

AMENDED AND RESTATED BYLAWS

OF

MEF FORUM

A CALIFORNIA NON-PROFIT MUTUAL BENEFIT CORPORATION

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ARTICLE 1 PURPOSES AND OBJECTIVES

1.1 General Purpose

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

1.2 Mission and Purpose

- (a) The mission of the Corporation is to enable the development and worldwide adoption of agile, assured, and orchestrated network services.
- (b) The specific purposes of the Corporation are to:
 - (1) Identify and develop specifications, software standards and operational processes required to achieve the mission applicable to the scope of MEF and identify gaps that exist in such works.
 - (2) Drive development within and forge alliances with the appropriate Standards Development Organizations, Open Source Projects, Fora, Industry Associations and other appropriate entities, including MEF, to fill such gaps.
 - (3) Develop, implement and promote certification programs that validate conformance of services and products to specifications, as well as supporting the expansion of relevant subject matter expertise in the industry.
 - (4) Conduct educational activities to promote the global adoption of the work of the MEF and its industry partners in support of the mission.
 - (5) Establish programs, services and resources within the organization that would not be available elsewhere in the industry.

1.3 Limitations on Corporate Activities

(a) **General Limitations.** Notwithstanding anything herein to the contrary, nothing contained in these Bylaws shall authorize the Corporation directly or indirectly to engage in any act or thing incidental to or connected with the purposes set forth in Article 1 hereof or in advancement thereof which would cause the Corporation to be disqualified as a business league

within the meaning of Section 501(c)(6) of the United States Internal Revenue Code No part of the Corporation's net earnings or assets will inure to the benefit of any Member, Director or private person.

(b) **Compliance With Anti-Trust Laws.** The Corporation and its Directors and Members acknowledge that the purposes and objects of the Corporation prohibit discussion about sales levels, methods, or channels of distribution, markets, customers, prices or profitability or any other topic which would restrict use of hardware, software, technology, or services. The Corporation and its Directors and Members further direct that the purposes and objects of the Corporation prohibit discussions or activities on any topic that could have an adverse impact on national or international competition or trade or could violate any national or international law regarding competition or trade. The Corporation and its Directors, Members and participants shall strictly comply with state, federal and foreign antitrust laws.

ARTICLE 2 OFFICES OF THE CORPORATION

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

ARTICLE 3 MEMBERSHIP

3.1 Membership Candidates

Any individual or legal entity, private or governmental, interested in promoting the purposes of the Corporation may become a member of the Corporation in accordance with these Bylaws. The Corporation does not restrict membership on the basis of race, color, disability, sex, sexual orientation, religion, or national origin.

3.2 Classes of Membership

(a) The Corporation shall have four classes of membership: Principal Members, Auditing Members, Startup Members, and Individual Members (collectively, "**Members**"). Any person or entity dedicated to the purposes of the Corporation shall be eligible for membership on submitting a membership application and the payment of such dues and fees as apply at the time.

(b) All classes of membership are entitled to:

- (1) Access to all Working Committee working documents, meeting minutes, written contributions, and reports, except for any document containing confidential information which the Board or the Working Committee

responsible for such document has determined should be subject to restricted access for legal, operational, or policy reasons;

- (2) Submit Working Committee Contributions;
- (3) Subscribe to all general e-mail lists published by the Corporation; and
- (4) Subscribe to MEF on-line collaboration sites, subject to any limitations or requirements that may be established by the operators of the site with regard to subscriber qualifications and levels of participation.

3.3 Principal Members

(a) The Corporation's Principal Members are committed to active participation in the activities conducted by the Corporation to achieve its goals.

(b) Principal Members shall have the right to vote on all matters requiring a vote of the membership, as set forth in these Bylaws. In addition, Principal Members shall have all rights afforded voting members under the California Nonprofit Mutual Benefit Corporation Law.

(c) Representatives of Principal Members have the right to run for a Board seat and to serve as an officer of the Corporation and a Working Committee chair or co-chair. In addition, each Principal Member is entitled to:

- (1) Representation at annual, general and special meetings of the Members and in Working Committees (to include working groups);
- (2) One (1) vote at all membership meetings (annual, general and special), in all elections (Board) and in all circumstances where a Member may cast a ballot;
- (3) Proactively direct the work undertaken by the Corporation;
- (4) Propose new working groups to address specific issues;
- (5) Receive first priority to participate in events hosted by the Corporation;
- (6) Use the Corporation's Member logo and Member plaque, denoting involvement in the Forum;
- (7) Have the Member's name on the Corporation's WWW site.

3.4 Auditing Members

(a) Auditing membership is restricted to educational or other not for profit organizations who have been invited by the Board or designated officers to join the MEF Forum

as an Auditing Member. Auditing Members of the Corporation can influence the technical activities of the Corporation and have access to information regarding achievements of the Corporation and plans for future activities.

(b) Auditing Members have no voting rights.

(c) Auditing Members are not entitled to participate in any activity sponsored by the Corporation except as expressly permitted by these Bylaws, including Section 3.2(b), or by invitation of the Corporation's Chief Operating Officer or his or her designated representative.

3.5 Startup Members

(a) Startup membership is restricted to companies who have been in existence less than five (5) years, measured from the earliest date of incorporation or organization among such company and its Affiliates; provided, however, that if such company or any of its Affiliates is the surviving or resulting entity arising from a merger, acquisition, combination, divestiture, other reorganization transaction, such company's and its Affiliates' duration of existence shall be determined by the Board in its sole reasonable discretion. A company may not be a Startup Member for more than three (3) years. Upon the earlier of (i) expiration of a company's third year of membership as a Startup Member or (ii) reaching five (5) years of age, measured in accordance with this paragraph, a company's Startup Membership shall automatically terminate and may not be renewed as a Startup Membership. However, such former Startup Member may apply to be a Member in any other class for which it is eligible.

(b) Startup Members must maintain active participation in at least one Working Committee of the Corporation in order to remain a Member.

(c) Startup Members have no voting rights.

3.6 Individual Members

(a) The Corporation's Individual membership is restricted to industry subject matter experts who have been invited by the Board or designated officers to join the MEF Forum as an Individual Member and are not currently employed by a member company or membership target company of the Corporation.

(b) Individual Members must maintain active participation in at least one Working Committee of the Corporation in order to remain a Member, unless such participation requirement is waived by the Board.

(c) Individual Members have no voting rights.

3.7 Membership Participation

Principal Members in good standing will be eligible to attend and participate in all meetings of Members, will be eligible to attend and participate in any Working Committee that

might be formed, will be eligible to participate in any shows, activities, seminars and conferences, and will be entitled to receive all documentation and materials generated by the Corporation. The business of the Corporation, including meetings of the Working Committees, shall be conducted in accordance with fair and democratic procedure.

3.8 Member Representatives

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

(b) Wholly owned separate divisions or subsidiaries of a single Member may participate as part of the Member but may not hold a separate Membership in the Corporation unless they join as a Principal Member.

(c) An authorized representative of a Member, including a member of the Board or any officer, cannot continue to act in such capacity in the event that person ceases to be affiliated with the Member he or she represents, or upon termination of that person's authority by the Member giving written notice of such termination to the Corporation and designating a new authorized representative. A person who has, for any reason, ceased to be an authorized representative of a Member may at any time thereafter become an authorized representative for any other Member. If such person was formerly acting as an officer of the Corporation or a member of the Board, the Board may reappoint such person to the same or any other office and/or may appoint such person to fill the vacancy on the Board pursuant to Section 5.8 of these Bylaws.

3.9 Member Working Committees

(a) Working committees (“**Working Committees**”) may be created by the Board to address specific issues or topics. These Working Committees will be headed by volunteer(s) from Principal Members. The participants will be comprised of qualified representatives of all interested Members as well as any other individuals or groups invited by the committee chair who meet the eligibility requirements.

(b) Members may be requested to provide qualified representatives to further the work of various Working Committees. The Working Committees may organize themselves in any way they deem appropriate in order to complete a given assignment, but in all cases subject to these Bylaws and the policies and procedures of the Corporation. The Working Committees may meet as often as they determine necessary and will be responsible for reporting their progress to the Board. A Working Committee may also adopt rules of procedure dealing with

the general operation of the committee, including such matters as procedures for voting, methods of record-keeping, and establishment of subcommittees. Such rules shall be submitted to the Board for review and approval. In the event of any conflict or inconsistency between the approved rules and these Bylaws, these Bylaws shall control.

(c) The Working Committee chair(s) shall be responsible for the generation of documentation related to the activity being pursued. Upon completion of a Working Committee activity, the results will be submitted to the Board.

3.10 Dues, Fees, and Assessments

(a) Each member must pay, within the time and on the conditions set forth in these Bylaws, the dues, fees, and assessments. The dues, fees, and assessments shall be equal for all Members of each class, but there may be different dues, fees and assessments for different classes of Members. Dues, fees, and assessments may be prorated to a renewal date.

(b) Until changed by action of the Board or the Principal Members, the annual dues shall be as follows:

Principal Members: \$17,250 per year
Auditing Members: None
Startup Members: \$5,000
Individual: None

(c) The annual dues may be increased by the Board to accommodate increased operating costs resulting from general inflation or expansion of the nature or extent of the Corporation's activities and programs. Not more than one such increase shall be made during any single fiscal year and the amount of the increase shall not exceed fifteen percent (15%) of the annual membership dues then being charged to the class of membership subject to the increase. The increase shall be added to the dues payable for a Member on its regular membership renewal date, and written notice of the increase shall be given to the Member at least sixty (60) days prior to that date. The notice shall include a general explanation of the reasons for the increase. Any increase to the annual membership dues above the amount authorized by this section shall be subject to approval by the Principal Members.

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

(e) If any payment of dues or any assessment is not made within thirty (30) days after the same becomes due, the MEF Chief Operating Officer shall cause a notice of default to be sent to the delinquent Member. Such notice may be sent by electronic mail to the email address for the Member on file with the Corporation. If the payment is not made within thirty (30) days after the date of sending such notice to the delinquent Member, the membership of such delinquent Member shall automatically be suspended. Notice of the suspension shall be sent by the MEF Chief Operating Officer to the delinquent Member by both electronic mail and regular mail. A membership which has been suspended pursuant to this paragraph may be reinstated upon payment by the delinquent Member of the unpaid dues or assessment and approval of the reinstatement by the President of the Corporation or the Board.

3.11 Charges for Participation in Special Events or Activities

(a) The Board may establish charges payable by Members for participation in any special events or activities conducted by the Corporation, including, but not limited to, trade shows, proof of concept demonstrations, seminars, directories and training programs. The amount of such charge shall be equal for all representatives of Members of a given membership class, but may be different for representatives of Members with different classes of membership. The charge may be less or more than the costs associated with the event or activity.

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

3.12 Good Standing

Those Members who have paid the required dues, fees, and assessments and who are not suspended shall be Members in good standing. Failure to pay required dues, fees, or assessments may result in loss of membership and all Member privileges and benefits in accordance with the procedures set forth in these Bylaws.

3.13 Change of Control

In the event a Member's assets are totally or substantially transferred to another entity through merger, acquisition or other cause, that Member's membership may be transferred to the new entity, provided all appropriate membership documents and the membership application are properly executed in the name of the new entity. Any such transfer of membership shall be subject to approval by the Corporation's Chief Operating Officer. When both entities hold membership, the lowest class of membership is automatically terminated, and the highest class of membership is retained in the name of the surviving entity. The Corporation has no obligation to

refund any dues, fees or assessments in the event of merger or acquisition. In no case shall a merger or acquisition eliminate the obligations of a Member.

3.14 Change in Membership

A Member of the Corporation may request a change in its status by written application to the Corporation's Chief Operating Officer. Said Member shall be required to pay prorated dues and assessments for a membership upgrade, receiving prorated credit for the membership dues and assessments which have already been paid for the lower class of membership.

3.15 Resignation or Expiration of Membership

(a) Any Member of the Corporation may withdraw from membership by tendering a written resignation to the Corporation's Chief Operating Officer at any time; provided, however, that no resignation shall relieve a Member from full payment of any and all initiation fees, dues, and special assessments and each and every installment thereof remaining unpaid on the date of tender of resignation.

(b) A membership which has been issued for a fixed period of time shall automatically expire at the end of such period, unless renewed or extended by the Board.

3.16 Termination or Suspension of Membership

(a) **Causes of Termination or Suspension.** The occurrence of any of the following events shall constitute grounds for termination or suspension of membership in the Corporation:

- (1) Failure of a Member to pay dues, fees, or assessments by the date they become payable;
- (2) Occurrence of any event that renders a Member ineligible for membership, or failure to satisfy membership qualifications;
- (3) Bankruptcy or withdrawal from or cessation of business by any Member which is a legal entity (incorporated or unincorporated).
- (4) Conduct by a Member or by the employees or representatives of a Member which is seriously detrimental to the purposes and goals of the Corporation or in violation of the rules and documented procedures of the Corporation, including but not limited to a violation of these Bylaws.
- (5) Breach by a Member of the Code Contribution Agreement attached hereto as Exhibit A, if Member entered into such Code Contribution Agreement with MEF.

(b) **Procedure for Suspension or Revocation of Membership.** Upon the occurrence of any of the events described in paragraph (a) of this Section 3.14, and in addition to

any suspension of membership pursuant to Section 3.8(d), the Board may initiate proceedings for suspension or termination of membership by adopting a resolution of intention to take such action against the affected Member. The resolution must be adopted by at least a two-thirds vote of the entire Board. A written notice shall thereupon be given to the affected Member stating the action proposed to be taken by the Board (i.e. suspension or revocation of membership) and the facts and circumstances relied upon by the Board as the justification for such intended action. The notice shall also specify the date on which the Board proposes to take such action, which shall be not less than thirty (30) days from the date of the notice. The notice shall further advise the affected Member that the Member is entitled to an opportunity to be heard, either orally or in writing, prior to the date of the intended action. Upon request by the Member, the Board shall schedule a meeting for the purpose of hearing any evidence the Member desires to present to the Board in person or through a representative selected by the Member. The decision by the Board concerning suspension or revocation of membership shall be final and binding.

(c) **Loss of Membership Rights.** A Member whose membership is revoked or suspended for any reason shall forfeit any dues or special assessments paid during membership. A suspended Member shall not be considered a Member in good standing during the period of suspension, and shall take no part in any of the activities, funds, property, rights, and interests belonging to the Corporation until such time as such Member complies with the requirements for the removal of the suspension and the return to good standing.

(d) **Reinstatement of Membership After Revocation.** A Member whose membership has been revoked shall be eligible to rejoin the Corporation by submitting a petition to the Board.. Such petition must be approved by a two-thirds vote of the entire Board. A former Member shall not be considered for readmission until all arrears in dues and/or other monetary obligations to the Corporation, including assessment of reasonable costs related to the loss and restoration of membership, shall have been paid.

ARTICLE 4 MEETINGS OF MEMBERS

4.1 General Provisions Concerning Meetings

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

4.2 Annual Meeting

The annual meeting of the Members of the Corporation, at the direction of the Board, may be held inside or outside the State of California, shall be on such date and time within sixty (60) days after the close of the Corporation's fiscal year, and at such place as shall be designated by the Board, as stated in the notice of the meeting. In the absence of such determination of place, Members meetings shall be held at the Corporation's principal office. At the annual meeting, the Principal Members shall elect the Directors to replace all Directors whose terms are

expiring, and shall transact such other business as may properly come before the meeting. If the Corporation fails to hold an annual meeting (or circulate a written ballot to the Principal Members for election of Board members) as set forth in this Section 4.2, any Principal Member may petition the superior court of the proper county to order such meeting or ballot, as permitted by Section 7510 of the California Nonprofit Corporations Law.

4.3. General Meetings

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

4.4. Special Meetings

(a) Special meetings of the Members of the Corporation may be called by the Chairman of the Board, the Board, or by Principal Members representing five percent (5%) of the voting power of the Corporation. A special meeting called by any person (other than the Chairman or the Board) entitled to call such a meeting shall be called by written request, specifying the general nature of the business proposed to be transacted, and submitted to the Chairman of the Board, the President, the Secretary, or the Chief Operating Officer of the Corporation. The officer receiving the request shall cause notice to be given promptly to the Members, in accordance with Section 4.5 of these Bylaws, stating that a meeting will be held at a special time and date fixed by the Board; *provided, however*, that the meeting date shall be not less than ten (10) or more than ninety (90) days after receipt of the request. If the notice is not given within ten (10) days after receipt of the request, the person or persons requesting the meeting may give the notice. Nothing in this section shall be construed as limiting, fixing, or affecting the time at which a meeting may be held when the meeting is called by the Board.. No business, other than the business of the general nature of which was set forth in the notice of the meeting, may be transacted at a special meeting. Minutes of the meeting will be kept and archived by the Secretary.

(b) The Board has the option to approve a sequence of meetings beyond the ninety (90) day limit in support of a committee wishing to establish a regular schedule. The Board has the option to approve meetings beyond the ninety (90) day limit for the purpose of negotiating lower costs with hotels or other facility providers.

4.5. Notice

(a) Written and/or electronic notice of the time and place and purpose of holding any annual meeting or general meeting of the Members of the Corporation shall be given to each Member who on the record date of notice is permitted to attend such meeting, not less than ten (10) or more than ninety (90) days prior to the scheduled date for the meeting. The notice of such a meeting will include the proposed agenda for that meeting. All notices shall be given to the Member's address on file with the Corporation either personally or by facsimile, electronic mail,

first class, registered, or certified mail. Notice of a meeting need not be given to any Member who signs a waiver of notice, whether before or after the meeting. The attendance of any Member at a meeting in person shall constitute a waiver of notice by that Member unless such Member is attending solely for the stated purpose of protesting the sufficiency of the notice given for that meeting.

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

4.6. Quorum

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

4.7. Voting

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

(b) No proxy is allowed in voting at any meeting of the Members.

4.8. Written Consents

(a) Any action required or permitted to be taken at a meeting of the Members of the Corporation, including the election of directors, may be taken without a meeting and without prior notice upon compliance with this Section 4.8.

(b) Approval by written or electronic ballot pursuant to this section shall be valid if the number of ballots cast equals or exceeds the specified total number of ballots that must be received by a designated time at a meeting authorizing the action.

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

- (1) Describe in reasonable detail the matter to be voted upon by the Members;
- (2) Indicate the number of responses needed to meet the voting participation requirements which shall be equal to the quorum requirements for a meeting;
- (3) State the percentage of approvals necessary (>50% of the ballots cast where the voting participation requirements are met) to pass the measure or measures, and
- (4) Specify the time by which the ballot must be received in order to be counted, which time must afford the Member a reasonable opportunity to return the ballot to the Secretary of the Corporation.

Whenever action is taken pursuant to this section, the written consents of the Principal Members consenting thereto shall be filed with the minutes of proceedings of Members and shall be deemed approved or passed if the voting participation requirements and percentage of approval requirements are met.

4.9. Record Date for Member Notice

For the purposes of determining which Principal Members are entitled to receive notice of any meeting, to vote, to give consent to corporate action without a meeting, or to take other action, the Board may fix, in advance, a "record date," which shall not be more than ninety (90) nor fewer than ten (10) days before the date of any such meeting, nor more than sixty (60) days before the date on which ballots are to be submitted for any proposed action to be taken without a meeting. Only Principal Members of record on the date so fixed are entitled to notice, to vote, to give consents, or take other action, as the case may be.

ARTICLE 5 DIRECTORS

5.1 Powers

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

5.2 General Management of the Corporation

Subject to the provisions and limitations of the California Nonprofit Mutual Benefit Corporation Law and any other applicable laws, and subject to any limitations in the Articles of

Incorporation and these Bylaws regarding actions that require the approval of the Members, the Corporation's activities and affairs shall be managed, and all corporate power shall be exercised, by or under the Board's direction.

5.3 Specific Powers

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

- (1) Appoint and remove at the pleasure of the Board all the Corporation's officers, agents, and employees; prescribe powers and duties for them that are consistent with the law, with the Articles of Incorporation, and with these Bylaws; and fix their compensation and require from them security for faithful performance of their duties.
- (2) Change the principal office or the principal business office in California from one location to another; conduct its activities within or outside California; and designate any place within or outside California for holding any meeting of Members.
- (3) Adopt and use a corporation seal; adopt forms of Membership certificates consistent with the provision of Section 7313 of the California Nonprofit Mutual Benefit Corporation Law; and alter the forms of the seal and certificates.
- (4) Without prejudice to the general powers set forth in these Bylaws, but subject to the same limitations, the Board shall not have the power unless authorized by a majority of the Members to borrow money on behalf of the Corporation and cause to be executed and delivered for the Corporation's purposes, in the corporate name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecation, and other evidences of debt and securities.
- (5) Appoint such standing or special committees as may be found necessary or desirable to carry out the objectives and purposes of the Corporation, and to fix their powers and prescribe their duties.
- (6) Select a Chief Operating Officer for administering the day-to-day activities necessary for the conduct of the Corporation's business and fix and prescribe his or her duties. Such Chief Operating Officer shall be an independent contractor or employee of the Corporation and may not be a Member of the Corporation or a Member's representative.
- (7) Bond such officers, agents, and employees of the Corporation as may be necessary in such amounts and with such sureties as may be reasonable.

- (8) Designate depositories for the Corporation, to rent safety deposit vaults, and to provide the manner of signing checks, notes, bills, and other evidences of indebtedness of the Corporation.
- (9) Invest and reinvest the funds of the Corporation and to change such investments from time to time, keeping the safety and security of the funds as a priority.
- (10) Pay as they become due the ordinary and necessary operating expenses of the Corporation.
- (11) In general do all lawful things and exercise all such lawful powers as are not vested in the Members of the Corporation and which will promote the objectives and purposes of the Corporation.

5.4 Authorized Number of Directors

The authorized number of Directors shall be eleven (11).

5.5 Election, Designation and Term of Office

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

(b) Each Director shall be elected by the Principal Membership, or as otherwise specified herein. A Director who is a representative of a Member shall be required to resign if the organization he or she represents ceases to be a Principal Member in good standing or if the Director ceases to represent the Principal Member. In the event that person subsequently joins another Member who is or becomes a Principal Member of the Corporation, he or she may be designated as a representative of this Member and may run for a position on the Board.

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

(d) No Principal Member may have more than one representative on the Board. The Board can conduct itself by majority vote on decisions required of it and can do so by voice or email. Except as otherwise provided in Section 5.10(g) of these Bylaws, proxy votes of any kind are not permitted in any vote taken by the Board. The Board shall prepare a report on the annual activities to be presented to the Members at the annual meeting.

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

5.6 Vacancies of Board

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

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

5.7 Resignations

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

5.8 Filling Vacancies

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

5.9 No Removal on Reduction of Number of Directors

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

5.10 Director's Meetings

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

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

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

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

(e) **Special Meetings.** Special meetings of the Board may be called by the Chair of the Board, if any, the President, a Vice President, if any, the Secretary, the Treasurer, or any two Directors, by giving at least seven (7) days prior notice prior of the date, time, and place of the meeting. Such notice may be given either personally, by mail, or by electronic transmission.

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

(g) **Proxy Votes Permitted.** Proxy votes are by a representative from the same Member as the Director with at least seven (7) days prior notice in writing or email to the secretary of the corporation.

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

(i) **Adjournment.** A majority of the Directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. Notice of the time and place of holding an adjourned meeting need not be given unless the original meeting is adjourned for

more than 24 hours. If the original meeting is adjourned for more than 24 hours, notice of any adjournment to another time and place shall be given, before the time of the adjourned meeting, to the Directors who were not present at the time of the adjournment.

5.11 Action Without a Meeting

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

5.12 Reimbursement

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

5.13 Committees

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

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

(b) **Meetings and Actions of Committees.** Meetings and actions of committees of the Board shall be governed by, held, and taken in accordance with, the provisions of these

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

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

ARTICLE 6 OFFICERS

6.1 Officers of the Corporation

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

6.2 Election of Officers

The officers of the Corporation, except those appointed under these Bylaws, shall be elected by the Board at the annual meeting and shall serve a one (1) year term at the pleasure of the Board, subject to the rights, if any, of any officer under any contract of employment. An officer shall be a designated representative of a Principal Member.

6.3 Other Officers

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

6.4 Removal of Officers

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

6.5 Resignation of Officers

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

6.6 Vacancies in Office

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

6.7 Chair of the Board

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

6.8 President

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

6.9 Vice Presidents

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

6.10 Secretary

(a) The Secretary shall be the custodian of the corporate records, except those pertaining to the office of the Treasurer.

(b) The Secretary, or his or her designated representative, shall have the following responsibilities and duties:

- (1) The Secretary shall keep or cause to be kept, at the Corporation's principal office or at a place determined by Board resolution, a record of the Corporation's Members, showing each member's name, address, and class of Membership.
- (2) The Secretary shall keep or cause to be kept, at the Corporation's principal office or such other place as the Board may elect, a book of minutes of all meetings, proceedings, and actions of the Board, of committees of the Board, and of Members' meetings. The minutes of meetings shall include the time and place of holding, whether the meeting was annual, regular, or special and, if special, how authorized, the notice given, the names of those present at Board and committee meetings, and the number of Members present or represented at Members' meetings.
- (3) The Secretary shall be responsible for attendance lists, drafting the minutes of meetings, providing timely notice of meetings, establishing electronic mail communication with Members, publication of minutes, agendas, proposals, reports and other documents transmitted by the Corporation to its Members and listing the action items generated at meetings. Distribution via email or posting to the Corporation's website is acceptable in lieu of hard copy material. The records may be kept in electronic, disk, or other format so long as a written form may be printed and accessed.
- (4) The Secretary shall keep or cause to be kept, at the principal office in California, a copy of the Articles of Incorporation and Bylaws, as amended to date.
- (5) The Secretary shall give, or cause to be given, notice of all meetings of Members, of the Board, and of committees of the Board required by these Bylaws to be given. The Secretary shall keep the corporate seal (if any) in safe custody.

(c) The Secretary shall have such other powers and perform such other duties as the Board or the Bylaws may prescribe.

6.11 Treasurer

(a) The Treasurer, or his or her designated representative, shall have the following responsibilities and duties:

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

(b) The Treasurer shall have such other powers and perform such other duties as the Board or the Bylaws may prescribe.

ARTICLE 7 INDEMNIFICATION

7.1 Right of Indemnity

To the fullest extent permitted by law, including, but not limited to the provisions of Section 7237 of the California Nonprofit Corporation Law, the Corporation shall indemnify its directors, officers, employees and other persons described in Section 7237(a), including persons formerly occupying any such position, against all expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred by them in connection with any "proceeding," as defined in Section 7237(a), and including an action by or in the right of the Corporation, by reason of the fact that the person is or was a person described in that Section. The term "expense" includes, without limitation, attorneys' fees and any expenses of establishing a right of indemnification under these Bylaws.

7.2 Approval of Indemnity

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

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

7.3 Advancement of Expenses

To the fullest extent permitted by law and except as otherwise determined by the Board in a specific instance, expenses incurred by a person seeking indemnification under Section 7.1 and Section 7.2 of these Bylaws in defending any proceeding covered by those Sections shall be advanced by the Corporation before the final disposition of the proceeding, on receipt by the Corporation of an undertaking by or on behalf of that person that the advance will be repaid unless it is ultimately determined that the person is entitled to be indemnified by the Corporation for those expenses.

7.4. Indemnity Insurance

The Corporation shall have the power to purchase and maintain insurance on behalf of any individual who is or was a Director, officer, employee or agent of the Corporation, against any liability asserted against or incurred by such individual in such capacity, or arising out of such individual's status as such, whether or not the Corporation would have the power to indemnify such individual against such liability under the provisions of this Bylaw.

ARTICLE 8 CONTRACTS AND LOANS WITH DIRECTORS AND OFFICERS

8.1. Contracts with Directors and Officers

(a) No Director or officer of this Corporation, nor of any other corporation, firm, association, or other entity in which one or more of this Corporation's Directors or officers are directors, officers, or have a material financial interest, shall be interested, directly or indirectly, in any contract or other transaction with the Corporation, unless all of the following conditions have been satisfied:

- (1) The material facts regarding such Director's or officer's financial interest in such contract or transaction and/or regarding such Director's or officer's common office holding or financial interest in the other party to the contract or transaction, are fully disclosed in good faith and are noted in the minutes, or are known to all members of the Board prior to consideration by the Board of such contract or transaction;
- (2) Such contract or transaction is authorized in good faith by a majority of the Board by a vote sufficient for that purpose without counting the vote or votes of such interested Director(s);
- (3) Prior to authorizing or approving the transaction, the Board considers and in good faith determines after reasonable investigation under the circumstances that the Corporation could not obtain a more advantageous arrangement with reasonable effort under the circumstances; and
- (4) The Corporation enters into the transaction for its own benefit, and the transaction is fair and reasonable to the Corporation at the time the transaction is entered into.

(b) Where the number of Directors who are disqualified by reason of conflict of interest prevents the establishment of a quorum of the entire Board, the decision concerning the contract or transaction shall be submitted to the Principal Members. The Board may also voluntarily elect to refer such decision to the Principal Members notwithstanding the fact that a quorum of the entire Board would be qualified to vote on the matter. If the conflict of interest involves a Principal Member or a representative of a Principal Member, that Member shall abstain from voting on any motion or other action of the Members concerning the contract or transaction. An approval of the contract or transaction by the Principal Members shall be valid and binding upon the Corporation if both of the following conditions have been satisfied:

- (1) The material facts regarding such Director's or officer's financial interest in such contract or transaction and/or regarding such Director's or officer's common office holding or financial interest in the other party to the contract or transaction are fully disclosed in good faith and are noted in the minutes of the membership meeting, or are known to all Principal Members, prior to consideration by the Principal Members of such contract or transaction; and
- (2) Such contract or transaction is approved by a majority of the Principal Members in good faith, excluding the vote of any Member required to abstain by reason of the conflict of interest.

8.2. Loans to Directors and Officers

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

ARTICLE 9 RECORDS AND REPORTS

9.1 Maintenance of Corporate Records

- (a) The Corporation shall keep:
 - (1) Adequate and correct books and records of account;
 - (2) Written resolutions adopted by its Members and Board;
 - (3) A record of each Member's name, address and class of membership.

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

9.2 Inspection of Membership Records

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

- (1) Inspect and copy the records of Members' names, addresses, and voting rights during usual business hours on five (5) days' prior written demand on the Corporation, which demand must state the purpose for which the inspection rights are requested; or

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

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

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

9.3 Inspection of Accounting Records and Minutes

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

9.4 Maintenance and Inspection of Articles and Bylaws

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

9.5 Inspection by Directors

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

9.6 Fiscal Year and Annual Report

(a) The Corporation's fiscal year shall be a fiscal year commencing on July 1st and ending on June 30th.

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

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

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

9.7 Annual Statement of Certain Transactions and Indemnification

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

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

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

(b) The statement shall include a brief description of the transaction, the names of interested persons involved, their relationship to the Corporation, the nature of their interest in the transaction, and, when practicable, the amount of that interest, provided that, in the case of a partnership in which such person is a partner, only the interest of the partnership need be stated.

ARTICLE 10 INTELLECTUAL PROPERTY RIGHTS

(a) Members may develop and/or own intellectual property rights in and to software code (including source and object code, and code used for representing processes and information/data models), which Members may choose to contribute and license to the Corporation pursuant to the terms of the Code Contribution Agreement attached hereto as Exhibit A (the “**Code Contribution Agreement**”), or pursuant to such other agreement as the Corporation may agree to in writing from time to time.

(b) The Corporation may develop and/or own intellectual property rights in and to, and/or the Corporation may otherwise have the right to license to Members and other third parties the right to use, software code (including source and object code) and other assets (collectively, the “**Corporation Assets**”). The Corporation Assets may include software code contributed to the Corporation by Members pursuant to Article 10(a) above. The Corporation may, at its sole discretion, allow Members and nonmembers to use the Corporation Assets pursuant to the Apache License 2.0, found here: <http://www.apache.org/licenses/LICENSE-2.0>, or pursuant to such other agreement as the Corporation may agree to in writing from time to time.

(c) Unless otherwise agreed to by the Corporation and any Member in writing, all patents, copyrights, or other intellectual property owned or created by any Member outside the Corporation or its work shall remain the property of that Member and ownership and rights thereunder shall not be affected in any way by the Member's participation in the Corporation.

(d) All material presented to the Corporation, including its various committees, shall be deemed of a non-confidential nature and hence for public distribution; *provided, however*, that if certain special activities of the Corporation (e.g., proof of concept demonstrations or certification tests) are best determined to be conducted by the Corporation or its agents under obligations of confidentiality, participation in that activity can be made contingent upon the execution of an agreement by the participants in such activity restricting public dissemination of information concerning the activity until such future time when the Corporation determines that public disclosure can be made.

(e) Patents Licensing Commitment:

(1) DEFINITIONS

- (a) **“Affiliate”** or **“Affiliates”** means any entity that is controlled by, under common control with, or that controls the subject party. For purposes of this definition, “control” means direct or indirect control of more than fifty percent (50%) of the voting power to elect directors of a corporation or, for any other entity, the power to direct management of such entity.
- (b) **“Compliant Portion”** means only those specific portions of products (hardware, software or combinations thereof) that: (i) implement and are compliant with all relevant portions of a Final Specification, and (ii) are within the bounds of the Scope.
- (c) **“Contribution”** and **“Contributed”** means a submission by a Member proposing an addition to or modification of a Draft Specification or portion thereof, or an existing Final Specification or portion thereof, provided that the submission is either (i) submitted in writing (including a writing in electronic medium) and clearly marked as a “Contribution” or (ii) stated orally, memorialized with specificity in the written minutes of a meeting, and attributed in the meeting minutes to the submitting Member, provided that the minutes are promptly provided to the individual representing the submitting Member, unless the submitting Member withdraws its submission in writing as soon as practicable and in any event, no later than forty-five (45) days of receipt of such written minutes.
- (d) **“Draft Specification”** means a document in development or under consideration for adoption as a Final Specification that has not been adopted or approved by the Corporation in accordance with Section 10(e)(2).
- (e) **“Final Specification”** means a document that has been adopted and approved for release by the Corporation in accordance with Section 10(e)(2).
- (f) **“Necessary Claims”** means those claims of all patents and published patent applications, other than design patents and design registrations, throughout the world which a Member or its Affiliates has the right, any time during the existence of the Corporation, to grant licenses of the nature agreed to be granted herein without such grant resulting in payment of royalties or other consideration to third parties (except for payments to Affiliates or employees), which claims are necessarily infringed by compliance with the express terms of a Final Specification adopted and approved for release by the Corporation and which are within the bounds of the Scope, where such infringement could not have been avoided by another commercially reasonable noninfringing

implementation of such Final Specification. Necessary Claims do not include any claims other than those set forth above even if contained in the same patent as Necessary Claims.

- (g) “**Scope**” means those protocols, electrical signaling characteristics, register models, communication and network interface protocols, application program interfaces, service provider interfaces, physical dimensions and characteristics, and/or data structures solely to the extent disclosed with particularity in the Final Specification where the primary purpose of such disclosure is to enable products to interoperate, interconnect, or communicate as defined within the Final Specification. Notwithstanding the foregoing, the Scope shall not include: (i) any technology that may be necessary to develop, design, manufacture, sell or use any product or portion thereof that complies with the Final Specification but is not expressly set forth in Final Specification (examples of such technologies include without limitation semiconductor manufacturing technology, compiler technology, object oriented technology, operating system technology); or (ii) the implementation or use of other published specifications developed elsewhere but referred to in the body of the Final Specification; or (iii) portion of any product or any combination of products (or portions of products) that are not required for compliance with the Final Specification. The Scope shall include only architectural and interconnection requirements of the Final Specification and shall not include any implementation examples contained in the Final Specification unless the Final Specification expressly states that such implementation examples are to be included within the Scope of the limited patent license.

(2) SPECIFICATION REVIEW AND NOTICE

- (a) Draft Specifications. A Working Committee to be chartered by the Board of Directors shall have the responsibility for drafting and developing Draft Specifications, as defined in Section 10(e)(1), above. At such time as a Working Committee determines that the Draft Specification is ready for final review, the Draft Specification shall be sent to the Board of Directors who shall send the complete copies of the Draft Specification to the Member for review pursuant to Section 10(e)(2)(b), below. If the Board of Directors does not approve such Draft Specification, the Secretary will return such Draft Specification to the Working Committee.
- (b) Draft Specifications Review Period. For a period of sixty (60) days from the date that the Board sends the Draft Specification to the Members as contemplated above (hereinafter the “**Review Period**”), the Members, on behalf of themselves and their

Affiliates, may review the same for any Necessary Claims that may be implicated by the Draft Specification. While there is no requirement for a Member to review its patent portfolio for Necessary Claims, Members are advised that unless they provide a timely Licensing Objection pursuant to Section 10(e)(2)(c), or notice of withdrawal pursuant to Section 10(e)(2)(d), before the end of the Review Period, the Member is committing to the licensing provisions of Section 10(e)(3) with regard to Necessary Claims implicated by the Draft Specification, if and when the Draft Specification implicating those Necessary Claims is adopted by the Corporation as a Final Specification in accordance with this Section 10(e)(2).

- (c) Licensing Objection. In the event that the Member in good faith believes that the implementation of Necessary Claims in such Draft Specification would require a license from that Member, and that such Member is unwilling to provide a license under such Necessary Claims in accordance with Section 10(e)(3), below, that Member must within the Review Period of Section 10(e)(2)(b) provide written notification to the Chief Operating Officer of its intent not to grant licenses under such Necessary Claims (“**Licensing Objection**”). Notwithstanding the foregoing, a Member shall not have the right to submit a Licensing Objection with respect to (i) any Necessary Claims in any Contribution submitted by such Member, or (ii) any Necessary Claims that were implicated in prior versions of the Draft Specification currently under review (and that had been previously reviewed pursuant to this Section 10(e)(2)). Such Licensing Objection will include written identification of any Necessary Claims that such Member refuses to license hereunder. In the event that a Member properly submits a Licensing Objection within the license Review Period set forth in Section 10(e)(2)(b), above, such Member shall not be required to grant licenses under the identified Necessary Claims. The Board shall have the discretion to implement and require a standard form document for the submission of Licensing Objections.
- (d) Withdrawal. In lieu of delivering a Licensing Objection pursuant to Section 10(e)(2)(c), a Member who has not made a Contribution to the Draft Specification may provide notice to the Chief Operating Officer that it withdraws from participation in the Corporation pursuant to this Section (“**Notice of Withdrawal**”), if that Member determines that the Draft Specification implicates Necessary Claims which that Member is unwilling to license to the other Members pursuant to Section (10(e)(3). A Member wishing to exercise the right to withdraw under this provision must deliver notice of withdrawal not later than the end of the Review Period

for the applicable Draft Specification referenced in Section 10(e)(2)(b). Said notice must include written identification of any Necessary Claims of the Member that it does not wish to license hereunder. The Board shall have the discretion to implement and require a standard form document for the submission of Notice of Withdrawal.

- (e) Responding to any Licensing Objection or Notice of Withdrawal; Subsequent Draft Specification Reviews. Any and all Licensing Objections and/or Notices or Withdrawal timely received by the Chief Operating Officer shall be immediately forwarded to both the Board and Working Committee. Either the full Working Committee, or an ad-hoc subcommittee thereof, shall review and evaluate each Licensing Objection and Notice of Withdrawal, as well as alternative design options or recommendations for the Draft Specification. The Working Committee or subcommittee thereof shall deliver to the Board of Directors the results of its findings within a reasonable period of time (hereinafter referred to as the “**Licensing Objection Evaluation**”). Should the Working Committee or ad-hoc subcommittee thereof recommend material changes to the Draft Specification, then the Working Committee shall commence the necessary modifications to the Draft Specification. Once modified, the Draft Specification review process started in Section 10(e)(2)(a), above, shall commence again. Should the Working Committee or ad-hoc subcommittee thereof recommend that no material changes be made to the Draft Specification, then the Draft Specification shall proceed for final approval pursuant to Section 10(e)(2)(f), below.
- (f) Approval of Final Specifications. After completion of the Draft Specification review process stated in Sections 10(e)(2)(a) through 10(e)(2)(e), above, the Working Committee shall submit such Draft Specification to the Board for final review. If the Board approves such Draft Specification via an affirmative vote of the total number of Directors pursuant to these Bylaws, the Draft Specification shall become a Final Specification of the Corporation. In the event that the Board fails to approve such Draft Specification as a Final Specification, such Draft Specification shall be returned to the Working Committee.

(3) LICENSING OF INTELLECTUAL PROPERTY RIGHTS

When the Member or its Affiliate makes a Contribution to a Final Specification of the Corporation, including revisions thereto, or when the Corporation adopts and approves for release a Final Specification, the Member and its Affiliates hereby agree to grant to other Members and their Affiliates under reasonable terms and conditions that are

demonstrably free of any unfair discrimination, a nonexclusive, nontransferable, non sub-licensable, irrevocable (except upon breach by licensee), worldwide license (with or without compensation at the Member and its Affiliates' option) under its Necessary Claims to allow such Members to make, have made, use, import, offer to sell, lease, sell and otherwise distribute Compliant Portions, provided that such agreement to license shall not extend to any part or function of a product in which a Compliant Portion is incorporated that is not itself part of the Compliant Portion.

(4) RECIPROCITY

The provisions of Section 10(e)(3) concerning the grant of licenses between Members shall not be effective as to any other Member or that other Member's Affiliates, if that Member or its Affiliates do not, in fact and practice, make the license grant of Section 10(e)(3) available to the other Members and their Affiliates.

(5) FAIRNESS PRINCIPALS

For Necessary Claims subject to Section 10(e)(3), Member agrees that it shall neither seek nor seek to enforce an injunction, exclusion order, or similar remedy against another Member's Compliant Portion if reasonable and non-discriminatory (“**RAND**”) compensation for practice of such Necessary Claims can otherwise be obtained in a timely manner, or if the potential licensee is willing to be bound by an independent third party adjudication of RAND compensation that will resolve all disputes between the parties.

(6) TRANSFER OF NECESSARY CLAIMS

Each Member agrees that it will not transfer, and has not transferred, patents or published patent applications having Necessary Claims solely for the purpose of circumventing such Member's obligations under this Section 10(e) or these bylaws. In the event a Member assigns or transfers a patent or published patent application containing, or consisting of, Necessary Claims in Contributions made by the Member prior to, or at the time of, the assignment or transfer, the Member agrees to exercise reasonable efforts to notify the assignee or transferee that such patents or published patent applications may be subject to the licensing provisions of Section 10(e)(3), above.

(7) SURVIVAL OF AGREEMENT TO GRANT LICENSE

Notwithstanding the dissolution of the Corporation or a Member's termination, withdrawal, or non-renewal of its participation in the Corporation and except as provided in Section 10(e)(8), a Member's

agreement to grant a license as provided in Section 10(e)(3) and Section 10(e)(4) shall remain in full force and effect for: (a) any Necessary Claim to a Contribution made to a later adopted Final Specification or any Necessary Claim to a Final Specification adopted before the effective date of dissolution or before the effective date of a Member's termination, withdrawal, or expiration of participation; and (b) any Necessary Claims to a Final Specification adopted by the Corporation after the effective date of the Member's termination, withdrawal or expiration of participation that are necessary for the future Final Specification to be backwards compatible with the Final Specifications subject to (a), above, provided that subject matter licensed under the new Final Specification are used in a substantially similar manner and to a substantially similar extent with a substantially similar result as the subject matter under the prior Final Specification for which the Member is obligated to grant licenses. In no event is a withdrawn, terminated, or non-renewed Member obligated to license any additional Necessary Claims under this Section 10(e)(7). A withdrawn, terminated, or non-renewed Member shall remain entitled to reciprocity pursuant to Section 10(e)(4) so long as that withdrawn, terminated, or non-renewed Member remains obligated to license any Necessary Claims under this Section 10(e)(7). This agreement to the survival of reciprocal licensing shall extend to all Members, including Members who become Members after the effective date of a departing Member's termination or expiration.

(8) EXCEPTION IN THE EVENT OF NONCOMPLIANCE

The agreement to license, which survives under Section 10(e)(7), shall terminate completely as to any Final Specification which does not include all applicable requirements for interoperating, communicating, or connecting with or to products that comply with Final Specifications that were in effect sixty (60) days prior to the effective date of the Member's withdrawal, termination, or expiration of participation, or sixty (60) days prior to the effective date of dissolution of the Corporation; provided, however, that should Member's withdrawal, termination or expiration of participation occur prior to the adoption of its initial Final Specification, the agreement to license shall terminate completely as to any Final Specification which is not within the Scope that was currently defined prior to the effective date of the Member's termination or expiration of participation.

(9) RIGHT TO MAKE VOLUNTARY DISCLOSURES OF NECESSARY CLAIMS

Nothing in these Bylaws shall be construed as prohibiting the Members from voluntarily disclosing the presence of Necessary Claims of the Members that may be found in Draft Specifications or Final Specifications

of the Corporation. Such disclosure shall not, however, be deemed as a waiver of a Member's rights under Section (10)(e)(2), above.

ARTICLE 11 DISCLAIMER OF WARRANTIES

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

ARTICLE 12 DISTRIBUTION OF PROPERTY ON DISSOLUTION

12.1. Return of Certain Property to Members

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

12.2. Distribution of Corporate Assets

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

ARTICLE 13 CONSTRUCTION AND DEFINITIONS

13.1 General Definitions

Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the California Nonprofit Corporation Law shall govern the construction of these Bylaws. Without limiting the generality of the preceding sentence, the masculine gender includes the feminine and neuter, the singular includes the plural and the plural includes the singular, and

the term "person" includes both a legal entity and a natural person. All references in these Bylaws to a certain number of days shall mean calendar days.

13.2 Definition of "Majority"

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

ARTICLE 14 EFFECTIVE DATE AND AMENDMENTS

14.1 Effective Date

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

14.2 Amendments

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

- (1) Materially and adversely affect the rights of Members as to voting, dissolution, redemption, or transfer;
- (2) Establish an authorized number of Members for any class of membership and, if established, to increase or decrease the authorized number for any class;
- (3) Effect an exchange, reclassification or cancellation of all or a part of the memberships; or
- (4) Authorize a new class of membership.

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

- (1) Any amendment that would result in any of the circumstances described in Paragraphs (1) through (4) of Section 14.2 above or any of the circumstances described in Section 7150(b) of the Corporations Code that would affect the class of Principal Members;

- (2) A Bylaw specifying or changing the maximum or minimum number of Directors;
- (3) A Bylaw increasing the term of office of Directors;
- (4) A Bylaw increasing the quorum of Members;

ARTICLE 15
LAWS

Notwithstanding anything contained in these Bylaws to the contrary, these Bylaws shall apply to Members of the Corporation and shall be interpreted in a manner consistent with all federal and state laws and the California Nonprofit Corporation Law.

This Amended and Restated Bylaws of MEF
Forum was adopted by the Members of MEF
Forum on [DATE].

Scott Mansfield, Secretary

EXHIBIT A

CODE CONTRIBUTION AGREEMENT

This CODE CONTRIBUTION AGREEMENT (the “**Agreement**”) is entered into as of _____ (the “**Effective Date**”), by and between MEF Forum (“**MEF**”), a California non-profit corporation having an address at 6033 W. Century Blvd., Suite 1107, Los Angeles, CA 90045, and _____ (“**Member**” or “**you**”), a _____ having an address at _____.

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

- 1. Use of MEF Application Program Interface Code File (Excluding your Contributed Code).** By accessing the MEF Application Program Interface Code File (“**MEF Code**”) in order to modify, improve, and/or create derivative works, including those modifications, improvements, and derivative works that you contribute to MEF as Contributed Code (defined below) under this Agreement, you acknowledge and agree that your access to and use of the MEF Code is pursuant to and in accordance with the terms of Apache License 2.0, found here: <http://www.apache.org/licenses/LICENSE-2.0>.
- 2. Contributed Code, Defined.** The term “**Contributed Code**” is defined as: (i) Any and all modifications, improvements, and/or derivative works you create or develop using the MEF Code and all source and object code comprising the same, which you contribute to MEF under this Agreement and which is subsequently incorporated into the MEF Code; (ii) any and all source and object code you contribute to MEF under this Agreement and which is subsequently incorporated into the MEF Code, regardless of whether such provided code is created or developed using the MEF Code; and (iii) any and all documentation, comments, drawings, and other works of authorship you provide to MEF pertaining to either of the foregoing.
- 3. Copyright Transfer to MEF for Your Contributed Code.** By providing Contributed Code to MEF under this Agreement, you hereby transfer to MEF all copyrights, titles, and interests in and to the Contributed Code. Without limiting the foregoing, you acknowledge and agree that MEF may distribute and display the Contributed Code and/or modifications, improvements, and derivative works thereof as Open Source Software under the terms of Apache License 2.0, found here: <http://www.apache.org/licenses/LICENSE-2.0>.
- 4. Grantback.** The MEF hereby grants to you a fully-paid-up royalty-free, nonexclusive copyright license to your Contributed Code (including the right to produce, copy, market, sell, distribute, repair, service and otherwise commercially exploit the Contributed Code) and the right to enforce all connected rights if you so deem necessary.
- 5. Patent License Grant to MEF and Recipients of the MEF Code.** Subject to the terms and conditions of this Agreement, you hereby grant to MEF and to recipients of the MEF Code distributed by the MEF, a perpetual, worldwide, non-exclusive, fully-paid-up, royalty-free, irrevocable (except as stated in this Section), assignable patent license to make, have made, use, offer to sell, sell, import, and otherwise transfer the MEF Code, where such license applies only to those patent claims licensable by you that are necessarily infringed by your Contributed Code alone and/or by MEF’s use and/or distribution thereof and/or by the MEF Code recipients’ use and/or distribution thereof. If any entity institutes patent litigation against you or any other entity (including a cross-claim or counterclaim in a lawsuit) alleging that your Contributed Code or the

use and/or distribution thereof, or the MEF Code into which the Contributed Code is incorporated or the use and/or distribution thereof, constitutes direct or contributory patent infringement, then any patent licenses granted to that first entity under this Agreement for that Contributed Code shall terminate as of the date such litigation is filed.

6. Ownership of Modifications and Derivative Works. In the event MEF modifies, improves, and/or creates derivative works based on or derived from the Contributed Code, MEF shall own all rights, titles, and interests in and to such modifications, improvements, and/or derivative works.

7. Representation and Warranty.

7.1 You represent and warrant that your Contributed Code to the best of your knowledge does not comprise or contain any software that requires as a condition of its use, modification, or distribution that such software (or other software incorporated into, derived from, or distributed with such software) be: (i) Disclosed or distributed in source code form; (ii) licensed for the purpose of making derivative works; or (iii) redistributable at no charge.

7.2 If, at any time after the Effective Date of this Agreement, you become aware of (i) any third-party claim or allegation that MEF's use or licensing of the Contributed Code infringes, misappropriates, or otherwise violates any third-party proprietary or privacy right or right of publicity; or (ii) any fact that indicates or is likely to indicate that you do not own any rights in and to the Contributed Code or that you were not otherwise authorized to grant the rights granted to MEF herein, including to allow MEF to distribute the Contributed Code pursuant to the terms of the License Agreement; or (iii) any fact that indicates or is likely to indicate that your Contributed Code comprises or contains any software that requires as a condition of its use, modification, or distribution that such software (or other software incorporated into, derived from, or distributed with such software) be: (a) Disclosed or distributed in source code form; (b) licensed for the purpose of making derivative works; or (c) redistributable at no charge; you agree to make reasonable efforts to disclose the same to MEF unless such disclosure is prohibited by law or contract.

8. Disclaimer of Warranty; Limitation of Liability. Unless (and except to the extent) required by applicable law, THE MEF CODE IS PROVIDED ON AN "AS IS" BASIS, WITHOUT WARRANTIES OR CONDITIONS OF ANY KIND, either express or implied. Unless (and except to the extent) required by law, in no event and under no legal theory, whether in tort, negligence, strict liability, contract, or otherwise shall MEF be liable to you for damages of any kind, including without limitation any direct, indirect, special, incidental, consequential, punitive, multiplied, or other damages of any kind arising out of this Agreement, even if MEF has been advised of the possibility of such damage in advance.

9. Support. You are not required to provide support for your Contributed Code. If you do decide to provide support you may provide such support either at no charge or for a fee.

10. Term and Termination.

10.1 The parties agree the term of this Agreement shall commence on the Effective Date and continue until terminated in accordance with this Section 10.

10.2 This Agreement will immediately and automatically terminate upon the expiration, termination, or cancellation of your membership in MEF, for any reason.

10.3 MEF may terminate this Agreement in the event you breach or default under any of the terms or conditions of this Agreement and fail to cure such breach or default within thirty (30) calendar days of the date MEF provides written notice of the same to you.

10.4 You may terminate this Agreement in the event MEF breaches or defaults under any of the terms or conditions of this Agreement and fails to cure such breach or default within thirty (30) calendar days of the date you provide written notice of the same to MEF.

10.5 Termination of this Agreement for any reason shall not affect in any way the ownership interest you granted to MEF in Section 3 of this Agreement or the patent license you granted to MEF in Section 5 of this Agreement, which grants shall survive any such termination in perpetuity (unless the patent license is terminated pursuant to the terms of Section 5). All provisions of this Agreement (and the parties' rights and obligations therein) that would reasonably be expected to survive the termination of this Agreement will do so, including without limitation, Sections 2 through 8, 10.5, and 11 through 14.

11. Notices. All notices required or permitted by this Agreement (i) must be in writing; (ii) must be delivered to the parties at the addresses set forth above, or any other address that either party may designate by notice to the other party; and (iii) will be considered given when delivered (or when delivery thereof is refused) via personal service; Certified or Registered Mail, Return Receipt Requested; or e-mail at the address specified below, provided that the sender does not know or have reason to know that the recipient did not receive the e-mail.

12. Section 365(n) of the U.S. Bankruptcy Code. The license granted by Member to MEF in Section 5 of this Agreement is and shall otherwise be deemed to be, for purposes of Section 365(n) of the U.S. Bankruptcy Code (the "**Code**"), a license to rights to "intellectual property" as defined in the Code. The parties agree that MEF, as a licensee of such rights under this Agreement, shall retain and may fully exercise all of its rights and elections under the Code. The parties further agree that, in the event of the commencement of bankruptcy proceedings by or against Member under the Code, MEF shall be entitled to retain all license rights granted by Member to MEF hereunder.

13. Disputes.

13.1 This Agreement shall be governed by and construed in accordance with the laws of the State of California and the federal laws of the United States applicable therein, without regard to conflict-of-law rules that would apply a different body of law. The sole jurisdiction and venue for actions related to the subject matter hereof shall be in a state or federal court located in the County of Los Angeles, California. Both parties hereby submit to the jurisdiction of such courts over each of them personally in connection with such litigation, and waive any objection to venue in such courts and any claim that such forum is an inconvenient forum. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods and the United Nations Convention on the Limitation Period in the International Sale of Goods shall not apply to this Agreement.

13.2 MEF may, in its discretion, suspend or terminate your membership in MEF, in the event you violate any of the terms or conditions stated herein.

13.3 All available remedies are cumulative and may be exercised singularly or concurrently.

13.4 If any litigation is instituted to interpret, enforce, or rescind this Agreement, the substantially prevailing party on a claim will be entitled to recover with respect to the claim, in addition to any other relief awarded, such party's reasonable attorneys' fees and other fees, costs, and expenses of every kind, including but not limited to the costs and disbursements incurred in connection with the litigation, any appeal or petition for review, the collection of any award, or the enforcement of any order, as determined by the court.

14. General. This Agreement is the entire agreement between the parties with respect to the subject matter hereof, and it supersedes any prior or contemporaneous agreements and negotiations relating to such subject matter. This Agreement may not be modified except by a writing signed by both parties. The non-enforcement or waiver of any provision on one occasion shall not constitute a waiver of such provision on any other occasions unless expressly agreed in writing. If any part of this Agreement is held unenforceable, the affected provision will be considered modified to the extent allowed by law, and all other provisions of this Agreement will remain in full force and effect. This Agreement will be binding on the parties and their respective successors and assigns, and will inure to their benefit. This Agreement does not create or establish an agency, joint venture, franchise, partnership, or employment relationship between the parties. Neither party has the authority to bind the other party or represent to any person that the party is an agent of the other. The parties do not intend to confer any right or remedy on any third party under this Agreement. This Agreement has been submitted to the scrutiny of both parties and their respective counsel and shall be given a fair and reasonable interpretation without consideration or weight being given to its having been drafted by any party hereto or its counsel. This Agreement may be signed in counterparts. A fax or electronic version of a signature page will be considered an original signature page. At the request of a party, the other party will confirm a fax or electronically submitted signature page by delivering an original signature page to the requesting party.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their authorized representatives.

MEF FORUM
"MEF"

"Member"

By: _____
(Authorized Signatory)

By: _____
(Authorized Signatory)

Print Name: _____
Title: _____
Date: _____
Email: _____

Print Name: _____
Title: _____
Date: _____
Email: _____