

**BYLAWS**  
**OF**  
**Open Grid Forum**

a nonprofit mutual benefit corporation

**1. Offices**

**1.1 Principal Office.**

The principal office for the transaction of the business of this Corporation is located at 15700 103<sup>rd</sup> Street, Suite 210, Lemont, Illinois, USA 60439. The Board of Directors is hereby granted full power and authority to change the said principal office from one location to another.

**1.2 Other Offices.**

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

**2. Purposes**

**2.1 Purposes.**

The Corporation is a non-profit mutual benefit corporation formed to facilitate the research, standardization, education, deployment and widespread adoption of grids. The purposes for which the Corporation is organized include, but are not limited to:

- a. to facilitate and support the creation and development of grid standards and architectures in support of commercial, governmental and academic grid solutions and technologies.
- b. to identify, research and define technical requirements for grids, and to facilitate and support the identification of obstacles which inhibit the creation and adoption of these grids;
- c. to provide a forum and environment whereby the Corporation's Members may meet to collaborate on the development and support of relevant specifications; and, to provide a forum whereby users may meet with developers and providers of related products and services to identify requirements, including those for interoperability and general usability.
- d. to define, establish and/or support one or more specifications, reference implementations, test suites, best practices and/or procedures that enable grid and related tech-

## Exhibit 2

- nologies, and foster rapid adoption by developers and users of related products and services;
- e. to maintain relationships and liaisons with educational institutions, government research institutes, other technology consortia, and other organizations that support and contribute to the development of the specifications; and to make appropriate submissions to established agencies and bodies with the purpose of ratifying these specifications as internationally recognized standards;
  - f. to serve the needs of grid users and promote competition by supporting the creation and implementation of uniform, industry-standard conformance test procedures and processes which assure the interoperability of grid computing products and services;
  - g. to educate said communities regarding the technologies involved in, and potential uses and benefits of grids and related technologies;
  - h. to promote the objectives of the Corporation in conformance with all applicable anti-trust laws and regulations.

### **3. Definitions**

#### **3.1 At-Large Members.**

This describes the combined group of members comprised of Tier 2 and Tier 3 Organizational members and the Individual class of members.

#### **3.2 Related Entities**

"Related Entity" shall mean any person, firm, corporation, partnership, Subsidiary or similar entity that now or in the future, directly or indirectly controls, is controlled by or under common control with a Member. For purposes of the foregoing, "control" shall mean direct or indirect control of fifty percent (50%) or more of the voting power to elect directors of that corporation, or for any other entity, the power to direct management of such entity. "Subsidiary" means a corporation, company or other entity (a) more than fifty percent (50%) of whose outstanding shares or securities (representing the right to vote for the election of directors or other managing authority) are, now or hereafter, owned or controlled, directly or indirectly, by a party hereto, but such corporation, company or other entity shall be deemed to be a Subsidiary only so long as such ownership or control exists; or (b) which does not have outstanding shares or securities, as may be the case in a partnership, joint venture or unincorporated association, but more than fifty percent (50%) of whose ownership interest representing the right to make the decisions for such corporation, company or other entity is, now or hereafter, owned or controlled, directly or indirectly, by a party hereto, but such corporation, company or other entity shall be deemed to be a Subsidiary only so long as such ownership or control exists.

#### **3.3 Supermajority**

A supermajority shall mean an affirmative vote of not less the two-thirds (66%) of the seated members of the Board of Directors plus one (1) additional vote.

## **4. Membership**

The standards, technical, research, and community work of Open Grid Forum is primarily supported and lead by committed individuals. Open Grid Forum is an open community and all members of Open Grid Forum are eligible and encouraged to participate in working groups, development projects, meetings and other activities. Further all members (either representatives of any Organizational member or Individual members) of Open Grid Forum are eligible for nomination to leadership positions such as President, Vice President, Area Director, Working Group Chair, etc. of Open Grid Forum.

All individuals who participate as members of Open Grid Forum (either representatives of any Organizational Member or Individual Members) are required to observe these bylaws and to be covered by an executed membership agreement.

### **4.1 Classes of Membership.**

There shall be two classes of Members: Organizational and Individual. The Board may add or eliminate classes or tiers within a class of Members at any time. Members shall have only the rights and privileges specifically given to them by the resolutions adopted by the Board of Directors, and shall be subject to any conditions imposed thereon by the Board of Directors. All such classes or tiers may be referred to as “members” or “Members” or by any other designation given to them by the Board of Directors. The benefits and privileges of each class and tier of membership are defined in the Open Grid Forum Membership Agreement and attachments.

#### **4.1.1 Organizational Members**

Organizational Members may be any commercial or non-profit corporation, educational, scientific, research, or government institution or consortia, which has met the Open Grid Forum membership requirements.

##### **4.1.1.1 Tier 1 Organizational Members.**

This is a subset of the Organizational Member class. This is the highest level of Organizational member with unique membership rights & privileges including but not limited to: a) eligibility to fill one of the Board seats reserved for Tier 1 Organizational members, and b) eligibility to vote in Board of Director elections for both Tier 1 seats and At-Large Board seats.

##### **4.1.1.2 Tier 2 Organizational Members.**

This is a subset of the Organizational Member class. Tier-2 Organizational members are not eligible to fill Tier 1 Organizational Board seats except as defined in 5.2. They have other rights and privileges including, but not limited to: a) eligibility to fill At-Large Board seats, b) submitting nominations for At-Large candidates for election to the Board of Directors, and c) eligibility to vote for At-Large Board seats.

##### **4.1.1.3 Tier 3 and other Organizational Members.**

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These are the remaining subset of the Organizational Member class not included in 4.1.1.1 or 4.1.1.2 above. These levels of Organizational members are not eligible to fill Tier 1 Organizational Board seats except as defined in 5.2, nor may they vote in Board elections. They have other rights and privileges including, but not limited to a) eligibility to fill At-Large Board seats and b) submitting nominations for At-Large candidates for election to the Board of Directors.

### **4.1.2 Individual Member.**

This membership level is for individuals and not any entity defined as an Organization member. An Individual Member must meet the Open Grid Forum membership requirements and obligations as an individual, separate and distinct from any the obligations or relationship he or she may have with an employer, or any other organization. Individual members have rights and privileges including, but not limited to a) eligibility to fill At-Large Board seats and b) submitting nominations for At-Large candidates for election to the Board of Directors.

## **4.2 Membership Qualifications.**

Any person, commercial or non-profit corporation, educational, scientific, research or government institution or consortia, and with an interest in furthering the purposes of the Corporation may be a Member. Termination of the membership shall be in accordance with the termination provisions of these Bylaws. The Secretary of the Corporation shall have the responsibility to maintain a list of Members and to make any necessary changes thereto to reflect any admissions or withdrawals of Members.

### **4.3 Admission to Membership.**

Admission to Membership shall be upon execution of the Member Agreement and payment of then current applicable annual dues.

### **4.4 Membership of Related Entities.**

A Related Entity of a Member may have access to activities and benefits provided to a Member by the Corporation. Unless otherwise approved of by the Board of Directors, such Related Entity shall have no voting rights with respect to the business of the Corporation.

## **4.5 Dues, Fees and Assessments**

The Board of Directors will establish Annual Membership dues, and may establish and additional fees or assessments for membership and participation in the Corporation activities as deemed necessary. Membership in the Corporation will automatically renew on an annual basis, and membership dues, fees and assessments will be due at each subsequent anniversary period. Any changes and/or modifications to a then in force structure of dues and/or any special assessments or, fees shall require a vote of the Board of Directors.

### **4.5.1 Membership Period**

## **Exhibit 2**

The Membership Year of the Member shall begin when a signed membership agreement has been received and accepted by Open Grid Forum and payment of annual fees has been received. Members may renew their Member status for subsequent twelve (12) month periods by paying the then-current annual dues established by the Board of Directors.

### **4.5.2 Non-Payment of Dues**

Failure to pay annual or specially assessed dues when due shall result in termination and/or non-renewal of Member's membership. In the event that a Member withdraws from Open Grid Forum within 90 days of the notification by Open Grid Forum of a resolution imposing dues, fees or assessments in written form to the Member, the Member shall not have any liability for payment of such dues, fees or assessments. If a Member does not withdraw within 90 days of such notification of passage of a resolution concerning such dues, fees or assessments, the Member shall be responsible for such payment, even if Member subsequently withdraws from Open Grid Forum. The annual dues shall be paid in full upon registration, and annually thereafter.

### **4.5.3 Transfers from Member level.**

During their Membership Year Organizational Members may elect to transfer their Membership levels upward (e.g., from Tier-2 to Tier-1) to receive the benefits of the new tier of membership.

In the event that a Member decides to transfer from one membership level to another, and complies with the admission criteria for the new level as provided in the Open Grid Forum Bylaws, the Member's first membership will be deemed terminated and a new membership as governed by a newly executed agreement between the Member and Open Grid Forum will be deemed to be created in the chosen level. Payment of applicable membership fees will be governed by the financial policies of the organization.

## **4.6 Termination of Membership.**

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

### **4.6.1 Resignation.**

Any member may resign from the Corporation at any time by filing a resignation letter with the Secretary of the Corporation. No pro rata refund of any membership fee, dues or assessments shall be made for the balance of the membership year in which the resignation is effective, or otherwise.

### **4.6.2 Expiration and Disqualification.**

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

#### **4.6.3 Dues and Assessments.**

Membership shall terminate upon the failure of the member to pay dues or assessments within the time periods established by the Board of Directors. Membership may be reinstated upon payment of all past due fees.

#### **4.6.4 Expulsion, Suspension, or other Sanction.**

Membership of a Member shall terminate upon the determination of a Supermajority vote of the Board of Directors (such vote not including the vote of the Member facing expulsion, suspension, or other sanction) after a hearing duly held in accordance with this section, that the member has failed in a material respect to observe the rules of conduct promulgated from time to time by the Board of Directors and applicable to members, or otherwise has failed in some material respect to merit continued membership privileges in the Corporation. Such determination shall be made in the sole and absolute discretion of the Board of Directors. Following the determination by the Board of Directors that a Member should be expelled, suspended, or other sanction the following procedures shall be implemented:

- a. A notice shall be sent by mail by prepaid, first-class, certified or registered mail to the most recent address of the Member as shown on the Corporation's records, setting forth the expulsion, suspension, or other sanction and the reasons therefore. Such notice shall be sent at least fifteen (15) days before the proposed effective date of the expulsion, suspension, or other sanction.
- b. The Member being expelled, suspended, or otherwise sanctioned shall be given an opportunity to be heard, either orally or in writing, at a hearing to be held no fewer than five (5) days before the effective date of the proposed suspension, expulsion, or other sanction. The hearing shall be held by the Board of Directors. The notice to the Member of its proposed expulsion, suspension, or other sanction shall state that such Member is entitled, upon request, to such hearing, shall state that a date, time and place of the hearing will be established upon receipt of request therefore, and shall state, that in the absence of such request, the effective date of the proposed suspension or expulsion.
- c. In the event that a hearing is held, then following the hearing, the Board of Directors shall decide whether the Member should in fact be expelled, suspended, or sanctioned in some other way. The decision of the Board of Directors shall be final.
- d. Any action challenging an expulsion or suspension of membership of a Member, including any claim alleging defective notice, must be commenced within thirty (30) days after the date of the expulsion, suspension, or other sanction.

#### **4.7 Reinstatement.**

Members suspended or expelled pursuant to the above Section may be reinstated upon the Supermajority vote of the Board of Directors.

#### **4.8 Property Rights.**

No member shall have any right or interest in any of the property or assets of this Corporation.

**4.9 Nonliability.**

No member shall be personally liable for the debts, liabilities, or obligations of this Corporation.

**4.10 Nontransferability.**

No member may transfer for value or otherwise, a membership or any right arising therefrom, and all rights of membership shall cease upon the member's bankruptcy, resignation, expulsion, suspension, sanction, or dissolution. In the case of a merger or acquisition of a member company by another company, the rights of membership shall be continued to the new legal entity, upon signing a new membership agreement and paying any membership fees for the level so selected by prevailing organization. However, if two existing members merge, the new entity may exercise only one membership at any time, and the sections of these bylaws defining related entities, subsidiaries and membership fees shall prevail.

**4.11 Distribution of Assets Upon Dissolution.**

Upon a dissolution of this Corporation, and after all of the known debts and liabilities of this Corporation have been paid or adequately provided for in accordance with applicable state and federal corporate laws, any remaining net assets of this Corporation shall be distributed by the Board of Directors to (i) the members of this Corporation, or to (ii) one or more organizations selected by the Board of Directors which will help to further the purposes of this Corporation. No part of the Corporation's net earnings will inure to the benefit of any member, director or private person. Any such plan of distribution will be conducted in accordance with the Corporation's tax status under United States Internal Revenue Code Section 501(c)(6).

**5. Board of Directors**

**5.1 Powers.**

Subject to the limitations of the Certificate of Incorporation, of these Bylaws, and of the Delaware Nonprofit Corporation Law and subject to the duties of Directors as prescribed by these Bylaws, all corporate powers shall be exercised by or under the authority of, and the business and affairs of this Corporation shall be controlled by, the Board of Directors.

The Board of Directors shall have the power to select and remove all officers, agents, employees and contractors, and to fix reasonable compensation thereof, to authorize and empower officers or agents to enter into contracts and other commitments on behalf of this Corporation, and to appoint and delegate responsibilities and authority to committees, officers and agents.

**5.2 Qualifications for Board of Directors.**

Organizational and Individual Members of Open Grid Forum are eligible to serve on the Board of Directors per the terms of these bylaws.

## **Exhibit 2**

Organizational Board seats may be filled by individuals representing the class of Organizational Tier-1 Members of Open Grid Forum or, in the case where insufficient qualifying Organizational Tier-1 Members are available, by duly elected At-Large members. Organizational Directors and Alternate Directors must be employees or duly appointed representatives of the Organizational Member on behalf of which they are serving.

At-Large Board seats may be filled by Individual Members and any class of Organizational Member of Open Grid Forum, except Tier 1.

Students are not eligible for Board positions. No other entity or entities shall have the right to serve on the Board of Directors.

### **5.3 Composition and Size of the Board of Directors.**

The maximum authorized number of Directors shall be fifteen (15) and the minimum shall be ten (10), both numbers may be changed, up or down, by resolution of the Board of Directors, such resolution requiring a Supermajority of the Board of Directors for passage. Any such change in the number of authorized directors must maintain a two-thirds to one-third ratio of Organizational to At-Large Board positions. There must always be twice as many Organizational Board positions as there are At-Large Board positions though vacancies in Board positions may not always result in the currently seated ratio of Board members being two-thirds to one-third. If there are insufficient qualifying Organizational members to maintain the two-thirds to one-third ratio, the Board may fill vacancies in Organizational positions with duly elected At-Large members until such time that sufficient qualifying Organizational members can fill the vacancies.

### **5.4 Alternate Directors.**

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

At-Large Directors will serve as Board Members with no Alternate Director.

All provisions of these Bylaws apply equally to the Directors and Alternate Directors, unless otherwise noted.

### **5.5 Restrictions on Eligibility to Serve as a Director.**

## Exhibit 2

No more than one (1) individual employed by, or representing, Related Entities of a member may serve as a Board Member. No single individual may occupy more than one (1) position on the Board of Directors.

### **5.6 Removal or Replacement of Organizational Directors.**

Organizational Members shall have the option to remove a Director or Alternate Director that represents them at any time, with or without cause. In the event of such removal of a Director, unless a replacement is immediately named by the member, the elected or appointed Alternate Director shall succeed to the position of Director. In the event the Alternate Director assumes the Director position, the Organizational Member shall have the right and obligation to name a replacement Alternate Director. In the event the member removes the Alternate Director, the member has the right and obligation to name a new Alternate Director. No other entity or entities, including without limitation the Board of Directors, shall have any right to remove a Director designated pursuant to this Section. Notwithstanding the foregoing, the Board of Directors may remove a Director for cause. Designated replacements shall serve for the remaining term of the Director or Alternate they replace.

Organizational Directors or Alternate Directors removed either pursuant to this section or for cause by the Board of Directors must be replaced by the Organizational Member they represent by the occurrence of the second scheduled Regular Board Meeting. Failure to replace Board Members to serve after the second Regular Board Meeting following removal, resignation or cessation of service shall constitute the Organizational Members resignation from the Board of Directors and will create a vacancy on the Board.

### **5.7 Term, Cessation, Resignation, Removal or Succession.**

Each elected Director shall serve a two (2) year term unless sooner deceased, resigned or removed. Any Director may resign at any time by giving written notice to the Board of Directors, to the President or to the Secretary of this Corporation.

Any Director may be removed by the Board for any of the following, all of which constitute removal for cause: (i) conviction or entry of a plea of nolo contendere for a criminal offense punishable by jail time or suspended sentence; (ii) intentional breach of fiduciary duties; (iii) public disparagement or ridicule of the Corporation; or (iv) gross mismanagement or waste. Any Director may also be removed by the Member which appointed such Director pursuant to Section 5.6 above. In the event the Director is a representative of an Organizational Member whose membership is terminated as specified in Section 4.6, such director shall be removed from the Board, without further action by the Board.

### **5.8 Good Standing.**

Subject to the provisions of Sections 5.6 and 5.7 above, A Director shall be deemed to be in "Good Standing," and thus eligible to vote on issues coming before the Board, if the director or their alternate has attended (in person or by telephone) a minimum of three (3) of the last four (4) regular Board meetings (if there have been at least four meetings), unless such absence has been approved by the Chairman of the Board in his or her reasonable discretion..

## **5.9 Vacancies.**

A vacancy or vacancies shall be deemed to exist: (i) in the case of the death, resignation or removal of any director; (ii) if the authorized number of directors is increased without election or appointment, as applicable, of the additional directors so provided for; or (iii) in the case of failure at any time to elect or appoint, as applicable, the full number of authorized directors.

Vacancies in the Board of Directors if not filled by Alternate Directors pursuant to 5.6 above, should be filled in a timely manner if possible either by a special election or by appointment. If insufficient qualified candidates exist to fill authorized positions at the time of the Annual Election as required by Section 5.10 below the Board should consider reducing the authorized maximum size of the Board to eliminate vacant positions including possibly not replacing retiring Board members.

Directors (or Alternates) replaced by succession, appointment as in Section 5.6 above or by special election shall serve the remainder of the term of the Director (or Alternate) they are replacing.

## **5.10 Election of Directors.**

The initial Directors shall be appointed by Action of Sole Incorporator under conditions agreed to separately and documented in Notice Of Process For Selection & Election Of Initial Board Of Directors For Open Grid Forum (Exhibit 5). Fifty percent plus one of these initially appointed Directors shall serve a two (2) year term and the remainder of these Directors shall serve a one (1) year term.

Thereafter Annual elections will be held to replace Directors whose terms have expired, with all new directors receiving 2 year terms. Special elections may be held to replace Directors that have been removed, resigned or are deceased.

The process of nomination and elections will treat the classes of Organizational and At-Large Directors separately in order to maintain the two-thirds to one-third ratio of Organizational and At-Large Directors required by 5.3 above.

### **5.10.1 Nominations.**

Candidates for Directors must meet requirements as defined by the Corporation's evaluation, nomination and election process, as may be modified from time to time by the Board of Directors. Such requirements cannot unreasonably discriminate against any class of member otherwise eligible for election to the Board of Directors.

Nominations for Organizational and At Large Directors are handled differently.

#### **5.10.1.1 Organizational Nominations.**

Nominations of candidates for Organizational Board positions may be made only by Tier-1 Organizational Members of Open Grid Forum and may only self nominate members or representatives of their own organization for Organizational Board

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seats. Organizational Members may nominate at most two (2) sets of candidates for each Organizational Board Member vacancy to be filled in an election.

Any Organizational member of Open Grid Forum that already holds a seat on the Board may not be nominated to fill a vacancy unless that Organizational Member is vacating that seat prior to this election.

Nominations for Organizational Member seats on the Board of Directors must include the name and title of both a primary an alternate director as well as the name of the Organizational Member they represent. Both the primary and alternate director must be representatives of the same Organizational Member.

### **5.10.1.2 At-Large Nominations.**

Nominations of candidates for election as At-Large Directors may be made by Organizational Members of Open Grid Forum of either Tier-1 or Tier-2 classes. Any Individual or Organizational Member of Open Grid Forum in good standing other than an employee or representative of Tier-1 members may be nominated as At-Large candidates. Organizational Members of either Tier-1 or Tier-2 classes may make at most two (2) nominations for each vacant At-Large Board position.

Students may not be nominated to serve on the Open Grid Forum Board of Directors.

Candidates for election as At-Large Board Members will be evaluated for acceptability by the Open Grid Forum Nominating Committee. The Nominating Committee may reject a nominee as unacceptable if the nominee does not meet eligibility requirements, the nominee does not wish to be nominated, or if the sole judgment of the Nominating committee the nominee is not able to meet the commitment requirements for Board of Directors service.

### **5.10.2 Voting for Directors.**

Voting for the election of Directors shall be by either written or electronic ballot and will be anonymous (secret ballot.) While vote counting for Organizational and At-Large candidates will be handled separately they will use a single ballot and procedure. Voting will use the Single Transferable Vote method of counting votes. Whether written or electronic ballots are used computer counting of votes using a suitable implementation of the Single Transferable Vote algorithm (such as pSTV) is recommended.

Ballots will indicate the number of Organizational and At-Large vacancies that are to be filled by election and will include separately the list of candidates for elections as Organizational Directors and election as At-Large Directors. The family and given names, title, and organizational affiliation (if any), of each candidate will be listed on the ballot. Candidates will be listed in alphabetical order by their affiliation, last and given name.

Votes will be cast, as per the Single Transferable Vote method with each ballot indicating the preference (ranking) of all candidates for election as Organization Director and At-Large

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Director separately (separate rankings). A sample ballot is shown in Exhibit x. Ballots that are incorrectly marked or incomplete will not be counted.

Only Tier 1 Organizational Members of Open Grid Forum are eligible to vote for Board of Directors positions. Each Tier 1 Organizational member will designate one individual to represent them and votes in any election of Directors.

In the event that there are either exactly as many or fewer Organizational nominees than those required to fill the number of vacancies for Organizational positions on the Open Grid Forum Board of Directors than those nominees shall be declared elected by acclamation. Similarly, in the event that there are either exactly as many or fewer At-Large nominees than those required to fill the number of vacancies for At-Large positions on the Open Grid Forum Board of Directors than those nominees shall be declared elected by acclamation.

### **5.11 Meetings.**

#### **5.11.1 Place of Meeting.**

Meetings of the Board of Directors may be held at any location that has been designated from time to time by resolution of the Board or by the written notice of the Chair.

#### **5.11.2 Regular Board Meetings.**

Meetings of the Board of Directors shall be held from time to time, at least quarterly, as the Board of Directors may fix, as may be specified and noticed by the Board of Directors or the Chair.

#### **5.11.3 Special Board Meetings.**

Special meetings of the Board of Directors for any purpose or purposes may be called at any time by the Chair, the Secretary or by any two (2) of the Directors by submitting a request for a special Board meeting to the Secretary.

#### **5.11.4 Notice of Meetings; Attendance.**

Notice of the time and place of each meeting of the Board of Directors not fixed by an express provision of the Bylaws or by a standing Resolution of the Board of Directors shall be given to each Director and Alternate Director not less than ten (10) business days before the date of the meeting if given personally, by telephone or by electronic means including e-mail for teleconference meetings, and not less than ten (30) days before the date of the meeting for in-person or face-to-face meetings.

#### **5.11.5 Consent to Meetings.**

The transactions of the Board of Directors at any meeting however called and noticed or wherever held, shall be as valid as though done at a meeting duly held after call and notice if a quorum be present and if either before or after the meeting each Director not present

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(i) signs a written waiver of notice, or (ii) signs a consent to the holding of such meeting, or (iii) approves the minutes thereof. Each Director who attends the meeting without protesting, prior thereto or at its commencement shall be deemed conclusively to have consented to the holding of the meeting and to have waived the lack of notice to such Director. All such waivers, consents or approvals shall be filed with the corporate records and made a part of the minutes of the meeting.

### **5.11.6 Action Without Meeting.**

Any action required or permitted to be taken by the Board of Directors under any provision of the Delaware Nonprofit Corporation Law may be taken without a meeting if all members of the Board shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board. Such action by written consent shall have the same force and effect as a unanimous vote of such Directors. Any certificate or other document filed under any provision of the Delaware Nonprofit Corporation Law which relates to action so taken shall state that the action was taken by unanimous written consent of the Board of Directors without a meeting, and that the Bylaws authorize the Directors to so act. For the purposes of this section only, "all members of the Board" shall not include any "Interested Director" as defined in these bylaws.

### **5.11.7 Telephonic Meetings.**

Directors may participate in a meeting through use of conference telephone or similar communications equipment, so long as all members participating in such meeting can hear and identify one another. Participation in a meeting through use of telephone or similar communications equipment shall constitute presence in person at such meeting.

### **5.11.8 Quorum.**

Two-thirds of the Directors in office from time to time shall be necessary to constitute a quorum for the transaction of business, except to adjourn as hereinafter provided. Every act or decision done or made by a majority of the Directors present at a meeting duly held at which a quorum is present, provided however that the affirmative votes cast must represent 51% of the number of Board seats then occupied, shall be regarded as the act of the Board of Directors unless a greater number be required by law, or by the Articles of Incorporation, or by these Bylaws.

### **5.11.9 Adjournment.**

A majority of the Directors present, whether or not a quorum is present, may adjourn any Directors' meeting to meet again at another time or place. In the event a meeting of the Board of Directors is adjourned for more than twenty-four (24) hours, notice of any adjournment to another time or place shall be given prior to the time set for the rescheduled meeting to the Directors who were not present at the time of the adjournment.

## **5.12 Appointment of Committees.**

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The Board of Directors may appoint such committees as the Board from time to time deems necessary or appropriate to conduct the business and further the objectives of this Corporation. The appointment by the Board of any committee shall be by resolution adopted by a majority of Directors then in office.

### 5.12.1 Powers and Authority of Committees.

The Board of Directors may delegate to any committee having the authority of the Board, any of the powers and authority of the Board in the management of the business and affairs of this Corporation, except the following:

- a. The approval of any action for which the Delaware Nonprofit Corporation Law also requires the approval of members of a corporation.
- b. The filling of vacancies on the Board or in any committee that has the authority of the Board.
- c. The fixing of compensation of the Directors for serving on the Board or on any committee.
- d. The amendment or repeal of Bylaws or the adoption of new Bylaws.
- e. The amendment or repeal of any resolution of the Board, which by its express terms is not so amendable or repealable.
- f. The appointment of committees of the Board or the members thereof.
- g. The expenditure of corporate funds to support a nominee for Director after there are more people nominated for Director than can be elected.

### 5.13 Fees and Compensation.

Directors shall serve without compensation. Directors may be reimbursed in such amounts as may be determined from time to time by the Board of Directors for expenses paid while acting on behalf of the Corporation. Nothing herein contained shall be construed to preclude any Director from serving the Corporation in any other capacity as an officer, agent, employee, or otherwise, and receiving compensation therefore so long as such compensation is approved by a majority of disinterested Directors.

### 5.14 Standard of Conduct.

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

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

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- b. Legal counsel, independent accountants or other professionals as to matters which the Director believes to be within such person's professional or expert competence; or
- c. A committee of the Board upon which the Director does not serve, as to matters within the committee's designated authority, which committee the Director believes to merit confidence. Provided, that in any such case, the Director acts in good faith, after reasonable inquiry when the need therefore is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted.

### 5.15 Self-Dealing Transactions.

As used in this section, a "self-dealing contract" is any contract or transaction (i) between this Corporation and one or more of its Directors, or between this Corporation and any corporation, firm or association in which one or more of the Directors or, to the best of each respective Director's knowledge at the time the contract or transaction is proposed, or thereafter, one or more Members has a material financial interest, or (ii) between this Corporation and a corporation, firm or association of which one or more of its directors are Directors of this Corporation (collectively, "Interested Director(s)"). Pursuant to applicable Nonprofit Corporation Law, no self-dealing contract shall be void or voidable because such Interested Director(s) or corporation, firm or association are parties or because such Interested Director(s) are present at the meeting of the Board or committee which authorizes, approves or ratifies the self-dealing contract, if:

- a. Board or Committee Approval. All material facts are fully disclosed to or otherwise known by the Board or committee and the Board or committee authorizes, approves, or ratifies the self-dealing contract in good faith (including the abstention from voting by the Interested Director(s)), and, in the case of a self-dealing contract described above, the Board or committee resolves and finds that the contract is just and reasonable at the time it is authorized, approved or ratified; or
- b. Just and Reasonable Contract. The person asserting the validity of the self-dealing contract sustains the burden of proving that the contract was just and reasonable as to the Corporation at the time it was authorized, approved or ratified.
- c. Interested Director(s) may be counted in determining the presence of a quorum at a meeting of the Board or a committee thereof which authorizes, approves or ratifies a contract or transaction as provided in this Section.

## 6. Officers

### 6.1 Officers.

The principal officers of this Corporation shall be a President, Chairman of the Board, Vice Chairman of the Board, Treasurer, and Secretary and such other officers as the Board of Directors may appoint. One person may hold two or more offices. All officers must be members of Open Grid Forum. The Chairman and Vice Chairman of the Board must be Board members.

### 6.2 Election.

## **Exhibit 2**

The officers of this Corporation, except such officers as may be appointed in accordance with the provisions of Section 6.3 or Section 6.4, shall be elected by the Board of Directors in accordance with this Article 6, and each officer shall hold his or her office for a term of one (1) year, or until he or she shall resign or shall be removed or his or her successor shall be elected and qualified.

### **6.3 Removal and Resignation.**

#### **6.3.1 Removal.**

Any officer may be removed, either with or without cause, by the Board of Directors at any regular or special meeting (subject to the rights, if any, of an officer under any contract of employment).

#### **6.3.2 Resignation.**

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

### **6.4 Vacancies.**

A vacancy in any officer position because of death, resignation, removal, disqualification, or any other cause shall be filled in the manner prescribed in the Bylaws for regular appointments to such officer position.

### **6.5 President.**

The President shall serve as the Chief Executive Officer of this Corporation. Subject to the control of the Board of Directors, the President shall have general supervision, direction and control of the business and affairs of this Corporation. The President shall have such other powers and duties as may be designated from time to time by the Board of Directors. The President shall be a non-voting member of the Board of Directors, except in the case of a tie vote of the Board; the President is entitled to cast a vote to break the tie.

### **6.6 Chairman of the Board.**

The Chairman of the Board presides at all meetings of the Board of Directors, and is a voting member of the Board. The Chairman shall have such other powers and duties as may be designated from time to time by the Board of Directors.

### **6.7 Vice Chairman of the Board.**

In the absence of the Chairman of the Board or in the event of his or her inability or refusal to act, the Vice Chairman of the Board shall perform all the duties of the Chairman of the Board,

## **Exhibit 2**

and when so acting shall have all the powers of, and be subject to all the restrictions on, the Chairman of the Board. The Vice Chairman of the Board shall have such other powers and duties as may be designated from time to time by the Board of Directors.

### **6.8 Treasurer.**

The Treasurer shall oversee the financial and accounting matters of this Corporation with respect to the receipt, deposit and expenditure of funds. The Treasurer shall have such other powers and duties as may be designated from time to time by the Board of Directors.

### **6.9 Secretary.**

The Secretary shall keep a full and complete record of the proceedings of the Board of Directors, shall keep the seal of this Corporation and affix it to such papers and instruments as may be required in the regular course of business, shall make service of such notices as may be necessary or proper, shall supervise the keeping of the records of this Corporation, and shall deliver the Annual Statement required in these Bylaws to the Directors. The Secretary shall have such other powers and duties as may be designated from time to time by the Board of Directors.

## **7. Miscellaneous**

### **7.1 Fiscal Year.**

The fiscal year of this Corporation shall start on January 1 and end on December 31 of each year.

### **7.2 Inspection of Corporate Records.**

The books of account and minutes of the proceedings of the Board of Directors, and of any committees of the Board of Directors, shall be open to inspection at the principal office of this Corporation by each Director at any reasonable time upon the written demand of any Director. Such inspection may be made in person or by an agent or attorney, and shall include the right to make photocopies and extracts at the requesting Director's expense.

### **7.3 Representation of Shares of Other Corporations.**

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

### **7.4 Checks, Drafts, Etc.**

All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness issued in the name of or payable to this Corporation and any and all securities owned by or held by this Corporation requiring signature for transfer shall be signed or endorsed by such

person or persons and in such manner as from time to time shall be determined by the Board of Directors.

### **7.5 Execution of Contracts.**

The Board of Directors may authorize any officer, employee, or agent to enter into any contract or execute any contract or execute any instrument in the name of and on behalf of this Corporation and such authority may be general or confirmed to specific instances. Unless so authorized by the Board of Directors, no officer, agent, or employee shall have any power or authority to bind this Corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or in any amount. Provided, that pursuant to applicable Nonprofit Corporation Law, any such contract or instrument between this Corporation and any third person, when signed by (i) the President or Vice President, and (ii) the Secretary or Chief Financial Officer of this Corporation, shall be valid and binding upon this Corporation in the absence of actual knowledge on the part of said third person that the signing officers had no authority to execute the same.

### **7.6 Annual Statement of Certain Transactions and Indemnifications.**

Pursuant to applicable Nonprofit Corporation Law, the Board of Directors shall cause an annual statement of certain transactions and indemnifications to be delivered to the Board of Directors not later than one hundred twenty (120) days after the close of the fiscal year. If this Corporation issues an annual report, this requirement shall be satisfied by including the required information, as set forth below, in said annual report. Such annual statement shall describe:

- a. The amount and circumstances of any loans, guarantees, indemnifications or advances aggregating more than Ten Thousand Dollars (\$10,000) paid during the fiscal year of this Corporation to any officer or Director of this Corporation; provided, that no such report need be made in the case of any loan, guarantee, indemnification or advance approved by the members; and
- b. Any "covered transaction" (defined below) during the previous fiscal year of this Corporation involving (1) more than Fifty Thousand Dollars (\$50,000) or, (2) which was one of a number of "covered transactions" in which the same "interested person" (defined below) had a direct or indirect material financial interest, and which transactions in the aggregate involved more than Fifty Thousand Dollars (\$50,000). The statement shall describe the names of any "interested persons" involved in such covered transactions, including such "interested person's" relationship to the transaction, and, where practicable, the amount of such interest; provided, that in the case of a transaction with a partnership of which the interested person is only a partner, only the interest of the partnership need be stated. For the purposes of this section, a "covered transaction" is a transaction in which this Corporation, or its parent or subsidiary, was a party, and in which either of the following had a direct or indirect material financial interest:
  - i. Any Director or officer of this Corporation, or its parent or subsidiary; or

## Exhibit 2

- ii. Any holder of more than ten percent (10%) of the voting power of this Corporation, or of its parent or subsidiary.

For purposes of this section, any person described in either subparagraph (i) or (ii) above is an "interested person."

### 7.7 Indemnification

#### 7.7.1 Coverage

Open Grid Forum shall have the power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation) by reason of the fact that such person is or was an officer, director, chairperson of any steering group, advisory committee, working or research group or any other organizational unit, employee or agent of Open Grid Forum, or who is or was serving at the request of the corporation as an officer, director, chairperson of any steering group, advisory committee, working or research groups or any other organizational unit, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding if such person acted in good faith and in a manner such person reasonably believed to be in, or not opposed to, the best interests of Open Grid Forum, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by judgment or settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interest of Open Grid Forum, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

Open Grid Forum shall have the power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, proceeding or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that such person is or was an officer, director, chairperson of any steering group, advisory committee, working or research group or any other organizational unit, employee or agent of Open Grid Forum, or is or was serving at the request of Open Grid Forum as a director, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit, if such person acted in good faith and in a manner such person reasonably believed to be in, or not opposed to, the best interests of Open Grid Forum; provided that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his or her duty to Open Grid Forum, unless, and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability, but

in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper.

#### **7.7.2 Scope of Indemnification**

To the extent that an officer, director, chairperson of any steering group, advisory committee, working or research group or any other organizational unit, employee or agent of Open Grid Forum has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Sections 7.7.1, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith.

#### **7.7.3 Authorization**

Any indemnification under Sections 7.7.1 (unless ordered by a court) shall be made by Open Grid Forum only as authorized in the specific case upon a determination that indemnification of the officer, director, chairperson of any steering group, advisory committee, working or research group or any other organizational unit, employee or agent is proper in the circumstances because such person has met the applicable standard of conduct set forth in Section 7.7.1 above. Such determination shall be made (a) by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to such action, suit or proceeding, or (b) if such a quorum is not obtainable, or, even if obtainable, if a quorum of disinterested Directors so directs, by Open Grid Forum's legal counsel in a written opinion.

#### **7.7.4 Exclusivity and Survival**

The indemnification provided by these bylaws shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any contract, agreement, vote of disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be an officer, director, chairperson of any steering group, advisory committee, working or research group or any other organizational unit, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

#### **7.7.5 Insurance**

Open Grid Forum shall have power to purchase and maintain insurance on behalf of any person who is or was an officer, director, chairperson of any steering group, advisory committee, working or research group or any other organizational unit, employee or agent of Open Grid Forum, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not Open Grid Forum would have the power to indemnify him or her against such liability under the provisions of this article.

### **7.7.6 Expenses**

Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by Open Grid Forum in advance of the final disposition of such action, suit or proceeding, as authorized by the Board of Directors in the specific case, upon receipt of an undertaking by or on behalf of the director, officer, chairperson of any committee or subcommittee, working group or any Other organizational unit, employee or agent to repay such amount, unless it shall ultimately be determined that he or she is entitled to be indemnified by the corporation as authorized in this Section

### **7.8 Corporate Loans, Guarantees and Advances.**

This Corporation shall not make any advances or make any loan of money or property to or guarantee the obligation of any director or officer, except as is expressly allowed under applicable Nonprofit Corporation Law.

### **7.9 Public Inspection and Disclosure.**

The Corporation shall have available for public inspection at its principal office a copy of its three (3) most recent annual exempt organization information returns and a copy of its application for recognition of exemption and determination letter. In addition, in the event that the Corporation provides services or information to the public for a fee, and such services or information are available from the federal government free of charge or for a nominal cost, such availability shall be conspicuously disclosed in an easily recognizable format in any solicitation or offer by the Corporation.

### **7.10 Political Activities.**

The Corporation shall not make any political expenditure or lobbying expenditure, which will result in the loss of, or otherwise adversely affect, its status as a tax-exempt organization under the United States Internal Revenue Code.

### **7.11 Confidential Information.**

Certain information or activities of the Board, Officers, Operations Staff, or Open Grid Forum counsel may be held in confidence, unless authorized for further distribution by the Board.

### **7.12 Communication Policies**

#### **7.12.1 Publicity**

All publicity related to Open Grid Forum, whether promulgated by Open Grid Forum or by a Member, shall be in compliance with the policies and procedures adopted by the Board of Directors from time to time.

#### **7.12.2 Releases and Use of Names, Trademarks and Logos**

## **Exhibit 2**

Open Grid Forum agrees that Member shall have the right to list the Open Grid Forum's name and logo on Member's web site in accordance with guidelines adopted by Open Grid Forum. Except as provided above or as may be allowed pursuant to written instructions or guidelines issued by another Member, neither Open Grid Forum nor any Member shall use the name of another Member in any form of publicity related to Open Grid Forum without the written permission of the other Member, except that Open Grid Forum may publicly disclose and identify Members of Open Grid Forum (unless specifically requested in writing by a Member not to do so) in documentation, press releases, brochures and other materials, provided that all such references are truthful and accurate. The Open Grid Forum Name, Logo or Trademarks may not be used in conjunction with the advertising or promotion of any commercial product or service without the express written permission of Open Grid Forum.

### **7.12.3 Use of Open Grid Forum Membership Information**

Member is expressly forbidden from creating, causing to be created, or using Open Grid Forum membership and participant lists and/or any and all contact information for any purposes not directly authorized by Open Grid Forum Board, or Open Grid Forum policies. Notwithstanding any such written request by Member to withhold information regarding their membership, Open Grid Forum may disclose the membership of such a Member if required by law or any court of competent jurisdiction. Open Grid Forum shall have the right to list the Member's name and logo on the Open Grid Forum web site and advertising and promotion materials to indicate membership in Open Grid Forum, provided that Member continues to participate in Open Grid Forum and that such Member's name and logo are used in accordance with Member's guidelines.

### **7.13 Notification of Revisions to IPR Policy**

The Open Grid Forum IPR Policy may be revised; provided, that such revisions to the IPR Policy shall require a supermajority vote of the Board of Directors as specified in these Bylaws. Each Member shall apply the revised IPR Policy prospectively, in lieu of the IPR Policy previously agreed to by the respective Member from the date a revised IPR Policy is approved by the Board as set forth above. Notwithstanding the foregoing, no alteration, amendment or revision of the IPR Policy shall be effective until the thirty-first (31<sup>st</sup>) day after notice to Open Grid Forum Member. Notification of the revision and effective date may be by electronic means.

## **8. Effective Date and Amendments**

### **8.1 Effective Date.**

These Bylaws shall become effective immediately upon their adoption by the Board. Amendments to these Bylaws shall become effective immediately upon their adoption by the Board unless they are to become effective at a later date.

**8.2 Amendments.**

Except as otherwise set forth herein, these Bylaws may be altered, amended or repealed or new Bylaws may be adopted at any regular or special meeting of the Board with the consent of at least three-fourths (3/4) of the seated directors. Notwithstanding the foregoing, no alteration, amendment or repeal of these bylaws shall be effective until the thirty-first (31<sup>st</sup>) day after notice, which notice may be by electronic means.

CERTIFICATE OF INCORPORATOR

I, the undersigned, do hereby certify:

1. That I am the incorporator of Open Grid Forum.
2. That the foregoing Bylaws constitute the Bylaws of the said Corporation adopted by me.

DATED: \_\_\_\_\_, 200\_\_\_\_

\_\_\_\_\_  
NAME, Incorporator