



BYLAWS
OF
OPEN GEOSPATIAL CONSORTIUM, INC.

Revised 12 October 2007

Open Geospatial Consortium, Inc.
35 Main Street, Suite 5
Wayland, MA 01778, USA

+1•508•655•5858

+1•508•655•2237

www.opengeospatial.org

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Table of Contents

ARTICLE I GENERAL.....	1
Section 1.1 Name	1
Section 1.2 Purpose, Process and Organization	1
Section 1.3 Known Place of Business	1
Section 1.4 Other Offices	1
Section 1.5 Nonprofit Status	1
ARTICLE II MEMBERS	2
Section 2.1 Basis and Conditions of Membership	2
Section 2.2 Classes of Membership	3
Section 2.3 Subsidiaries of Members, Consortia, and Other Organizations	5
Section 2.4 Deprivation or Suspension of Membership	6
Section 2.5 Resignation by Member	6
Section 2.6 Membership Book	7
Section 2.7 Levy of Dues, Assessments or Fees	7
Section 2.8 Use of Names.....	7
Section 2.9 Rights in Intellectual Property and Security of Information:	7
ARTICLE III MEETINGS OF MEMBERS	8
Section 3.1 Time and Place of Meetings	8
Section 3.2 Regular Meetings of Committees	8
Section 3.3 Special Meetings	8
Section 3.4 Notice of Meetings	8
Section 3.5 Voting List	9
Section 3.6 Quorum	9
Section 3.7 Adjournments	10
Section 3.8 Action at Meetings	10
Section 3.9 Voting and Proxies	10
Section 3.10 Action Without Meeting	10
Section 3.11 Order of Business	11
ARTICLE IV THE BOARD OF DIRECTORS.....	11
Section 4.1 Powers and Responsibilities	11
Section 4.2 Number of Directors	12
Section 4.3 Election and Term of Office of Elected Directors	12
Section 4.4 Appointment and Term of Office of Appointed Directors	12
Section 4.5 Enlargement or Reduction	12
Section 4.6 Resignation and Removal	12
Section 4.7 Vacancies	13
Section 4.8 Ex Officio Directors	13
Section 4.9 Place of Meetings	13

Table of Contents

Section 4.10	Regular Meetings	13
Section 4.11	Special Meetings	13
Section 4.12	Quorum, Action at Meeting, Adjournments	14
Section 4.13	Action by Consent	14
Section 4.14	Telephonic Meetings	15
Section 4.15	Inspection Rights	15
Section 4.16	Fees and Compensation	15
Section 4.17	Executive Committee	15
Section 4.18	Other Committees of the Board of Directors	16
Section 4.19	Meetings of Committees of the Board of Directors	16
Section 4.20	Term of Office of Members of Committees of the Board of Directors	16
Section 4.21	Board Committees with Non-Directors	16
ARTICLE V CONSORTIUM COMMITTEES.....		17
Section 5.1	The Strategic Member Advisory Committee.....	17
Section 5.2	The Planning Committee	17
Section 5.3	The Technical Committee.....	18
Section 5.4	The Review Board.....	19
ARTICLE VI OFFICERS		20
Section 6.1	Officers	20
Section 6.2	Filling Officer Vacancies.....	20
Section 6.3	Election of Officers	20
Section 6.4	Tenure of Officers	21
Section 6.5	President.....	21
Section 6.6	Vice Presidents	23
Section 6.7	Secretary	23
Section 6.8	Assistant Secretaries.....	24
Section 6.9	Treasurer	24
Section 6.10	Assistant Treasurers	24
Section 6.11	Officer Bond	25
Section 6.12	Officer Compensation	25
ARTICLE VII NOTICES.....		25
Section 7.1	Delivery.....	25
Section 7.2	Waiver of Notice	26
ARTICLE VIII INDEMNIFICATION		26
Section 8.2	Actions by or in the Right of the Consortium	27
Section 8.3	Success on the Merits.....	27
Section 8.4	Specific Authorization	27
Section 8.5	Advance Payment.....	27

Table of Contents

Section 8.6	Non-Exclusivity.....	27
Section 8.7	Insurance.....	28
Section 8.8	Continuation of Indemnification and Advancement of Expenses.....	28
Section 8.9	Severability.....	28
Section 8.10	Intent of Article.....	28
ARTICLE IX BOOKS AND RECORDS.....		28
Section 9.1	Books and Records.....	28
Section 9.2	Form of Records.....	28
Section 9.3	Reports to Directors, Members and Others.....	29
Section 9.4	Record Date.....	29
Section 9.5	Registered Members.....	29
ARTICLE X CERTAIN TRANSACTIONS.....		29
Section 10.1	Transactions with Interested Parties.....	29
ARTICLE XI GRANTS, CONTRACTS, LOANS, ETC.....		30
Section 11.1	Grants.....	30
Section 11.2	Execution of Contracts.....	30
Section 11.3	Loans.....	30
Section 11.4	Checks, Drafts, Etc.....	30
Section 11.5	Deposits.....	31
Section 11.6	Legal Review.....	31
ARTICLE XII GENERAL PROVISIONS.....		31
Section 12.1	Fiscal Year.....	31
Section 12.2	Reserves.....	31
Section 12.3	Seal.....	31
Section 12.4	Proprietary Rights.....	31
ARTICLE XIII ANTITRUST COMPLIANCE.....		32
Section 13.1	General.....	32
Section 13.2	Availability of Technology.....	32
Section 13.3	No Obligation to Endorse.....	32
ARTICLE XIV AMENDMENTS.....		32

BYLAWS OF OPEN GEOSPATIAL CONSORTIUM, INC.

Revised 2 December 2004

ARTICLE I

GENERAL

Section 1.1 Name

The corporation is referred to in these Bylaws as "the Consortium".

Section 1.2 Purpose, Process and Organization

(a) Vision and Mission: The primary purpose of the Consortium shall be to promote the development and use of advanced open systems standards and techniques to enable the full integration of geospatial data and geoprocessing resources into mainstream computing and the widespread use of interoperable, commercial geoprocessing software throughout the information infrastructure. Toward this end, the Consortium shall seek to:

(i) Involve developers and users of geographic information resources, including vendors, integrators, government agencies, standards organizations, academia, research institutions, and individuals in collaborative development of interoperable geoprocessing technology specifications, and work to promote the delivery of interoperable products;

(ii) Synchronize geoprocessing technology with current and emerging information technology standards based on open systems, distributed processing, and componentware frameworks; and

(iii) Provide a consensus-based industry forum that promotes cooperative business development initiatives related to distributed geoprocessing.

(iv) The Consortium may also perform certification of technology conformant with the Consortium's standards and specifications, and perform other related research and experimentation in, and implementation of, related open systems standards and technology.

Section 1.3 Known Place of Business

The known place of business of the Consortium (hereinafter the "principal office") shall be initially located in Wayland, Massachusetts. The Board of Directors is hereby granted full power and authority to change the principal office from one location to another both within and without said state.

Section 1.4 Other Offices

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

Section 1.5 Nonprofit Status

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

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

ARTICLE II

MEMBERS

Section 2.1 Basis and Conditions of Membership

(a) The basis of Membership is a Member's interest in the goals and values of the Consortium.

(b) Conditions of Membership. Any association, partnership, organization, company or corporation, or individual which/who has an interest in the purposes of the Consortium, may, upon satisfaction of the conditions provided below, become a Consortium Member.

(i) Fees and other requirements. A Member shall be admitted to Membership by 1) acceptance of its written application therefor on such form as may be from time to time required by the Consortium (which acceptance shall be administered in a non-discriminatory fashion), and 2) payment of such annual dues or other fees for such class of Membership as may from time to time be established as set forth in Section 2.7. A Member shall remain in good standing as a Member provided all membership dues, assessments, and other fees, together with such penalties for late payment as may be determined by the Board of Directors, have been paid within the period set by the Board of Directors, and the Member continues to meet all of the other requirements of Membership, as from time to time determined by the Board of Directors.

(ii) Group Membership. On the nomination of the President, and with the approval of the Board of Directors, associations, consortia, collaboratives, membership organizations, joint ventures and other formal and informal affiliations of entities may join the Consortium with the restriction that Consortium membership benefits, including access to consortium-proprietary information, are not to be accorded to members of organizations that are membership based.

(iii) Assigned Membership. With the approval of Board of Directors, Planning Committee membership may be assigned on a yearly basis with no fee to individuals or organizations which are uniquely able to provide resources, services, information, or access to existing or potential member communities which can help the Consortium achieve its objectives, and which would not otherwise be available to the Consortium through its normal membership programs. Assigned Membership includes voting rights in the Planning Committee. The President of the Consortium may grant Assigned Members the rights of Technical Committee membership.

Section 2.2 — Classes of Membership

(a) Strategic Membership level. With the approval of the Board of Directors, Strategic Membership is provided for organizations that wish to provide significant resources, over and above the level of Principal Membership fees, in support of Consortium programs and objectives, and that wish to play an active role both in setting the direction of the Consortium's technology specification activities and facilitating the use and acceptance of Consortium technology in markets of strategic value to the Consortium and its member organizations. Each Strategic Member, while in good standing, shall be entitled:

(i) To designate one voting Strategic Member Advisory Committee Representative to vote in the Strategic Member Advisory Committee:

(ii) To enjoy all the benefits of Membership as described in Sections 2.2 (b), (c), (d), (f) and (g) below; and

(iii) To enter into an agreement to work closely with the Consortium Membership and staff to create special programs designed to enhance Consortium effectiveness in selected areas of Consortium operation.

(b) Principal Membership level. Principal Membership is provided for organizations that wish to participate in the planning and management of the Consortium's technology development process. Each Principal Member, while in good standing, shall be entitled to designate one voting Planning Committee Representative (which may be the same person as the Principal Member's Technical Committee Representative) and an Alternate Planning Committee representative to vote on each matter submitted to a vote in the Planning Committee. Each Principal Member may also send additional non-voting participants as the Planning Committee's Policies and Procedures may from time to time permit, by this means to influence and contribute to the Consortium's strategic planning and Management process. Each Principal Member shall also be entitled:

(i) To vote and participate in such subcommittees, task forces, special interest groups, and working groups of the Planning Committee as the Planning Committee's Policies and Procedures may from time to time permit;

(ii) To recommend prospective Directors, and to vote in the Planning Committee to ratify the Board of Directors' approved slate of candidate directors of the Consortium;

(iii) To participate in planning and outreach activities which the Consortium organizes by means of the Planning Committee with its Principal Members;

(iv) To enjoy all the rights and privileges of Membership as described in Section 2.2(c), (d), (f) and (g) below; and

(v) To be designated as a "Principal-Plus Member" by participating in selected Consortium programs by contributing direct staff support in the form of qualified employee labor, approved by Consortium management, at the level of one-half full-time employee for a year of Membership.

(c) Technical Committee Membership is provided for organizations that wish to participate in the Consortium's technology development process. Technical Committee Membership level. Technical Committee Members have voting rights in the Consortium's Technical Committee and the right to submit technology proposals for consideration by the Consortium. Each Technical Committee Member, while in good standing, shall be entitled to

designate one voting Technical Committee Representative and an alternate Technical Committee Representative to vote on each matter submitted to a vote in the Technical Committee, and to send additional non-voting participants as the Technical Committee's Policies and Procedures may from time to time permit, and by this means to influence and contribute to the Consortium's technology development process. Each Technical Committee Member shall have the following rights:

(i) To vote and participate in such subcommittees, task forces, special interest groups, and working groups of the Technical Committee as the Technical Committee's Policies and Procedures may from time to time permit;

(ii) To vote to appoint representatives of the Technical Committee Membership to be voting Members of the Planning Committee; and

(iii) To enjoy all the rights and privileges of Associate Membership as described in Subsection (d), (f) and (g) of this Section 2.2 below.

(d) Associate Membership level. Each Associate Member, while in good standing, shall be entitled to designate one non-voting Technical Committee Representative and an alternate Technical Committee representative to participate in the Technical Committee and in such subcommittees, task forces, special interest groups, and working groups of the Technical Committee as the Technical Committee's Policies and Procedures may from time to time permit, and by this means to closely observe the Consortium's technology development process and participate in discussions that are part of this process. Each Associate Member shall also be entitled:

(i) To have access to all Software and Documentation generally released by the Consortium prior to release of such Software and Documentation to non-members, consistent with procedures from time to time established by the Planning Committee and the Board of Directors;

(ii) To receive reviews and reports of all plenary meetings of the Technical Committee and of its task forces, SIGs, working groups, and subcommittees, and all publications of the Consortium that are intended for regular distribution;

(iii) To establish, maintain and use computer network links with the Consortium sufficient in order to participate in Consortium discussion activities and to access Consortium documentation and software available for Membership distribution; and

(iv) To enjoy the other Membership rights referred to in Subsections (f) and (g) of this Section 2.2.

(e) There shall be four categories of Associate Membership. Benefits, rights and privileges for the different categories of Associate Member may be different and shall be set by the Board of Directors as set forth in subsection (h) below. The categories of Associate Membership include:

(i) Commercial Associate Membership. Commercial Associate Membership shall apply to businesses, government agencies, and non-governmental organizations that are not primarily educational in nature.

(ii) Small Company Commercial Associate Membership. Small Company Commercial Associate Membership shall apply to businesses that provide OGC with documentation verifying that their annual revenue is less than US\$500,000.

(iii) University Associate Membership. University Associate Membership shall apply to "educational institutions" such as university departments, museums, science centers, schools, and training facilities.

(iv) Individual Associate Membership. Individual Associate Membership shall apply to individuals and independent contractors who have not assigned their intellectual property rights to another person or legal entity. To be accepted into individual membership, applicants must meet the following conditions: 1) the applicant must certify that they are a self-employed consultant or individual who has not assigned their intellectual property rights (IPR) to another person or legal entity, and 2) the applicant must certify that they are not contracted full time to a single employer (except when that organization is a member of the OGC in good standing). Individual membership applies only to the Applicant and is not transferable.

(f) All Classes of Members, while in good standing, shall be entitled to attend such meetings and special meetings of the Membership provided for in Article III of these Bylaws and as the Board of Directors may from time to time deem appropriate.

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

Section 2.3 Subsidiaries of Members, Consortia, and Other Organizations

(a) Membership privileges shall be granted to organizational affiliates of Members as follows:

(i) Any wholly owned subsidiary of a Member corporation may share in the same Membership privileges as the parent, but shall be included in the parent company's Membership and listing.

(ii) A Member-affiliated corporation which does not directly or indirectly wholly own, or which is not directly or indirectly wholly owned by a Member organization, must apply for separate Membership.

(iii) Agencies and administrative units of a national government shall be eligible for Membership at any level, but parent or sister organizations of such agencies and administrative units may not share in such Membership.

(iv) While the various kinds of affiliates mentioned above may share in the primary Member's benefits, they are not allowed any additional votes or committee attendees in excess of the number that they would otherwise provided to a single entity at that level of Membership.

(b) Membership Exchange. On the recommendation of the President and with the approval of the Board of Directors, consortia, membership organizations, collaboratives, user groups, or other entities or formal or informal groups which have members, participants or

sponsors may be eligible for Membership on a fee basis or by means of Membership exchange with the Consortium. Non-membership formal relationships with such organizations must be implemented by means of Memoranda of Understanding approved by the Board of Directors.

Section 2.4 Deprivation or Suspension of Membership

Any Member in good standing may be deprived of its Membership or be suspended as a Member for cause, and any Member not in good standing may be deprived of its Membership or can be suspended as a Member without cause, by action of the President, provided such action is approved by a majority vote of the Board of Directors. Any annual dues, assessments, other fees and/or penalties already paid shall not be refundable upon the Member's suspension or deprivation of Membership. No deprivation or suspension of Membership (other than for non-payment of dues, assessments or fees) shall be effective, however, unless:

- (a) The Member is given notice of the proposed deprivation or suspension of Membership and of the reasons therefor;
- (b) Such notice is delivered personally or by certified mail, return receipt requested, or by a national overnight courier service, sent to the last address of the Member shown on the Consortium's records;
- (c) Such notice is given at least thirty (30) days prior to the effective date of the proposed deprivation or suspension of Membership;
- (d) Such notice sets forth a procedure determined by the body (said body to consist of the Planning Committee or a subcommittee of the Planning Committee selected for that purpose by the Planning Committee) authorized by the Board of Directors to decide whether or not the proposed deprivation or suspension shall take place, whereby the Member is given the opportunity to be heard by such body, either orally (and represented by counsel if the Member so desires) or in writing, not less than five (5) days before the effective date of the proposed deprivation or suspension; and
- (e) The reasons for which a Member may be deprived of its Membership include, but are not limited to, violating the letter or spirit of the Membership agreement, acting in such a way as to materially harm the reputation, activities or property of the Consortium, or acting in such a way as to interfere with or attempt to obstruct the activities and programs of the Consortium.

Any deprivation or suspension of Membership for non-payment of dues, assessments or fees may be effected in the manner set forth in Section 3.10.

Section 2.5 Resignation by Member

A Member may resign as a Member at any time and for any reason by sending a certified letter to the President stating its intention to resign. Any Member, upon learning of and not wishing to be subject to an amendment of Section 2.9 of these Bylaws, or to any adoption or amendment of any rule referred to therein, may avoid the effect of such change by resigning in the manner set forth above prior to the effective date of such amendment. In all instances of resignation, any annual dues, assessments, other fees and/or penalties already paid shall not be refundable, and the resigning Member shall remain liable for any accrued but unpaid dues.

Section 2.6 — Membership Book

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

Section 2.7 — Levy of Dues, Assessments or Fees

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

(b) It shall be the responsibility of the President to propose changes to the Membership fee structure of the Consortium to the Board of Directors for its approval as part of the Consortium's business planning process. The fee structure can be changed at any time consistent with the business planning requirements of the Consortium, provided that all existing Membership agreements at the time of such change are allowed to be in effect to the end of their defined terms, and provided that a notice of such change is given to the Membership at least three months before the change is to take effect.

Section 2.8 — Use of Names

Any Member may disclose and publicize such Member's Membership in the Consortium, within any guidelines proposed by the staff and approved by the Planning Committee and the Consortium may publicize such Member's Membership in the Consortium.

Section 2.9 — Rights in Intellectual Property and Security of Information:

(a) All intellectual property, specifications, guidelines and any other technology or assets (collectively, "Consortium Technology") developed by the Consortium, whether developed by employees of Members while working in Consortium meetings, or by employees of the Consortium alone or with the assistance of employees or consultants of any Member(s), shall become the sole property of the Consortium, unless otherwise determined pursuant to such rules as the Board of Directors may adopt from time to time. In addition, all Consortium Technology, and all other technology and intellectual property rights which may be submitted to, adopted as, or included in, specifications or other output of the Consortium ("Submitted Technology", and together with the Consortium Technology, "Technology"), shall be governed by such rules as the Board of Directors may from time to time adopt.

(b) Any amendment to the foregoing Subsection 2.9(a), and the adoption or amendment of any rule referred to therein, including without limitation relating to rights of publication, ownership, the license rights which Members and non-Members may be entitled to in Technology, and the fees (if any) which the Consortium may charge Members and non-Members for access to such Technology, shall (i) have prospective (only), and not retrospective effect, and

(ii) shall not have an effective date less than sixty days from the date that the President gives a detailed notice of such change to all Members.

(c) No technology shall be made available by Members of the Consortium to non-Members prior to general release of such Technology by the Consortium according to a release plan approved by the Consortium's Planning Committee.

ARTICLE III

MEETINGS OF MEMBERS

Section 3.1 Time and Place of Meetings

All meetings of the various committees of the Consortium shall be scheduled to be held at such place within or without the State of Delaware and at such time as may be fixed from time to time by the Consortium Staff after consultation with the respective committees.

Section 3.2 Regular Meetings of Committees

Regular meetings of the various committees of the Consortium shall be scheduled at regular intervals during the calendar year and at such times as may be fixed from time to time by the Staff after consultation with the respective committees.

Section 3.3 Special Meetings

(a) Special meetings of the Strategic Member Advisory Committee for any purpose or purposes may be called by the Board of Directors, the Chief Executive Officer, or the President at the request in writing of a majority of the Board of Directors, or by the Strategic Member Advisory Committee at the request in writing of at least a majority of all Strategic Members, as appropriate.

(b) Special meetings of the Planning Committee for any purpose or purposes may be called by the Board of Directors, the Chief Executive Officer, the President or the Secretary at the request in writing of a majority of the Board of Directors, or by the Planning Committee at the request in writing of at least ten percent (10%) of all Principal Members, as appropriate.

(c) Special meetings of the Technical Committee may be called by the Board of Directors, the Chief Executive Officer, the President, the Secretary, or the Planning Committee at the request in writing of at least ten percent (10%) of all Principal Members; or by the Technical Committee at the request in writing of at least ten percent (10%) of all Members.

(d) Such requests shall state the purpose or purposes of the proposed meetings. Business transacted at any special meeting shall be limited to matters relating to the purpose or purposes stated in the notice of meeting.

Section 3.4 Notice of Meetings

Except as otherwise provided by law or these Bylaws, written notice (as defined in Section 7.1(a) of these Bylaws) of each meeting of the Strategic Member Advisory Committee, the Planning Committee and of the Technical Committee, or any other committee defined in these Bylaws and comprised in whole or in part by Members of the Consortium, regular or special,

shall be given not less than two weeks nor more than sixty days before the date of the meeting, to each Member entitled to attend such meeting, and shall state the place, date and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, and such other information as may be required by law.

Section 3.5 Voting List

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

Section 3.6 Quorum

(a) Except as otherwise provided by statute, the Certificate of Incorporation or these Bylaws, and provided that the number of Strategic Members in good standing is no more than five, the designated representatives of one hundred percent (100%) of the Strategic Members, present in person or represented by proxy, shall constitute a quorum at all meetings of the Strategic Member Advisory Committee for the transaction of business. The quorum of the Strategic Member Advisory Committee shall be a simple majority of Strategic Members whose organizations have attended, in person or through proxy, two of the last three Strategic Member Advisory Committee meetings.

(b) Except as otherwise provided by statute, the Certificate of Incorporation or these Bylaws, the designated representatives of thirty three percent (33 %) of the combined number of Strategic Members and Principal Members, present in person or represented by proxy, shall constitute a quorum at all meetings of the Planning Committee for the transaction of business, provided that the number of Assigned Member representatives in attendance must not equal or exceed one half of the quorum number. If the number of Assigned Member representatives who are present at a meeting equals or exceeds one half of the quorum number (calculated as 33% of the number of Strategic Member representatives and Principal Member representatives), the required quorum number shall be increased sufficiently so that the number of Assigned Member representatives voting at the meeting shall be less than one half of the number of Strategic Member and Principal Member representatives.

(c) The quorum for any meeting of the Technical Committee Members shall be a simple majority of Strategic, Principal and Technical Members whose organizations have attended, in person or through proxy, two of the last three Technical Committee meetings.

Section 3.7 — Adjournments

Any meeting of the Strategic Member Advisory Committee, the Planning Committee or the Technical Committee, or a meeting of such other committee as may be defined in these Bylaws and comprised in whole or in part by Members of the Consortium, may be adjourned from time to time to any other time and to any other place at which such a meeting may be held under these Bylaws. The time and place of the rescheduled meeting, and such other information as may be required by law, shall be announced at the meeting, by either 1) a majority of the Members present in person or represented by proxy at the meeting and entitled to vote, though less than a quorum, or, 2) if no such Members are present or represented by proxy, by any officer entitled to preside at or to act as Secretary of such meeting, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the original meeting. If the adjournment is for more than thirty days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each Member.

Section 3.8 — Action at Meetings

Unless the question is one upon which by express provision of law, the Certificate of Incorporation or these Bylaws, a different vote is required (in which case such express provision shall govern and control the decision of such question), when a quorum is present at any meeting, the vote of a majority of the Members present in person or represented by proxy and entitled to vote on the question shall decide any question brought before such meeting.

Section 3.9 — Voting and Proxies

Except as otherwise provided in the Certificate of Incorporation or these Bylaws, each Member attending and entitled to vote at a meeting of the Technical Committee, Planning Committee, Strategic Member Advisory Committee, or other committee defined in these Bylaws and comprised in whole or in part by Members of the Consortium, shall be entitled to one vote at such meeting. Each Member entitled to vote at such a meeting, or to express consent or dissent to action in writing without a meeting, may authorize another Member to act for him by proxy, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period.

Section 3.10 — Suspension of Rights for Non-Payment of Fees

In the event that any Member is more than 90 days in arrears with regard to dues, assessments or fees owed to the Consortium, then until such payment has been made, all such Member's rights shall be suspended until such time as such payments have been made. If such payment has not been made in full within a further 30 days, such Member's Membership shall automatically terminate.

Section 3.11 — Action Without Meeting

Any action required to be taken at any meeting of the Technical Committee, Planning Committee or Strategic Member Advisory Committee, or any action which may be taken at any meeting of such committees respectively, may be taken without prior notice and without a vote, if a consent in writing, setting forth the action so taken, shall be signed by the voting Members of the committee (as the case may be) making up not less than that percentage of all voting Members of the said committee (as the case may be) as would be necessary to authorize or take such action at a meeting at which all the voting Members of the Technical Committee or Planning

Committee (as the case may be) entitled to vote thereon were present and voted. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those otherwise entitled to vote thereon who have not consented in writing. An electronic transmission consenting to an action to be taken and transmitted by a Member or proxy holder, or by a person or persons authorized to act for a Member or proxy holder, shall be deemed to be written, signed and dated for the purposes of this Section, provided that any such electronic transmission sets forth or is delivered with information from which the Consortium can determine (A) that the electronic transmission was transmitted by the Member or proxy holder or by a person or persons authorized to act for the Member or proxy holder and (B) the date on which such Member or proxy holder or authorized person or persons transmitted such electronic transmission. The date on which such electronic transmission is transmitted shall be deemed to be the date on which such consent was signed. No consent given by electronic transmission shall be deemed to have been delivered until such consent is reproduced in paper form and until such paper form shall be delivered to the Consortium by delivery to its registered office in Delaware, its principal place of business or an officer or agent of the Consortium having custody of the book in which proceedings of meetings of Members are recorded. Delivery made to the Consortium's registered office shall be made by hand or by certified or registered mail, return receipt requested. Notwithstanding the foregoing limitations on delivery, consents given by electronic transmission may be otherwise delivered to the principal place of business of the Consortium or to an officer or agent of the Consortium having custody of the book in which proceedings of meetings of Members are recorded if, to the extent and in the manner provided by resolution of the Board of Directors of the Consortium.

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

Section 3.12 Order of Business

The order of business at all meetings of the Strategic Member Advisory Committee, the Planning Committee and the Technical Committee shall be as determined by the presiding officer, but the order of business to be followed at any meeting at which a quorum is present may be changed by a vote of the Voting Members. Meetings shall be conducted under the guidance of Robert's Rules of Order.

ARTICLE IV

THE BOARD OF DIRECTORS

Section 4.1 Powers and Responsibilities

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

Section 4.2 — Number of Directors

The total number of Directors shall be no less than 9 and no more than twenty-five, constituting all of the Director(s) elected by the Planning Committee, and up to four “Appointed Directors”, as defined in Section 4.4 below. In addition, ex officio Directors may be appointed pursuant to Section 4.8.

Section 4.3 — Election and Term of Office of Elected Directors

Before the end of the year preceding a new two-year term of office for Directors:

(a) The Executive Committee, as established in Section 4.17, shall recommend to the Board of Directors a full slate of Director candidates who shall be respected industry, government, and academic leaders able to perform the duties of Directors as outlined in this Article IV, and who may include persons currently serving as Directors. Nominees and Directors need not be affiliated with Consortium Member organizations.

(b) The Board shall vote to approve a slate of candidate directors as the nominated slate of Director nominees to the Planning Committee.

(c) The Planning Committee shall vote on the nominated slate of Director nominees.

(c) The term of office of all elected Directors shall be two years. The first two-year term (as established by amendment to these Bylaws on April 22, 1998) shall begin January 1, 1999.

Section 4.4 — Appointment and Term of Office of Appointed Directors

The Chairman, the Chief Executive Officer, the President, and the Vice President, Operations and Finance, shall each, by virtue of his office, become a Director by appointment (an "Appointed Director"). Each such officer shall hold office as a Director until his death, resignation, or termination as such officer.

Section 4.5 — Enlargement or Reduction

The number of Directors, the persons eligible to become Directors and the classes of any Members eligible to elect Directors may be amended at any time by a vote of a majority of the then serving Directors.

Section 4.6 — Resignation and Removal

Any Director may resign at any time upon written or electronic transmission of notice to the Consortium in writing or by electronic transmission at its principal place of business or to the Chairman, Chief Executive Officer or Secretary. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event. Any elected Director may be removed, with or without cause, by a majority of the other Directors. Any Appointed Director may be removed with cause by a majority affirmative vote of the elected Directors.

Any director that fails to attend two out of three consecutive in-person and/or telephonic meetings of the Board without prior approval by the Chairman shall immediately, and without further action by such director, be deemed to have resigned from the Board.

Section 4.7 Vacancies

(a) In the event of a vacancy on the Board of Directors caused by the death, resignation or removal of any elected Director, or by an increase in the number of authorized elected Directors, the Executive Committee shall offer a candidate or candidates for approval by a majority of the Board of Directors and, if approved, the Board shall then offer the nominee or nominees to the Planning Committee for election. The term of a Director so elected shall be the unexpired portion of the term of the Director whom the Director so elected is replacing, or until the next general election of Directors, in the case of an expansion of the Board.

(b) In the event of a vacancy or vacancies in the Board of Directors, the remaining Directors, except as otherwise provided by law or these Bylaws, may exercise the powers of the full Board until the vacancy or vacancies have been filled.

Section 4.8 Ex Officio Directors

In addition to the elected and appointed Directors provided for in Sections 4.1, 4.3 and 4.4 the Board of Directors may elect such ex officio Directors as it may find appropriate. Ex Officio Directors shall be entitled to attend all meetings of the Board of Directors or of committees to which they may be appointed by the Board of Directors. However, ex officio Directors shall serve in an advisory capacity only, and shall not be eligible to act as chairmen of committees, nor shall they be entitled to vote at meetings of the Board of Directors or of any committee thereof.

The Board of Directors shall elect ex officio Directors by a unanimous vote of the Directors. Ex officio Directors shall serve at the will of the Board, unless they resign or are sooner removed. An ex officio Director shall be subject to removal in the same manner and upon the same conditions as other members of the Board of Directors.

Section 4.9 Place of Meetings

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

Section 4.10 Regular Meetings

Regular meetings of the Board of Directors may be held at such time and at such place as shall from time to time be determined by the Board, or by the Chairman, Chief Executive Officer or the President, after due consultation with all of the Directors to maximize attendance at the meetings and timeliness of the meetings. Any Director who is absent from a meeting during which the time of such future meeting is set shall be given prompt notice of the time and place of such future meeting.

Section 4.11 Special Meetings

Special meetings of the Board may be called by the Chairman, Chief Executive Officer, President, Secretary, or on the written request of two or more Directors, or by one Director in the event that there is only one Director in office. Two calendar weeks notice to each Director, either personally or by telecopy, commercial delivery service, electronic transmission or similar means sent to his business or home address, or sixteen business days' notice by another form of written notice (as defined in Section 7.1(a) of these Bylaws), shall be given to each Director by the Secretary or by the officer or one of the Directors calling the meeting. A notice or waiver of

notice or any waiver by electronic transmission of a meeting of the Board of Directors need not specify the purposes of the meeting.

Section 4.12 Quorum, Action at Meeting, Adjournments

At all meetings of the Board a majority of Directors then in office, but in no event less than one third of the entire Board shall constitute a quorum for the transaction of business and the act of a majority of the Directors present at any meeting at which there is a quorum shall be the act of the Board of Directors, except as may be otherwise specifically provided by law or by the Certificate of Incorporation. For purposes of this section the term "entire board" shall mean the number of directors, both elected and appointed, last fixed by the Directors, in accordance with law and these Bylaws; provided, however, that if less than all the number so fixed of Directors were elected, the "entire board" shall mean the greatest number of Directors so elected to hold office at any one time pursuant to such authorization. If a quorum shall not be present at any meeting of the Board of Directors, a majority of the Directors present thereat may adjourn the meeting, without notice other than announcement at the meeting, until a quorum shall be present. In the event that one or more of the Directors shall be disqualified from voting at any meeting upon any matter, then the required quorum as it relates to the consideration of such matter shall be reduced by one for each such director so disqualified.

Section 4.13 Action by Consent

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

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

(ii) Prompt written notice (as defined in Section 7.1.a of these Bylaws) of any action so taken is given to those Directors who have not consented in writing or by electronic transmission; and

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

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

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

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

Section 4.14 Telephonic Meetings

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

Section 4.15 Inspection Rights

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

Section 4.16 Fees and Compensation

Directors shall not receive any stated salary for their services as Directors, but, by resolution of the Board of Directors, a fixed fee may be allowed for attendance at each meeting. Directors may be reimbursed in such amounts as may be determined from time to time by the Board of Directors for expenses incurred while acting on behalf of the Consortium and/or expenses incurred in attending meetings of the Board of Directors. Nothing herein contained shall be construed to preclude any Director from serving the Consortium in any other capacity as an officer, agent, employee, or otherwise, and receiving compensation therefor. The Directors may also allow compensation for members of committees for service on such committees.

Section 4.17 Executive Committee

(a) The Board of Directors shall have as their first order of business, at the first meeting of their two-year term, the election of an Executive Committee, consisting of five or more elected Directors, in addition to the Chairman who shall act as Chair, and up to two additional Appointed Directors.. The Chairman shall nominate Executive Committee candidates for the Board's approval. The Board of Directors may designate one or more Directors as alternate members of such committee, who may replace any absent member at any meeting of such committee.

(b) The Executive Committee, subject to any limitations imposed by the Certificate of Incorporation, by these Bylaws, by statute, and/or by the Board of Directors, shall have and may exercise all of the powers of the Board of Directors. However, the Executive Committee shall have no authority with respect to those items listed in (i) through (viii) below:

(i) The approval of any action that also requires approval of the Voting Members in the Technical Committee;

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

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

(iv) The amendment or repeal of any resolution of the Board of Directors that by its express terms is not so amendable or repealable;

(v) Amending the Certificate of Incorporation;

- (vi) Adopting an agreement of merger or consolidation;
- (vii) Recommending to the Members the sale, lease or exchange of all or substantially all of the Consortium's property and assets; and
- (viii) Recommending to the Members a dissolution of the Consortium or a revocation of a dissolution.

Section 4.18 Other Committees of the Board of Directors

The Board of Directors may, by resolution adopted by a majority of the Directors then in office (provided a quorum is present), create such other audit, compensation and other committees, each consisting of two (2) or more Directors appointed by the Board, as it may from time to time deem advisable to perform such general or special duties as may from time to time be delegated to any such committee by the Board of Directors, subject to the limitations imposed by the Certificate of Incorporation or by these Bylaws. No such committee shall have the power or authority to take any action prohibited by Section 4.17(b) above to be taken by the Executive Committee. The Board of Directors may designate one or more Directors as alternate members of any committee, who may replace any absent member at any meeting of the committee. Any committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board of Directors. Each committee shall keep regular minutes of its meetings and make such reports to the Board of Directors as the Board of Directors may request.

Section 4.19 Meetings of Committees of the Board of Directors

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

Section 4.20 Term of Office of Members of Committees of the Board of Directors

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

Section 4.21 Board Committees with Non-Directors

From time to time, the Board of Directors may establish additional committees and sub-committees whose members need not be Directors. If so required by the Board, only persons representing Technical Committee or Principal Members shall be voting, participating members on any such committee or subcommittee.

ARTICLE V
CONSORTIUM COMMITTEES

Section 5.1 The Strategic Member Advisory Committee

A Consortium Strategic Member Advisory Committee shall be established that shall have such rights and privileges as shall from time to time be established by the Board of Directors, and that shall meet at such times and places as provided in Article III hereof and shall operate in accordance with such rules as shall from time to time be established by the Board of Directors or such committee. The membership and functions of the Strategic Member Advisory Committee shall be as follows:

(a) The members of the Strategic Member Advisory Committee shall be the representatives of the Strategic Members, and the Chief Executive Officer who shall also be the Chair of the Strategic Member Advisory Committee, all of whom shall have voting privileges.

(b) Strategic Member Advisory Committee Functions

Subject to oversight of the Board of Directors, the Strategic Member Advisory Committee shall have responsibility for performing the following functions:

(i) To recommend areas of strategic opportunity for Consortium operations to the Board of Directors, Consortium staff and the Membership;

(ii) To recommend resource strategies in support of Consortium programs; and

(iii) According to the requirements of the Strategic Members, to support the Interoperability Program and Specification Programs with management and operational resources.

Section 5.2 The Planning Committee

A Consortium Planning Committee shall be established that shall have such rights and privileges as shall from time to time be established by the Board of Directors, and that shall meet at such times and places as provided in Article III hereof and shall operate in accordance with such rules as shall from time to time be established by the Board of Directors or such committee. The membership and functions of the Planning Committee shall be as follows:

(a) Planning Committee

(i) The members of the Planning Committee shall be (w) the representatives of the Strategic and the Principal Members, (x) the members of the Executive Committee of the Board of Directors, (y) two representatives of the Technical Committee that represent Technical Committee Members that are not otherwise Members of the Planning Committee, and (z) the individual who is the primary liaison between the organized standards community and the Technical Committee. In addition, the President shall appoint a Consortium staff member to be Chair and a member of the Planning Committee (and may appoint an additional Consortium staff person to be Vice Chair and a member of such committee). All of the foregoing shall have voting privileges, with the exception of the members of the Executive Committee of the Board of Directors, who shall be non-voting members.

(b) Planning Committee Functions

Subject to oversight of the Board of Directors, the Planning Committee shall have the responsibility for performing the following functions:

(i) Strategic technology planning regarding the Consortium's development of open geoprocessing specifications which have the greatest possible chance of being adopted in the market.

(ii) Ratification of OpenGIS® Specification development plans, release schedules, conformance testing plans, and any other major documents produced by the Technical Committee;

(iii) Final acceptance of OpenGIS Implementation Specifications as reported out of the Technical Committee;

(iv) Development of the Consortium's message and strategic positioning within the IT community and formulation of the Consortium's Information Community and market outreach strategies;

(v) Election of Directors, based upon the slate of Director nominees nominated by the Board of Directors; and

(vi) Maintenance of policies and procedures that establish the Planning Committee's internal organization and process, subject to the review and approval of the Board of Directors. Such organization and process may involve the creation of such subcommittees, ad hoc working groups, or task forces as the Management Committee deems necessary.

Section 5.3 The Technical Committee

A Consortium Technical Committee shall be established that shall have such rights and privileges as shall from time to time be established by the Board of Directors, and that shall meet at such times and places as provided in Article III hereof and shall operate in accordance with such rules as shall from time to time be established by the Board of Directors or such committee. The membership and functions of the Technical Committee shall be as follows:

(a) The members of the Technical Committee shall be the representatives of the Technical, Principal and Strategic Members. In addition, the President shall appoint a Consortium staff member to be Chair and a member of the Technical Committee (and may appoint an additional Consortium staff person to be Vice Chair and a member of such committee). All persons referred to in this Section 5.3 shall have voting privileges.

(b) Technical Committee Functions

Subject to the oversight of the Planning Committee, the Technical Committee shall have the authority to perform the following functions:

(i) Development of the OpenGIS Specification through a cooperative consensus process involving the Members;

(ii) Creation of its own internal organization and process, subject to the review and approval of the Planning Committee. Such organization and process may involve the

creation of such Task Forces, Special interest Groups (SIGs), Working Groups and Subcommittees as the Technical Committee deems necessary.; and

(iii) Presentation of version drafts of the OpenGIS Abstract Specification and OpenGIS Implementation Specifications, and any other related major documents to the Planning Committee for approval.

Section 5.4 The Review Board

(a) Membership of the Review Board

(i) The Chief Technology Officer shall be a member and Chair of the Review Board.

(ii) The Chief Technology Officer will from time to time make additional appointments of Consortium staff or other qualified individuals to be members of the Review Board.

(b) Review Board Functions

Working under the direction of the Chief Technology Officer, the Review Board shall have responsibility for performing the following functions:

(i) Evaluate the relevance and consider approval of member proposed Interoperability Experiments in accordance with OGC Interoperability Experiment policies and procedures.

(ii) Make recommendation regarding changes to and maintenance of the various policies and procedures that govern the business of the Technical Committee

(iii) Consider member complaints about the OGC processes, and make recommendations as appropriate for process changes

(iv) Review other work items as they are created for consistency with the procedural baseline, and make change recommendations as necessary.

Section 5.5 OGC Architecture Board

(a) Membership of the OGC Architecture Board

(i) The Chief Technical Officer shall be a member of the OGC Architecture Board, and shall act as Chair and facilitator of the OGC Architecture Board.

(ii) The Chief Technical Officer will appoint one additional OGC staff to serve as a voting OGC staff member of the OGC Architecture Board.

(iii) OGC Technical Committee representatives to the OGC Architecture Board shall be nominated by the OGC Technical Committee by election, and approved by the OGC Board Of Directors in accordance with the approved OGC Architecture Board Policies and Procedures.

(b) OGC Architecture Board Functions

The functions of the OGC Architecture Board are as follows, and are further defined in OGC Architecture Board Policies and Procedures as approved by the OGC Board of Directors:

- (i) Provide guidance and recommendations to the Technical Committee and Planning Committee regarding OGC document lifecycle management, as well as recommendations on topics and/or issues affecting adopted OGC documents and OGC documents in development.
- (ii) Review and recommend for adoption by the Technical Committee, the OGC Reference Model (ORM).
- (iii) Monitor technology trends and issues related to the OGC standards baseline, and identify technology gaps or issues for recommended action by OGC Committees.
- (iv) Provide recommendations to the OGC Planning and Technical Committees regarding external liaison activities with other standards and professional organizations.
- (v) Review all RFC submissions of candidate standards and provide guidance to the RFC submission team on any issues related to the technical content of such RFC submission as they content relates to the existing OGC standards baseline and OGC standards document best practices.

ARTICLE VI

OFFICERS

Section 6.1 Officers

(a) The officers of the Consortium shall be a Chairman, a Chief Executive Officer, a President, a Treasurer and a Secretary. The Consortium may also have, at the discretion of the Board of Directors, one or more Vice Presidents, a Chief Technology Officer, one or more Assistant Secretaries and/or Assistant Treasurers, and such other officers with such titles, terms of office and duties as may be elected in accordance with the provisions of Section 6.3 and 6.4. One person may hold two or more offices unless the Certificate of Incorporation otherwise provides.

(b) Any individual may serve in one or more (or all) of the offices described within this Article VI.

Section 6.2 Filling Officer Vacancies

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

Section 6.3 Election of Officers

The Board of Directors shall choose a Chairman, a Chief Executive Officer and a President. All other officers of the Consortium shall be nominated by the Chairman subject to

election by a majority vote of the Board of Directors at a regularly scheduled meeting of the Board of Directors or by majority written consent.

Section 6.4 Tenure of Officers

Each officer of the Consortium shall serve at the pleasure of the Board of Directors for indefinite terms, and shall hold office until a successor is chosen and qualifies, unless a different term is specified in the vote choosing or electing such officer, or until such officer's earlier death, resignation or removal. Unless otherwise specified in these Bylaws, any officer elected by the Board of Directors may be removed at any time with or without cause by a majority vote of the entire Board of Directors. Any officer may resign by delivering a written resignation to the Consortium at its principal place of business or to the Secretary. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event.

Section 6.5 Chairman

The Chairman shall, unless the Board of Directors provides otherwise in a specific instance or generally, preside at all meetings of the Board of Directors and be responsible for managing Board operations, including strategic planning, review of business plans and operational performance, and corporate development initiatives that ensure the continued relevance and effectiveness of the organization.

Section 6.6 Chief Executive Officer

The Chief Executive Officer shall, unless the Board of Directors provides otherwise in a specific instance or generally, shall see that all orders and resolutions of the Board of Directors are carried into effect, and, in the absence of the Chairman, shall preside at meetings of the Board of Directors.. Without limiting the foregoing, the Chief Executive Officer shall:

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

(b) Represent the Consortium's vision, mission, programs, and services to relevant stakeholders;

(c) Develop Consortium organizational, operational and financial plans and formulates corporate business plan for consideration by the Board of Directors;

(d) Implement the strategic goals and objectives of the Consortium and assures execution of Board approved business plans;

(e) Build and foster a culture that serves and advances the purpose and objectives of the Consortium;

(f) Provide direction and leadership to the organization toward the achievement of its annual goals and objectives;

(g) Serve as a member of the Board of Directors and Executive Committee with full voting rights, except as to matters relating to his compensation or the terms of any agreement with the Consortium pursuant to which he is retained to render services; and

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

Section 6.7 President

The President shall be the Chief Operating Officer of the Consortium. Reporting to the Chief Executive Officer, the President shall, unless the Board of Directors provides otherwise in a specific instance or generally, have general management of the business of the Consortium and see that all orders and resolutions of the Board of Directors are carried into effect. Without limiting the foregoing, the President shall:

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

(b) Direct and administer the affairs of the Consortium, including setting compensation of non-executive staff, and the hiring and discharge of all staff employees, unless otherwise specified by these Bylaws;

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

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

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

(f) Direct all Consortium functions;

(g) Develop metrics and evaluates Consortium performance;

(h) Support the Chief Executive Officer in the 1) development of organizational, operational and financial goals and plans, 2) the Consortium business plan , and provides necessary supporting documentation;

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

(j) Serve as a member of the Board of Directors and Executive Committee with full voting rights, except as to matters relating to his compensation or the terms of any agreement with the Consortium pursuant to which he is retained to render services;

(k) Perform such other duties as may from time to time be assigned by the Board of Directors, Chairman, Chief Executive Officer, and/or any Executive Committee; and

(l) In the absence of the Chief Executive Officer, or in the event of the inability or refusal of the Chief Executive Officer to act, the President shall perform the duties of the Chief

Executive Officer, and when so acting, shall have all the powers of and be subject to all the restrictions upon the Chief Executive Officer.

Section 6.8 Vice President, Operations and Finance

The Vice President, Operations and Finance, shall be the Chief Financial Officer of the Consortium. Reporting to the President, the Vice President, Operations and Finance, shall, unless the Board of Directors provides otherwise in a specific instance or generally, have responsibility for the management of the business process of the consortium. Without limiting the foregoing, the Vice President, Operations and Finance shall:

(a) The Vice President shall perform such other duties and have such other powers as the Board of Directors, Chief Executive Officer, or the President may from time to time prescribe.

(a) Be responsible for corporate financial and business planning and management of the corporate budgeting process, including financial oversight of the Consortium's business and technical programs operations.

(b) Be responsible for the organization's legal affairs, contracting and accounting functions, corporate insurance coverage, and employee benefits programs, as well as direct responsibility for office staff and investment of the Consortium's resources;

(c) Perform such other duties and have such other powers as the Board of Directors, Chief Executive Officer, or the President may from time to time prescribe; and

(d) In the absence of the President, or in the event of the inability or refusal of the President to act, the Vice President, Operations and Finance shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President.

Section 6.9 Chief Technology Officer

The Consortium shall have a Chief Technology Officer.

(a) The Chief Technology Officer shall be responsible to ensure that the technology policy of the corporation supports the strategic guidelines set forth by the Board of Directors, and that such policy is coordinated across all organizations and activities of the Consortium. The Chief Technology Officer will be the lead technology architect for the Consortium and in that capacity will authorize technical staff to propose and implement projects designed to promote consistent and sound architecture approaches for the Consortium. The Chief Technology Officer will be Chair of the Review Board, or any other committee that includes Member representation formed for the purpose of review or coordination of the Consortium's technology strategy.

(b) The Chief Technology Officer shall perform such other duties and have such other powers as the Board of Directors or the President may from time to time prescribe.

Section 6.10 Secretary

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

(a) Prepare and maintain, or cause to be prepared and maintained, lists of Members and their addresses as required;

(b) Attend all meetings of the Board of Directors and all meetings of the Planning Committee and record all the proceedings of these meetings for placement in a book to be kept for that purpose, and shall perform like duties for the standing committees when required;

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

(d) Have custody of the corporate seal of the Consortium and the Secretary, or an Assistant Secretary, shall have authority to affix the same to any instrument requiring it and when so affixed, it may be attested by signature of the Secretary or by the signature of such Assistant Secretary. The Board of Directors may give general authority to any other officer to affix the seal of the Consortium and to attest the affixing by such officer's signature.

Section 6.10 Assistant Secretaries

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

Section 6.11 Treasurer

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

Section 6.12 Assistant Treasurers

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

Section 6.13 Officer Bond

If required by the Board of Directors, any officer shall give the Consortium a bond in such sum and with such surety or sureties and upon such terms and conditions as shall be satisfactory to the Board of Directors, including without limitation a bond for the faithful performance of the duties of his office and for the restoration to the Consortium of all books, papers, vouchers, money and other property of whatever kind in his possession or under his control and belonging to the Consortium.

Section 6.14 Officer Compensation

The compensation, if any of the officers shall be fixed from time to time by the Board of Directors, and no officer shall be prevented from receiving such compensation by reason of the fact that the officer is also a Director of the Consortium. The Chairman, the Chief Executive Officer, the President, and the Vice President, Operations & Finance, although members of the Board of Directors, shall not vote on matters relating to their compensation or duration in office.

ARTICLE VII

NOTICES

Section 7.1 Delivery

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

(b) Notice given pursuant to this section shall be deemed given: (1) if by facsimile telecommunication (A) to a Member, when directed to a number at which the Member has consented to receive notice and (B) to a Director, when directed to the number for such Director as it appears on the records of the Consortium; (2) if by electronic mail to (A) a Member, when directed to an electronic mail address at which the Member has consented to receive notice and (B) to a Director, when directed to the electronic mail address for such Director as it appears on the records of the Consortium; (3) if by a posting on an electronic network together with separate

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

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

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

Section 7.2 Waiver of Notice

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

ARTICLE VIII

INDEMNIFICATION

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

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

interests of the Consortium, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

Section 8.2 — Actions by or in the Right of the Consortium

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

Section 8.3 — Success on the Merits

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

Section 8.4 — Specific Authorization

Any indemnification under Section 8.1 or 8.2 of this Article VIII (unless ordered by a court) shall be made by the Consortium only as authorized in the specific case upon a determination that indemnification of any person described in said Sections is proper in the circumstances because he has met the applicable standard of conduct set forth in said Sections. Such determination shall be made (1) 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 (2) by the Members of the Consortium.

Section 8.5 — Advance Payment

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

Section 8.6 — Non-Exclusivity

The indemnification and advancement of expenses provided by, or granted pursuant to, the other Sections of this Article VIII shall not be deemed exclusive of any other rights to which those provided indemnification or advancement of expenses may be entitled under any Bylaw,

agreement, vote of Voting Members or disinterested Directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office.

Section 8.7 Insurance

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

Section 8.8 Continuation of Indemnification and Advancement of Expenses

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

Section 8.9 Severability

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

Section 8.10 Intent of Article

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

ARTICLE IX

BOOKS AND RECORDS

Section 9.1 Books and Records

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

Section 9.2 Form of Records

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

Section 9.3 Reports to Directors, Members and Others

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

Section 9.4 Record Date

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

Section 9.5 Registered Members

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

ARTICLE X

CERTAIN TRANSACTIONS

Section 10.1 Transactions with Interested Parties

No contract or transaction between the Consortium and one or more of its Directors or officers, or between the Consortium and any other corporation, partnership, association, or other organization in which one or more of its Directors or officers are directors or officers, or have a financial interest, shall be void or voidable solely for this reason, or solely because the Director or officer is present at or participates in the meeting of the Board or committee thereof which authorizes the contract or transaction or solely because his, her or their votes are counted for such purpose, if:

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

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

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

ARTICLE XI

GRANTS, CONTRACTS, LOANS, ETC.

Section 11.1 Grants

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

Section 11.2 Execution of Contracts

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

Section 11.3 Loans

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

Section 11.4 Checks, Drafts, Etc.

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

Section 11.5 Deposits

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

Section 11.6 Legal Review

In the ordinary course, but subject to the judgment of the President in any given case, all material contracts and commitments shall be reviewed by legal counsel.

ARTICLE XII

GENERAL PROVISIONS

Section 12.1 Fiscal Year

The fiscal year of the Consortium shall be determined, and may be changed, by resolution of the Board of Directors.

Section 12.2 Reserves

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

Section 12.3 Seal

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

Section 12.4 Proprietary Rights

(a) All information disclosed by any participant during any official meeting or activity of the Consortium, including but not limited to Board meetings, Strategic, Planning and Technical Committee meetings, Sub-committee meetings, electronic mail or the like, shall be deemed to have been disclosed on a non-confidential basis, and, subject to rights and restrictions represented by valid patents, patent applications, and Federal and international statutory copyrights (no waiver of any rights pertaining to which shall be implied from such disclosure or the terms of this Section 12.4), may be used by anyone without restriction.

(b) Except as provided in Section 2.9 or otherwise in these Bylaws, or as may be provided in a separate written agreement, no express or implied right, whether by implication, estoppel, or otherwise, to any patent, copyright, trademark, trade secret, or other intellectual property right of any Member is or shall be deemed to be granted to the Consortium or to any other Member by reason of its Membership in or participation in the activities of the Consortium.

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

ARTICLE XIII

ANTITRUST COMPLIANCE

Section 13.1 General

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

Section 13.2 Availability of Technology

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

Section 13.3 No Obligation to Endorse

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

ARTICLE XIV

AMENDMENTS

These Bylaws may be altered, amended or repealed or new Bylaws may be adopted by the Board of Directors, except where such power is expressly limited or reserved to the Members (or any class or classes of Members) by law or the Certificate of Incorporation, at any regular meeting of the Board of Directors or at any special meeting of the Board of Directors.