devices;

(b) Provide a forum and environment whereby the Corporation's Members may meet to approve suggested revisions and enhancements that evolve the relevant specifications; make appropriate submissions to established agencies and bodies with the purpose of ratifying these specifications as an international standard; and provide a forum whereby users may meet with developers and providers of related products and services to identify requirements for interoperability and general usability;

(c) Educate the business and consumer communities as to the value, benefits and applications for universal, open, global standards for wireless communications for the IoT through public statements, publications, trade shows demonstrations, seminar sponsorships and other programs established by the Corporation;

(d) Protect the needs of consumers and increase competition among vendors by supporting the creation and implementation of uniform, industry-standard certification test procedures and processes which assure the interoperability of wireless products and services using the Corporation's standards;

(e) Maintain relationships and liaison with educational institutions, government research institutes, other technology consortia, professional organizations, trade groups and other organizations that support and contribute to the development of the Corporation's specifications and standards; and

(f) Foster competition in the development of new products and services based on specifications developed by the Corporation in conformance with all applicable antitrust laws and regulations.

### **ARTICLE III** **MEMBERSHIP**

**3.1 Classes of Membership.** There shall be only one class of Members in the Corporation within the meaning of Section 5056 of the California Nonprofit Corporation Law, and such Members shall be known as "**Promoter Members**." Promoter Members of the Corporation shall be those entities qualified and approved as set forth in **Section 3.2.2**, up to a total of twenty-five (25). A Promoter Member shall automatically cease to be a Promoter Member upon the occurrence of an event set forth in **Section 3.4**. The Corporation may, pursuant to resolutions adopted by the Board of Directors, create one or more classes of non-member participants of the Corporation, and currently the non-member participants are Participants, Adopters, Associates and Non-Profits (collectively referred to in the Bylaws as "**Participants/Adopters/Associates/Non-Profits**"). Participants/Adopters/Associates/Non-Profits shall have only the rights and privileges specifically given to them by the resolutions adopted by the Board of Directors and shall be subject to any conditions imposed thereon by the Board of Directors. Participants/Adopters/Associates/Non-Profits shall not be entitled to any voting rights with respect to the business or proceedings of the Corporation, including without limitation, any matters relating to the adoption of a deliverable or any other matters presented to the Corporation and/or the Promoter Members for voting or election. Any classes of Participants/Adopters/Associates/Non-Profits may be referred to as "**Participants**," "**Adopters**," "**Members**," "**Associates**," "**Non-Profits**" or by any other designation given to them by the Board of Directors; however all such classes of Participants/Adopters/Associates/Non-Profits shall not be considered "statutory members" within the meaning of Section 5056 or any other applicable section of the California Nonprofit Corporation Law. Notwithstanding the foregoing, this **Section 3.1** and **Sections 3.4** through **3.7**, Section 4.11 and **Articles 7** through **10** of these Bylaws shall apply to such Participants/Adopters/Associates/Non-Profits and references to "**Members**" in therein shall also be deemed to include such Participants/Adopters/Associates/Non-Profits. Otherwise, all references to "**Members**" in these Bylaws shall be limited to Promoter Members only.

#### **3.2 Membership Qualifications.**

**3.2.1 Qualifications for Participants/Adopters/Associates/Non-Profits and Other Non-Promoter Members.** Any company shall be eligible to be a Participant, Adopter,

Associate, Non-Profit or other non-Promoter member if it demonstrates that it is dedicated to the purposes of the Corporation by:

- (a) Publicly displaying a legitimate business interest; and
- (b) Publicly supporting, in the form of a press release or as evidenced by shipping products or enabling technology, such as, for example, chip sets, software, *etc.* for Corporation certified products; and
- (c) Receiving approval of the membership application by the Board of Directors or the President and Chief Executive Officer; and
- (d) Paying such dues and fees as the Board may fix from time-to-time; and
- (e) Such other criteria and conditions of membership that may be adopted by the Board of Directors from time-to-time.

**3.2.2 Qualifications for Promoters.** Any company shall be eligible for Promoter membership that satisfies the requirements for membership as a Participant/Adopter/Associate/Non-Profit as referenced above, and, in addition:

- (a) Agrees to actively promote Corporation specifications for connected devices that comply with Corporation Adopted Specifications; and
- (b) Is shipping or deploying or intends to ship or deploy for public access, Corporation products or enabling technology, such as, for example, chip sets, software, *etc.*, for Corporation certified products; and
- (c) Receives a vote of approval by a two-thirds (2/3) majority of the Board of Directors; and
- (d) Such other criteria and conditions of membership that may be adopted by the Board of Directors from time-to-time.

In determining whether an applicant should be approved as a new Promoter Member, the Board of Directors shall consider the Corporation's goal of having Promoter Member diversity in terms of representing various segments of the Internet of Things industry in such proportions as deemed advisable by the Board of Directors, from time-to-time.

**3.2.3 Membership Agreements.** Subject to the prior approval as required in these Bylaws, the President and Chief Executive Officer, or his or her designee, shall be authorized to sign on behalf of the Corporation, and to process and administer Member agreements.

**3.3 Fees, Dues and Assessments.** The Board of Directors shall determine the initial membership fees, dues and assessments for membership and/or participation in the Corporation. Fees, dues and assessments for membership in the Corporation may be increased or decreased by the Board, in its discretion, at any time. Membership in the Corporation will automatically renew on an annual basis, and membership fees will be invoiced at each subsequent anniversary period. Members shall be obligated to make payment of annual fees, dues and assessments

within thirty (30) calendar days of the due date for payment of such fees, dues or assessments, and the Corporation may suspend benefits and privileges or terminate membership if such fees, dues or assessments are not paid within such thirty (30) day period.

**3.4 Termination of Membership.** The membership of any Member shall terminate upon the occurrence of any one or more of the conditions set forth in this **Section 3.4**. Upon termination or expiration of the status of a Member in the Corporation, all rights and privileges associated with being a Member shall terminate:

**3.4.1 Resignation.** A Member may resign from the Corporation at any time by filing a resignation letter with the Chairperson or Secretary of the Corporation. No *pro rata* refund of any membership fees, dues or assessments shall be made for the balance of the calendar year in which the resignation is effective.

**3.4.2 Expiration and Disqualification.** A membership issued for a period of time shall expire when such period of time has elapsed unless the membership is renewed.

**3.4.3 Dues and Assessments.** Membership may be terminated by the Corporation following the failure of the applicable Member to pay any fees, dues or assessments within the time periods established by the Board of Directors.

**3.4.4 Termination of the Member Agreements.** Membership shall terminate upon termination or expiration of the applicable Promoter Member Agreement, Participant Member Agreement, Adopter Member Agreement, Associate Member Agreement or Non-Profit Member Agreement.

**3.5 Non-Liability.** No Member shall be personally liable for the debts, liabilities or obligations of this Corporation.

**3.6 Transferability.** Except as provided below, a Member shall not assign or otherwise transfer for value or otherwise its membership interest or any right arising therefrom.

**(a) Transfer in Connection with a Restructuring, Reorganization, Consolidation or Other Similar Corporate Transaction.** A Member ("**Transferor Member**") may assign or otherwise transfer its membership interest and associated Member agreement to an Affiliate of Member ("**Transferee Member**") in connection with a restructuring, reorganization, consolidation or other similar corporate transaction, provided that the Transferor Member maintains a relationship with the Corporation as a Member (Promoter or Participant, Adopter, Associate, Non-Profit or other category of non-statutory member as referenced in **Section 3.1** of these Bylaws) pursuant to the Corporation's standard agreement for such membership category, and provided further that if the Transferor Member fails to maintain its membership in the Corporation or is otherwise no longer a Member for any reason, Transferee Member's membership in the Corporation will terminate and such Transferee Member will be required to reapply for membership. Upon request of the Corporation, Transferor Member and/or Transferee Member shall provide such documents as may be required to validate and verify the



Affiliate status of Transferee Member. Any such permitted assignment or other transfer under this **Section 3.6(a)** of these Bylaws shall be effective and contingent on such agreement being duly executed by Transferor Member and delivered to the Corporation and any associated membership fees being paid. The form of transfer shall be prescribed by the Corporation or otherwise be acceptable to the Corporation in its sole discretion.

For purposes of this **Section 3.6(a)** of these Bylaws, the term "Affiliate of Member" means any legal entity that directly or indirectly, controls, is controlled with or by or under common control with a Member, and the term "control" shall mean the direct or indirect control of fifty percent (50%) or more of the voting power to elect directors thereof, or any other entity, the power to direct the management of such entity.

**(b) Transfer in Connection with a Merger, Acquisition or Other Transaction Involving a Change in Control.** In the case of a merger, acquisition or other transaction wherein there is a Change in Control of a Member, the membership interest and the associated membership agreement of such Member shall continue in full force and effect through and until the next renewal time period for such Member. At the time for renewal, such Member's membership in the Corporation shall terminate and the Member must reapply for membership, subject to all the then-current conditions and criteria for membership. In the case of a Promoter Member undergoing a Change in Control, such Promoter Member shall not be required to pay the Corporation initiation fee (but shall be responsible for the then-current Promoter Member dues).

For purposes of this **Section 3.6(b)** of these Bylaws, the term "Change in Control" means: (a) any transaction or combination of transactions as a result of which either a person, an entity or a group of persons and/or entities that customarily has acted in concert and that presently is in control of Member ceases to be in control of Member; or (b) the sale, transfer, exchange or other disposition (including disposition in full or partial dissolution) of fifty percent (50%) or more of the beneficial ownership (as defined in Rule 13(d) of the Securities Exchange Act of 1934) of the voting power of Member, or of the assets of Member that constitute a substantial or material business segment of Member; or (c) the divestiture, in whole or in part, of the business unit or division of Member that has participated in the Corporation's activities.

**3.7 Distribution of Assets Upon Dissolution.** Upon a dissolution or liquidation of this Corporation, and after all of the known debts and liabilities of this Corporation have been paid or adequately provided for in accordance with Section 8713 of the California Nonprofit Corporation Law, the Board of Directors shall: (a) return to the Members any unused portions of dues paid by Members for any particular fiscal year; and (b) thereafter, transfer remaining assets and/or intellectual property rights of the Corporation which are not appropriate for transfer to the general public, such as any trademarks or logos of the Corporation, to another Section 501(c)(6) organization, as determined by the Board of Directors whose purposes are similar to the Corporation. Any such assets not disposed of in accordance with the aforementioned procedures shall be disposed of by a court of competent jurisdiction of the county in which the principal office of the Corporation is then located to such organization or organizations, as said court shall determine, that are organized and operated exclusively for such purposes. No part of the Corporation's net earnings will inure to the benefit of any Member, Director or any third person.

**ARTICLE IV**  
**MEMBERSHIP MEETINGS**

**4.1 Place of Meetings.** All meetings of Members shall be held at any place which may be designated by the Board of Directors pursuant to the authority hereinafter granted to the said Board of Directors, or by the written consent of a majority of Members entitled to vote thereat, given before the meeting and filed with the Secretary of the Corporation.

**4.2 Regular Meetings.** Regular meetings of Members of the Corporation shall be held at such dates and at such times and places as determined by resolution of the Board of Directors. Additional Member meetings may be set as determined by the Board of Directors and pursuant to notification as defined in these Bylaws.

**4.3 Special Meetings.** Special meetings of Members, for any lawful purpose or purposes whatsoever, may be called at any time by the Chairperson, the President and Chief Executive Officer, the Board of Directors, or by five percent (5%) or more of Members entitled to vote. Notice of such request must be submitted to the Chairperson, the Vice-Chairperson or Secretary. The notice must state the business to be transacted at the special meeting. It shall be the duty of the officer to cause notice to be given to the Members entitled to vote at the meeting scheduled and to be held not less than ten (10) days nor more than ninety (90) days after the receipt of such a request. A quorum of Members must be present at the special meeting pursuant to **Section 4.6** in order to conduct the business of the Corporation.

**4.4 Notice of Meetings.** A notice of each annual meeting, written ballot for election of Directors or otherwise, if any, and special meeting shall be given by the Chairperson or, in case of his or her failure or refusal, by any other officer or any Director. Each such notice shall specify: (a) the place, time, day and hour of the meeting or the date on which the ballot shall be returned, if applicable; (b) in the case of an annual meeting at which Directors shall be elected, shall specify the names of all those who are candidates for election of Directors and the agenda of the meeting as determined at the time the notice is given; and (c) in the case of special meetings, the nature of the business to be transacted thereat. Such notice shall be given to every Member of the Corporation who, on the record date for notice of the meeting, is entitled to vote thereat. Such notice shall be given at least ten (10) days but no more than ninety (90) days prior to the date fixed for such meeting.

**4.5 Adjourned Meetings.** Any Members' meeting, annual or special, whether or not a quorum is present, may be adjourned from time-to-time by the vote of a majority of the Members, entitled to vote thereat, either present in person or represented by proxy thereat, but in the absence of a quorum no other business may be transacted at any such meeting. Annual and special meetings may not be adjourned for more than forty-five (45) days to another time or place. It shall not be necessary to give any such notice of the time and place of the adjourned meeting or of the business to be transacted thereat, other than by an announcement at the meeting at which such adjournment is taken. If after the adjournment a new record date is fixed for notice or voting, a notice of the adjourned meeting shall be given to each Member who, on the record date for notice of the meeting, is entitled to vote at the meeting.

**4.6 Quorum.** The presence in person or by proxy of a majority of the Members of the Corporation entitled to vote shall constitute a quorum for the transaction of business. The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the Members required to constitute a quorum. The presence of an authorized representative of a Member shall constitute presence of the Member for purposes of determining the establishment of a quorum.

**4.7 Voting.** Each Promoter Member in good standing (*i.e.*, Promoter Members who have paid their membership fees, dues and assessments in accordance with these Bylaws and whose membership has not been terminated pursuant to **Section 3.4**) is entitled to one (1) vote on each matter submitted to a vote of the Members. Voting shall be by voice vote, unless the Chairperson of the Corporation directs such voting to be by ballot. No single vote shall be split into fractional votes. Cumulative voting shall not be authorized.

**4.8 Action Without Meeting by Written Ballot.** Any action, which may be taken at any regular or special meeting of Members, may be taken without a meeting if the Corporation distributes a written ballot to every Member entitled to vote on the matter. Such ballot shall set forth the proposed action, provide an opportunity to specify approval or disapproval of any proposal, and provide a reasonable time within which to return the ballot to the Corporation. Approval by written ballot shall be valid only when the number of votes cast by ballot within the time period specified equals or exceeds a quorum of the Members, and the number of approvals equals or exceeds the number of votes that would be required to approve at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. Ballots shall be distributed to Members in accordance with delivery and timing requirements set forth in **Section 4.4**. All ballots distributed shall indicate the number of responses needed to meet the quorum requirement and shall state the percentage of approvals necessary to pass the measure submitted. All written ballots distributed shall specify the time by which the ballot must be received in order to be counted.

**4.9 Proxies.** Every Member entitled to vote shall have the right to do so in person or by one or more agents authorized by a written proxy executed by such person or his or her duly authorized agent and filed with the Secretary of the Corporation; but no such proxy shall be valid after the expiration of eleven (11) months from the date of its execution, unless the person executing it specifies therein the length of time for which such proxy is to continue in force.

**4.10 Conduct of Meetings.** Meetings of Members shall be presided over by the Chairperson of the Corporation, or in his or her absence, by the Vice-Chairperson, and in the absence of both of them, by the chair chosen by a majority of the Members present. The Secretary of the Corporation shall act as the secretary of all meetings of Members, provided that in his or her absence the presiding officer shall appoint another Member to act as acting secretary of the meeting.

**4.11 Electronic Communications.** The providing of notices, voting and any other action to be taken as given by the Corporation or by or for a Member may be given through electronic means such as email, and such notice, vote or other action shall be sufficient for purposes of notices, vote or other actions under these Bylaws. In any matter in which electronic

voting is adopted as the procedure for voting, the quorum requirements and number of votes required for an action or matter to pass shall be satisfied by determining the number of electronic votes cast by Members. For example, the 10% quorum requirement will be satisfied if 10% of the Members cast their vote electronically. For each matter using electronic voting, the Board of Directors shall establish a start and end date upon which ballots can be cast, and such end date may be extended from time-to-time by the Chairperson or Board of Directors.

**4.12 Electronic Meetings.** A meeting of the Members may be conducted, in whole or in part, by electronic transmission by and to the Corporation or by electronic video screen communication: (a) if the Corporation implements reasonable measures to provide Members in person (or, if proxies are allowed, by proxy) 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 those proceedings; and (b) if any Member votes or takes other action at the meeting by means of electronic transmission to the Corporation or electronic video screen communication, a record of that vote or action is maintained by the Corporation.

## **ARTICLE V**

### **BOARD OF DIRECTORS**

**5.1 Powers.** Subject to the limitations of the Articles of Incorporation, the Bylaws, and the California Nonprofit Corporation Law and subject to the duties of Directors as prescribed by the Bylaws, all corporate powers shall be exercised by or under the authority of, and the business and affairs of this Corporation shall be controlled by, the Board of Directors. The Board of Directors shall have the power to select and remove all officers, agents, employees and contractors, and to fix reasonable compensation thereof, to authorize and empower officers or agents to enter into contracts and other commitments on behalf of this Corporation, and to appoint and delegate responsibilities and authority to committees, officers and agents.

**5.2 Number and Composition of Board of Directors.** The number of Directors shall be equal to the number of Promoter Members, plus the President and Chief Executive Officer who shall serve without vote. In addition, the Board of Directors may appoint and remove, from time-to-time, additional Board members when the Board of Directors believes that such appointment is in the best interests of the Corporation.

Each Promoter Member shall designate one (1) Director and one (1) Alternate Director (as more specifically defined in **Section 5.3**) to serve on the Board of Directors. Each Director and Alternate Director must be an employee, officer, director or duly authorized representative of the Promoter Member on behalf of which he or she is serving. Each of the Director and Alternate Director shall serve a one (1) year term unless otherwise provided under this **Section 5.2**. Each Director or Alternate Director shall have one (1) vote on each matter presented to the Board of Directors for action. No Director or Alternate Director may vote by proxy.

An individual's status as a Director shall be automatically terminated upon the termination of the Director's employment with or authority to represent the Promoter Member of which he/she was an employee or authorized representative, in which case the vacancy may be filled in accordance with **Section 5.6**.

In addition, upon resolution by a majority of the Board of Directors (not including the Director against whom action is being taken): (a) a Director may be removed for cause pursuant to **Section 5.19.2**, in which case the vacancy may be filled in accordance with **Section 5.6**; and (b) the Director and Alternate Director positions for a Promoter Member shall be eliminated through the remaining period of the Promoter Member's membership term if such Promoter Member's Director and Alternate Director fail to attend two (2) consecutive regular Board meetings, provided such absences are not excused based on exigent circumstances (*e.g.*, illness, bereavement, incapacity, *etc.*) as approved in advance of such meetings by the Chairperson or President and Chief Executive Officer. In the event of a **subsection (b)** elimination, the vacancy may not be filled under **Section 5.6** or otherwise, however, the Promoter Member may, upon written notice to the Chairperson and President and Chief Executive Officer, request the restoration of the Director and Alternate Director positions, and such positions will be reinstated upon the next membership renewal date of the Promoter Member.

The provisions of this **Section 5.2** may not be amended except upon the two-thirds (2/3) approval of the Board of Directors.

**5.3 Alternate Directors.** The following procedures shall apply to Alternate Directors:

**5.3.1 Alternate Directors; Voting.** Each Director shall have an alternate to serve in the capacity of Director in the event of the death, resignation, removal or absence of the Director; such alternate shall be referred to as an "**Alternate Director.**" When serving in the capacity of Director, the Alternate Director shall have all the rights, privileges and responsibilities of the Director. Alternate Directors shall: (a) be entitled to attend all regular and special meetings of the Board of Directors; and (b) have all rights (including voting rights) of the Director in the absence of the Director.

**5.3.2 Role of Alternate Director.** In the event that the Alternate Director is serving as a Director due to the absence of the non-Alternate Director, such non-Alternate Director shall regain all of the rights, privileges and responsibilities of Director status upon the termination of his or her absence. In the event that the Alternate Director is serving as a Director due to the death, resignation or removal of the Director, the Alternate Director shall immediately become a Director, and the corresponding position of Alternate Director shall become vacant.

**5.3.3 Application of Bylaws.** All provisions of these Bylaws apply equally to the Alternate Directors as to the Directors, unless otherwise noted.

**5.4 Observers and Invitees.** If a Promoter Member wants to invite an observer or invitee to a Board meeting, the Promoter Member must provide prior written notice to the Chairperson and President and Chief Executive Officer and any such observation and/or invitee must be approved by the Chairperson and President and Chief Executive Officer prior to the Board meeting.

**5.5 Restrictions on Eligibility to Serve as a Director; Control Groups.** No more than one (1) individual employed by or affiliated with an entity that constitutes a Control Group

shall be permitted to serve as a Director or Alternate Director of the Corporation at one time. For purposes of this section, "**Control(s)**," "**Controlled**" or "**Controlling**" shall mean: (a) the ownership, directly or indirectly, of 50% or more of the total voting securities of another entity; or (b) in the case of unincorporated entities, shall mean the ownership of more than 50% of the ownership interest representing the right to make decisions for the entity. "**Control Group**" shall include a Member and all corporations or other entities which are Controlled by such Member or which Control such Member.

**5.6 Vacancies.** Subject to the restrictions on filling vacancies in **Section 5.2**, if there is a Director vacancy which is not filled by an Alternate Director pursuant to **Section 5.3** and/or upon the vacancy of an Alternate Director, the affected Promoter Member shall have sixty (60) calendar days from the date of notice of the vacancy from the Corporation to appoint a replacement Director and/or Alternate Director to the Board of Directors for the remaining term. If the Promoter Member fails or refuses to make such appointment within such sixty (60) calendar day period, the position shall be vacated.

**5.7 Regular Meetings.** Meetings of the Board of Directors will be held approximately four (4) times a year, and at such other times as may be necessary or advisable. All meetings of the Board of Directors may be held at any place that has been designated from time-to-time by the Board of Directors or by the notice of the Chairperson or Secretary.

**5.8 Special Meetings.** Special meetings of the Board of Directors for any purpose or purposes may be called at any time by the Chairperson or by any two (2) Directors.

**5.9 Notice of Meetings; Attendance.** Notice of the time and place of each meeting of the Board of Directors not fixed by resolution of the Board of Directors shall be given electronically to each Director not less than: (a) two (2) business days in advance of the Board of Directors meeting, for telephonic meetings; and (b) twenty one (21) calendar days, in advance of the Board of Directors meeting, for in-person meetings.

**5.10 Consent to Meetings.** The transactions of the Board of Directors at any meeting however called and noticed or wherever held, shall be as valid as though done at a meeting duly held after call and notice if a quorum be present and if either before or after the meeting each Director not present: (a) signs a written waiver of notice; (b) signs a consent to the holding of such meeting; or (c) approves the minutes thereof. Each Director who attends the meeting without protesting, prior thereto or at its commencement, shall be deemed conclusively to have consented to the holding of the meeting and to have waived the lack of notice to such Director. All such waivers, consents or approvals shall be filed with the corporate records and made a part of the minutes of the meeting.

**5.11 Action Without Meeting.** Any action required or permitted to be taken by the Board of Directors may be taken without a meeting if all members of the Board of Directors shall individually or collectively consent in writing to such action. Such written consent or consents may be by email, signature on a PDF document, digital or electronic signature or other evidence of written consent, and shall be filed with the minutes of the proceedings of the Board of Directors. Such action by written consent shall have the same force and effect as a unanimous vote of such Directors. Any certificate or other document filed under any provision of the California Nonprofit Corporation Law which relates to action so taken shall state that the action

was taken by unanimous written consent of the Board of Directors without a meeting, and that the Bylaws authorize the Directors to so act. For the purposes of this section only, "all members of the Board" shall not include any "*Interested Director*" as defined in **Section 5.18**.

**5.12 Telephonic/Electronic Meetings.** Directors may participate in a meeting through use of conference telephone, electronic video screen communication, or electronic transmission by and to the corporation. Participation in a meeting through use of conference telephone or electronic video screen communication constitutes presence in person at that meeting as long as all Directors participating in the meeting are able to hear one another. Participation in a meeting through use of electronic transmission by and to the Corporation, other than conference telephone and electronic video screen communication, constitutes presence in person at that meeting if both of the following apply: (a) each Director participating in the meeting can communicate with all of the other Directors concurrently; and (b) each Director is provided the means of participating in all matters before the Board, including, without limitation, the capacity to propose, or to interpose an objection to, a specific action to be taken by the Corporation.

**5.13 Quorum and Vote.** A majority of the Directors from Promoter Members then in office shall be necessary to constitute a quorum for the transaction of business, except to adjourn as hereinafter provided in **Section 5.14**. Every act or decision done or made by a majority of the Directors from Promoter Members present at a meeting duly held at which a quorum is present shall be regarded as the act of the Board of Directors unless a greater number be required by law, the Articles of Incorporation or these Bylaws. The presence of the President and Chief Executive Officer shall not be counted for purposes of determining a quorum and shall not be counted for purposes of determining a majority in voting on any motion or action of the Board of Directors.

**5.14 Adjournment.** A majority of the Directors present, whether or not a quorum is present, may adjourn any Directors' meeting to meet again at another time or place. In the event a meeting of the Board of Directors is adjourned for more than forty-eight (48) hours, notice of any adjournment to another time or place shall be given prior to the time set for the rescheduled meeting to the Directors who were not present at the time of the adjournment.

**5.15 Fees and Compensation.** Directors shall serve without compensation, but by resolution of the Board of Directors, may be reimbursed for expenses paid while acting on behalf of the Corporation and/or expenses incurred in attending meetings of the Board of Directors. Nothing herein contained shall be construed to preclude any Director from serving the Corporation in any other capacity as an officer, agent, employee, or otherwise, and receiving compensation therefore so long as such compensation is approved by a majority of Directors, excluding any Interested Director as defined in **Section 5.18**.

**5.16 Indemnity for Litigation.** This Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any proceeding by reason of the fact that such person is or was a Director, Alternate Director, officer, or member of any committee or working group of this Corporation, to the full extent allowed under the provisions of Section 7237 of the California Nonprofit Corporation Law relating to the power of a corporation to indemnify any such person. The amount of such indemnity shall be so much as the Board of Directors determines and finds to be reasonable, or, if required by said Section 7237 of the California

Nonprofit Corporation Law, the amount of such indemnity shall be so much as the court determines and finds to be reasonable.

**5.17 Standard of Conduct.** Pursuant to Section 7231 of the California Nonprofit Corporation Law, a Director (and Alternate Director, as applicable) shall perform the duties of a Director, including duties as a member of any committee or working group upon which the Director may serve, in good faith, in a manner such Director believes to be in the best interests of this Corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. In performing the duties of a Director, a Director or Alternate Director shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by:

(a) One or more officers or employees of this Corporation whom the Director believes to be reliable and competent in the matters presented;

(b) Legal counsel, independent accountants or other professionals as to matters which the Director believes to be within such person's professional or expert competence; or

(c) A committee of the Board upon which the Director does not serve, as to matters within the committee's designated authority, which committee the Director believes to merit confidence; provided that, in any such case, the Director acts in good faith, after reasonable inquiry when the need therefor is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted.

**5.18 Self-Dealing Transactions.** As used in this section, a "self-dealing contract" is any contract or transaction: (a) between this Corporation and one or more of its Directors, or between this Corporation and any corporation, firm or association in which one or more of the Directors has a material financial interest; or (b) between this Corporation and a corporation, firm or association of which one or more of its directors are Directors of this Corporation (collectively, "*Interested Director(s)*"). Pursuant to Section 7233 of the California Nonprofit Corporation Law, no self-dealing contract shall be void or voidable because such Interested Director(s) or corporation, firm or association are parties or because such Interested Director(s) are present at the meeting of the Board or committee which authorizes, approves or ratifies the self-dealing contract, if:

**5.18.1 Membership Approval.** All material facts are fully disclosed to or otherwise known by the Members and the self-dealing contract is approved by the Members in good faith including the abstention from voting by any membership owned by such Interested Director(s);

**5.18.2 Board or Committee Approval.** All material facts are fully disclosed to or otherwise known by the Board or committee and the Board or committee authorizes, approves, or ratifies the self-dealing contract in good faith (including the abstention from voting by the Interested Director(s)), and, in the case of a self-dealing contract described above, the Board or committee resolves



and finds that the contract is just and reasonable at the time it is authorized, approved or ratified; or

**5.18.3 Just and Reasonable Contract.** The person asserting the validity of the self-dealing contract sustains the burden of proving that the contract was just and reasonable as to the Corporation at the time it was authorized, approved or ratified.

Interested Director(s) may be counted in determining the presence of a quorum at a meeting of the Board or a committee thereof which authorizes, approves or ratifies a contract or transaction as provided in this **Section 5.18**.

## **5.19 Resignation and Removal.**

**5.19.1 Resignation.** Any Director or Alternate Director may resign at any time by giving written notice to the Board of Directors, to the Chairperson or to the Secretary of this Corporation.

**5.19.2 Removal.** In addition to the removal of a Director under **Section 5.2**, any Director and/or Alternate Director may be removed upon resolution by the Board of Directors terminating such individual's status as such a Director or Alternate Director for any of the following, all of which constitute removal for cause: (a) conviction or entry of a plea of *nolo contendere* by such Director or Alternate Director for a crime; (b) intentional breach of fiduciary duties by such Director or Alternate Director; (c) public disparagement or ridicule of the Corporation by such Director or Alternate Director; or (d) gross mismanagement or waste by such Director or Alternate Director. Upon termination of an individual's status as a Director or Alternate Director or if there is otherwise a vacancy on the Board of Directors, the vacancy may be filled pursuant to **Section 5.6**.

**5.20 Advisory Board.** The Board of Directors may, at its sole discretion, appoint a board of advisors ("**Advisory Board**") with which the Board of Directors shall consult on matters relating to the operation of the Corporation. The members of the Advisory Board shall not have the rights or privileges of Directors or Members as set forth in Sections 5047 and 5056 of the California Nonprofit Corporation Law and shall have no power or authority over the operation of the Corporation. The Advisory Board may be restructured and/or terminated by resolution of the Board of Directors at any time. A member of the Advisory Board may be removed at any time by the Board of Directors in its sole and absolute discretion.

## **ARTICLE VI**

### **OFFICERS**

**6.1 Officers.** The principal officers of this Corporation shall be a Chairperson of the Board, one or more Vice-Chairpersons of the Board, the President and Chief Executive Officer, a Chief Financial Officer/Treasurer, a Secretary and such other officers as the Board of Directors may appoint. One person may hold two or more offices. The Chairperson of the Board and the Vice-Chairperson(s) of the Board must be Directors (*i.e.*, not an Alternate Director) of a

Promoter Member of the Corporation to be eligible to be appointed Chairperson of the Board and Vice-Chairperson(s), as applicable. Other than the Chairperson of the Board and the Vice-Chairpersons of the Board, officers of the Corporation may be any person nominated by a Director and nothing herein shall require such individual to be a Director or an employee or duly authorized representative of any Member of the Corporation.

**6.2 Election.** The officers of this Corporation shall be appointed by the Board of Directors in accordance with this **Article VI**, and each officer shall hold his or her office for a term of one (1) year, or until he or she shall resign or shall be removed or his or her successor shall be elected and qualified.

**6.3 Removal and Resignation.**

**6.3.1 Removal.** Any officer may be removed at any time, either with or without cause, by the Board of Directors or by any officer upon whom such power of removal may be conferred by the Board of Directors. Upon such time as the Chairperson of the Board ceases to be the primary Director of a Promoter Member of the Corporation, such Chairperson of the Board shall be automatically and immediately deemed to have resigned as Chairperson of the Board.

**6.3.2 Resignation.** Any officer may resign at any time by giving written notice to the Board of Directors or the Secretary of the Corporation. Any such resignation shall take effect at the date of the receipt of such notice or at any later time specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. Such resignation shall not prejudice the rights of the Corporation under any contract to which the officer is a party.

**6.4 Vacancies.** A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled by the Board of Directors for the unexpired term, provided that the Executive Committee may appoint an interim officer until such time as the Board of Directors convenes its next Board meeting.

**6.5 Chairperson of the Board.** The Chairperson of the Board shall be a member of the Board of Directors and shall preside at all meetings at the Board of Directors. Subject to the control of, and in conjunction with the Board of Directors, the Chairperson of the Board shall lead the Board of Directors in establishing the Corporation's long term strategy, annual objectives and priorities and in establishing the measures of performance against those objectives. The Chairperson of the Board shall serve as an *ex-officio* voting member of all committees, shall have the authority to represent the decisions of the Board of Directors and shall have such other powers and duties as may be designated from time-to-time by the Board of Directors.

**6.6 Vice-Chairpersons of the Board.** In the absence of the Chairperson of the Board, or in the event of his or her removal, resignation, termination or inability or refusal to act, the most senior (by term) Vice-Chairperson of the Board shall perform all the duties of the Chairperson of the Board, and when so acting shall have all the powers of, and be subject to all the restrictions on, the Chairperson of the Board. Such Vice-Chairperson of the Board shall have such other powers and duties as may be designated from time-to-time by the Board of Directors

or the Chairperson of the Board. There shall be no limit on the number of Vice-Chairpersons of the Board that may be appointed by the Board of Directors.

**6.7 President and Chief Executive Officer.** The President and Chief Executive Officer shall serve as the general manager and principal officer of the Corporation. The President and Chief Executive Officer shall be responsible for acting on the directions and decisions as provided by the Board of Directors and for managing, directing, and supervising the Corporation's staff in support of those directions and decisions. The President and Chief Executive Officer shall manage and supervise the Corporation's contracting process and shall have the authority to execute any document on behalf of the Corporation, subject to the control and approval of the Board of Directors. The President and Chief Executive Officer shall preside over various Corporation meetings and events (other than Board meetings), and have such other responsibilities, powers and duties as may be assigned from time-to-time by the Chairperson and/or Board of Directors.

**6.8 Chief Financial Officer/Treasurer.** The Chief Financial Officer/Treasurer shall oversee the financial and accounting matters of this Corporation with respect to the receipt and deposit of funds. The Chief Financial Officer/Treasurer shall have such other powers and duties as may be designated from time-to-time by the Board of Directors.

**6.9 Secretary.** The Secretary shall keep a full and complete record of the proceedings of the Board of Directors, shall keep the seal (if one is maintained) of this Corporation and affix it to such papers and instruments as may be required in the regular course of business, shall make service of such notices as may be necessary or proper, and shall supervise the keeping of the records of this Corporation. The Secretary shall have such other powers and duties as may be designated from time-to-time by the Board of Directors.

## **ARTICLE VII**

### **COMMITTEES AND WORKING GROUPS**

**7.1 Appointment of Committees.** The Board of Directors may create committees as the Board from time-to-time deems necessary or appropriate to conduct the business and further the objectives of this Corporation. Such committees shall have the responsibilities and duties established by the Board of Directors. Any such committees may be restructured and/or terminated by the Board of Directors at any time. The Charter of a committee shall be developed by the committee and provided to the Board of Directors for its approval.

**7.2 Powers and Authority of Committees.** Without limiting the generality of **Section 7.1**, the Board of Directors may delegate to any committee any of the powers and authority of the Board of Directors in the management of the business and affairs of this Corporation, except the following:

- (a) The approval of any action for which California law requires the approval of members of a corporation;
- (b) The filling of vacancies on the Board or in any committee that has the authority of the Board;

(c) The fixing of compensation of the Directors for serving on the Board or on any committee;

(d) The amendment or repeal of Bylaws or the adoption of new Bylaws;

(e) The amendment or repeal of any resolution of the Board, which by its express terms is not so amendable or repealable;

(f) Subject to **Section 7.3** relating to the *ex-officio* members of the Executive Committee, the appointment of committees of the Board or the members thereof; and

(g) The expenditure of corporate funds to support a nominee for Director after there are more people nominated for Director than can be elected.

**7.3 Executive Committee.** The Executive Committee shall be comprised of between eight (8) and eleven (11) Directors (or such larger number as the Board of Directors may approve), and shall include, as *ex-officio* members, the Chairperson Emeritus (if appointed) who shall serve without vote if such person is not a Director, Chairperson, the Vice-Chairpersons (in the event there are more Vice-Chairpersons than available seats on the Executive Committee, then the Vice-Chairpersons with the most votes shall be seated until the maximum number is reached), the President and Chief Executive Officer who shall serve without vote, the Secretary provided the Secretary is a Board member, the Treasurer provided the Treasurer is a Board member, and such other Board members as may be appointed by the Board of Directors. The Executive Committee shall meet on a monthly basis, and at such other times as may be advisable at the direction of the Chairperson or President and Chief Executive Officer.

The Executive Committee shall have the following limited delegated responsibilities and authorities:

(a) Provide advice and direction to the Chairperson and President and Chief Executive Officer;

(b) Recommend priorities for the Board of Directors, and make recommendations to the Board of Directors for any matter requiring a 2/3<sup>rds</sup> vote of the Board of Directors or requiring a vote of members under California law, including recommendations with respect to Proposed Specifications and any changes to the IPR Policy;

(c) Review and recommend to the Board of Directors agreements with educational institutions, government research institutes, technology consortia, professional organizations, trade groups and other organizations, and any amendments to such existing agreements;

(d) Approve expenditures and contracts for services with suppliers and vendors in the ordinary course of the business of the Corporation;

- (e) Develop the agenda for the Board of Directors meetings;
- (f) Monitor and assess the effectiveness of the Board of Directors and determine ways to improve its decision-making process and efficiencies;
- (g) Without the President and Chief Executive Officer as a member, monitor and report to the Board of Directors on the performance of the President and Chief Executive Officer, including evaluating whether the annual performance goals and objectives of the President and Chief Executive Officer have been met and making recommendations to the Board of Directors on the performance of the President and Chief Executive Officer;
- (g) Advise on personnel issues as requested by the President and Chief Executive Officer; and
- (h) Such other matters as may be referred to the Executive Committee by the Chairperson and/or Board of Directors.

The Executive Committee shall not have the authority, other than to recommend to the Board of Directors, to take any action on matters requiring a 2/3<sup>rd</sup>s vote of the Board of Directors or the approval of any action for which the California law requires the approval of the Board of Directors and/or members of the Corporation.

A member of the Executive Committee shall serve a term for a period of one (1) year, and shall continue until such member: (i) is replaced pursuant to their position as an *ex-officio* participant; or (ii) resigns; or (iii) there is an appointment of a replacement member; or (iv) if such member's employment with or authority to represent the Promoter Member of which he/she was an employee or authorized representative is terminated. Upon any of the foregoing events, the Board of Directors may fill the vacancy, subject to the *ex-officio* designation, if applicable.

If a member of the Executive Committee fails to participate (without a permitted excuse based on exigent circumstances (*e.g.*, illness, bereavement, incapacity, *etc.*) as approved in advance of such meetings by the Chairperson or President and Chief Executive Officer), in Executive Committee meetings for a period of ninety (90) days, such member of the Executive Committee will be deemed automatically resigned without further notice, and in such case, the Board of Directors may fill the vacancy.

#### **7.4 Technical Committee.** Intentionally Deleted.

**7.5 Marketing Committee.** A marketing committee ("**MC**") is established, which committee shall report directly to the Board of Directors. MC responsibilities include: (a) propose, evaluate, approve, develop, prioritize and execute marketing strategies for the Corporation according to the strategic direction approved by the Board of Directors; and (b) such other responsibilities or duties as may be established by the Board of Directors. MC may be restructured and/or terminated by resolution of the Board of Directors at any time. MC shall be chaired by an individual appointed by the Board of Directors and shall include a duly authorized marketing representative of each Working Group. The Chairperson of MC may be any person

nominated by a Director and nothing herein shall require such individual to be Director or an employee or duly authorized representative of any Member of the Corporation.

**7.6 Legal Committee.** A legal committee ("**LC**") is established, which committee shall report directly to the Board of Directors. LC responsibilities include: (a) providing advice and recommendations to the Board of Directors related to legal issues defined by the Board of Directors; and (b) such other responsibilities or duties as may be established by the Board of Directors. The LC may be restructured and/or terminated by resolution of the Board of Directors at any time. The Chairperson of the LC shall be the General Counsel of the Corporation, or his or her designee. Promoter Members shall be entitled to appoint representatives on the LC as set forth in the Charter of the LC.

**7.7 Working Groups.** Working groups may be formed, restructured and/or terminated at any time by resolution of the Board of Directors for the purpose of, among other things, developing, analyzing and writing technical specifications and deliverables ("**Working Group**"). Unless otherwise directed by the Board of Directors, a Working Group shall have a steering committee, which shall report directly to the Board of Directors. A Working Group steering committee shall review and recommend proposed specifications and deliverables to the Board of Directors for publication and/or endorsement by the Corporation. Members may appoint any number of its employees or duly authorized representatives to a Working Group. The Charter of Working Groups shall be provided to the Board of Directors for its approval.

**7.8 Compensation.** Any individuals appointed to the TC, MC, LC or any committee and/or any Working Group of the Corporation shall not receive compensation for their services as such, but, upon prior approval of each expenditure by the Board of Directors, may be reimbursed for bona fide expenses incurred arising out of conducting business on behalf of the Corporation. Nothing herein shall prohibit payment of compensation to an individual serving on the TC, MC, LC or any committee or Working Group who renders services to the Corporation in another capacity.

## **ARTICLE VIII**

### **IPR POLICY AND APPROVAL OF SPECIFICATIONS**

**8.1 General.** The terms and conditions relating to the intellectual property rights of Members ("**IPR Policy**") are set forth in the Promoter Member Agreement, Participant Member Agreement, Adopter Member Agreement, Associate Member Agreement and Non-Profit Member Agreement.

**8.2 Modifications to the IPR Policy.** The IPR Policy may be modified from time-to-time in accordance with the procedures below:

- (a) The Board of Directors may, upon a two-thirds (2/3) affirmative vote, modify the IPR Policy if such modifications do not adversely affect a Promoter Member's or Participant's/Adopter's/Associate's/Non-Profit's obligations, rights and protections under the current IPR Policy.

(b) If any proposed modifications adversely affect a Promoter Member's or Participant's/Adopter's/Associate's/Non-Profit's obligations, rights or protections, such proposed modifications shall be submitted to the Promoter Members for approval, and a two-thirds (2/3) affirmative vote of the Promoter Members shall be required for such modifications to become effective.

**8.3 Application of Modified IPR Policy.** The modified IPR Policy will apply to all Promoter Members and/or Participants/Adopters/Associates/Non-Profits of the Corporation prospectively in lieu of the previous IPR Policy, from the date the modified IPR Policy is approved pursuant to **Section 8.2**, provided that:

(a) prior to adoption of such modifications, the Promoter Members and Participants/Adopters/Associates/Non-Profits are provided with a thirty (30) calendar day review and comment period with respect to the proposed modifications;

(b) each Promoter Member and Participant/Adopter/Associate/Non-Profits shall have the right to withdraw from the Corporation pursuant to the terms and conditions of the Promoter Member Agreement, Participant Member Agreement, Adopter Member Agreement, Associate Member Agreement, and Non-Profit Member Agreement, as applicable, within thirty (30) calendar days after approval of the modifications; and

(c) the Promoter Members and Participants/Adopters/Associates/Non-Profits shall be provided written notice in accordance with these Bylaws of the foregoing time periods and their ability to withdraw.

**8.4 Approval of Specifications.** Proposed Specifications (as defined in the IPR Policy) submitted to the Board of Directors for adoption shall require a two-thirds ( $\frac{2}{3}$ ) vote for approval, and upon such approval shall become "Adopted Specifications." The Board of Directors may adopt policies and procedures to solicit and obtain public comment to Proposed Specifications. The Board of Directors may, from time-to-time, establish one or more committees, groups or bodies under **Section 7.1** of these Bylaws to approve Proposed Specifications that, in the determination of the Board of Directors, require broad industry concurrence.

## **ARTICLE IX**

### **MISCELLANEOUS**

**9.1 Fiscal Year.** The fiscal year of this Corporation shall end on the last day of December of each year.

**9.2 Inspection of Corporate Records.** The books of account and minutes of the proceedings of the Board of Directors, and of any committees of the Board of Directors, shall be open to inspection at the principal office of this Corporation by each Promoter Member at any reasonable time upon the written demand of any Promoter Member. Such inspection may be

made in person or by an agent or attorney and shall include the right to make photocopies and extracts at the requesting Promoter Member's expense.

**9.3 Representation of Shares of Other Corporations.** Any officer of this Corporation is authorized to vote, represent and exercise on behalf of this Corporation all rights incident to any and all shares of any other corporation or corporations standing in the name of this Corporation. The authority herein granted to said officers may be exercised by such officers in person or by other persons authorized to do so by proxy duly executed by such officers.

**9.4 Checks, Drafts, Etc.** All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness issued in the name of or payable to this Corporation and any and all securities owned by or held by this Corporation requiring signature for transfer shall be signed or endorsed by such person or persons and in such manner as from time-to-time shall be determined by the Board of Directors.

**9.5 Execution of Contracts.** The Board of Directors may authorize any officer, employee, or agent to enter into any contract or execute any contract or execute any instrument in the name of and on behalf of this Corporation and such authority may be general or confirmed to specific instances. Unless so authorized by the Board of Directors, no officer, agent, or employee shall have any power or authority to bind this Corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or in any amount.

**9.6 Corporate Loans, Guarantees and Advances.** This Corporation shall not make any advances or make any loan of money or property to or guarantee the obligation of any Director or officer.

**9.7 Inspection and Disclosure.** The Corporation shall keep or cause to be kept correct and complete books and records of account and shall also keep minutes of the proceedings of the Board of Directors or other documents as may be required by law on its own behalf. The Corporation shall have available for inspection at its principal office a copy of its three (3) most recent annual exempt organization information returns and a copy of its application for recognition of exemption and determination letter.

**9.8 Not for Profit Status.** Neither the Corporation nor any of its Members shall individually or collectively, directly or indirectly, engage in any act that will result in the loss of, or otherwise adversely affect, its status as a tax-exempt organization under the United States Internal Revenue Code.

**9.9 Forms of Notice.** Any notice or writing required or permitted under these Bylaws may be given in writing, in person, by mail, by private carrier or by telephone, electronic transmission (including facsimile and e-mail) or other form of wire or wireless communication.

**9.10 Severability.** The invalidity of any clause, provision, or Article of these Bylaws shall not affect the validity or enforceability of the remaining clauses, provisions or Articles.



**ARTICLE X**  
**EFFECTIVE DATE AND AMENDMENT**

**10.1 Effective Date.** These Bylaws shall become effective immediately upon their adoption. Amendments to these Bylaws shall become effective immediately upon their adoption unless the Board of Directors of this Corporation in adopting them provide that they are to become effective at a later date.

**10.2 Amendments.** These Bylaws may be amended by an affirmative vote of a majority of the Board of Directors then in office, unless: (a) the specific provision(s) of these Bylaws being amended sets forth a greater number of affirmative votes for an action, in which case any amendments to such provision(s) shall require the greater number of affirmative votes set forth in such provision(s); and/or (b) such an amendment requires an affirmative vote of a majority of the Promoter Members as provided by Section 7150 of the California Nonprofit Corporation Law.

Adopted: November 19, 2002  
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Revised: July 25, 2019  
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Revised: December 2, 2020 (Deleted Section 7.4; Revised Section 7.7)