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# BYLAWS OF OPENACC-STANDARD.ORG

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## ARTICLE I. OFFICES & PURPOSE

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**Section 1. Registered Office.** The registered office in the State of Minnesota of OPENACC-STANDARD.ORG (the “Corporation”) shall be as stated in the Articles of Incorporation of the Corporation (the “Articles”), or such other place within the State as the Board of Directors may designate from time to time.

**Section 2. Principal Office.** The principal office of the Corporation shall be at such place as the Board of Directors shall designate from time to time. The business of the Corporation shall be transacted from the principal office, and the records of the Corporation shall be kept there.

**Section 3. Other Offices.** The Corporation may have such other offices within and without the State of Minnesota as the Board of Directors may determine.

**Section 4. Purpose.** The Corporation is organized exclusively for the purpose of promoting common business interests of its members pursuant to IRS Section 501(c)(6). The purpose of this Corporation is to develop and promote a directives based parallel-programming standard for heterogeneous CPU/Accelerator computing systems (“OpenACC”).

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## ARTICLE II. MEMBERS

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**Section 1. Members.** The Members of the Corporation shall be divided into three classes as follows:

- a. Permanent Members; and
- b. Auxiliary Members; and
- c. Academic Members (collectively referred to herein as “Members”).

**Section 2. Permanent Members.** Permanent Members of the Corporation shall be those organizations which meet the Permanent Membership criteria established by the Board of Directors. The initial Permanent Members shall be:

NVIDIA Corporation

STMicroelectronics Inc.

Cray Inc.

The Board of Directors must provide such criteria to any organization upon request within a reasonable time, not to exceed thirty (30) days from the date of request. Any organization may apply to become a Permanent Member of the Corporation and, upon acceptance of its application by the

Board of Directors and the Permanent Members of the Corporation, shall become a Permanent Member of the Corporation. The Board of Directors shall have the power to impose dues, levy assessments and solicit contributions from the Permanent Members to further the aims of the Corporation. Any assessment levied on the Permanent Members must be approved by the unanimous consent of the Permanent Members. Any Permanent Member who fails to pay any dues or assessment may, after reasonable notice, be removed as a Member of the Corporation as provided in Section 6 of this Article II. Permanent Members shall vote on all matters requiring approval of the Members of the Corporation and such other matters as determined by these Bylaws.

**Section 3. Auxiliary Members.** Auxiliary Members of the Corporation shall be those organizations or individuals which meet the Auxiliary Membership criteria established by the Board of Directors. The Board of Directors must provide such criteria upon request within a reasonable time, not to exceed thirty (30) days from the date of request. Any organization or individual may apply to become an Auxiliary Member of the Corporation and, upon acceptance of its application by the Board of Directors and the Permanent Members, shall become an Auxiliary Member of the Corporation. Each Auxiliary Membership shall expire at the first annual meeting of the Members following the approval of such Auxiliary Member. Each Auxiliary Membership may be renewed at an annual meeting of the Members for additional one- year terms upon the approval of the Board of Directors and the Permanent Members. Any member who fails to pay any dues may, after reasonable notice, be removed as a Member of the Corporation as provided in Section 6 of this Article II. Auxiliary Members shall vote on all matters requiring approval of the Members of the Corporation but such voting rights shall be restricted as set forth in these Bylaws.

**Section 4. Academic Members.** Academic Members of the Corporation shall be those organizations or individuals which meet the Academic Membership criteria established by the Board of Directors. The Board of Directors must provide such criteria upon request within a reasonable time, not to exceed thirty (30) days from the date of request. Any organization or individual may apply to become an Academic Member of the Corporation and, upon acceptance of its application by the Board of Directors and the Permanent Members, shall become an Academic Member of the Corporation. Each Academic Membership shall expire at the first annual meeting of the Members following the approval of such Academic Member. Each Academic Membership may be renewed at an annual meeting of the Members for additional one- year terms upon the approval of the Board of Directors and the Permanent Members. Any member who fails to pay any dues may, after reasonable notice, be removed as a Member of the Corporation as provided in Section 6 of this Article II. Unless explicitly provided for in these Bylaws, Academic Members shall have no voting rights regarding any aspect of the management, administration, or governance of the Corporation.

**Section 5. Member Powers.**

a. Actions Requiring Approval of a Majority of Permanent and Auxiliary Members. The Members shall have all powers reserved to the Members pursuant to the Corporation's Articles, Bylaws, or Minnesota Statutes Chapter 317A. In addition, the Corporation may not take the following actions without receiving the approval of a majority of the Permanent and Auxiliary Members of the Corporation:

- i) Individual changes to OpenACC specifications;
- ii) Add or delete major services; and
- iii) Exercise all other powers reserved to Members pursuant to the Corporation's Articles, Bylaws, or Minnesota Statutes Chapter 317A.

b. Actions Requiring Approval of Two-Thirds of the Permanent and Auxiliary Members. The following actions must be approved by the affirmative vote of two-thirds of the Permanent and Auxiliary Members:

- i) Final approval and designation of a new version of the OpenACC specifications or validation suite for OpenACC;
- ii) Approve annual operating budgets, annual or long-range capital budgets, and non-budgeted contracts entered into over \$50,000;
- iii) Substantially change the present or now intended nature of the Corporation's operations;
- iv) Amendment of Articles; and
- v) Amendment of Bylaws other than Articles II and III.

c. Actions Requiring Approval of Majority of Permanent Members. The following actions must be approved by the affirmative vote of a majority of the Permanent Members. Auxiliary and Academic Members are not entitled to vote on such actions:

- i) Acceptance of Permanent Members;
- ii) Acceptance or renewal of Auxiliary and Academic Members;
- iii) Election of the Board of Directors; and
- iv) Removal of Directors as stated below in Section 4 of Article IV.

d. Actions Requiring Approval of Two-Thirds of Permanent Members. The following actions must be approved by the affirmative vote of two-thirds of the Permanent Members. Auxiliary and Academic Members are not entitled to vote on such actions:

- i) Termination or removal of Permanent or Auxiliary Members; and
- ii) Voluntarily dissolve.

e. Actions Requiring Unanimous Approval of Permanent Members. The following actions must be approved by the unanimous consent of the Permanent Members. Auxiliary and Academic Members are not entitled to vote on such actions:

- i) Modification or amendment of Articles II and III of these Bylaws;
- ii) Approval of dues and financial assessments on the Members.

f. Actions Requiring Unanimous Approval of All Permanent and Auxiliary Members. The following actions must be approved by the unanimous consent of all Permanent and Auxiliary Members. Academic Members are not entitled to vote on such actions:

- i) Incur long-term debt;
- ii) Mortgage or encumber any assets of the Corporation;
- iii) Sell, lease or otherwise dispose of all or substantially all of its property and assets;

- iv) Purchase or acquire substantially all of the assets of another entity;
- v) Merge, consolidate with any domestic or foreign organization or lease or sell more than fifty percent (50%) of the Corporation's property and assets to any entity in any one transaction or series of related transactions;
- vi) Prepay any indebtedness prior to the time for payment thereof as provided in the contract evidencing or creating such indebtedness;
- vii) Loan money or other assets to or guarantee the obligations of any person or entity; and
- viii) Approve any extraordinary compensation or bonus to any employee.

**Section 6. Resignation of Members.** A Member may resign as such at any time by tendering such resignation in writing or email to the President of the Corporation. Such resignation shall be effective when executed by such Member but shall not relieve the Member from any outstanding financial obligations to the Corporation for unpaid dues or assessments approved on or before the date of resignation.

**Section 7. Removal of Members.** A Permanent, Auxiliary, or Academic Member may be removed upon the affirmative vote of two-thirds of the Permanent Members (excluding the Permanent Member proposed for removal, if any). The Member proposed for removal must receive at least thirty (30) days notice of such removal and be provided with an opportunity to be heard, orally or in writing, at least five (5) days before the effective date of removal. Such removal shall not relieve the Member from any outstanding Financial obligations to the Corporation for unpaid dues or assessments approved on or before the date of removal.

**Section 8. Dues.**

- a. Permanent Members. Each Permanent Member shall pay annual dues on or before December 31 of each year in the amount determined by the Board of Directors and approved by the unanimous consent of the Permanent Members. The amount of such dues shall be the same for each Permanent Member and shall not exceed \$10,000 per year.
- b. Auxiliary Members. Auxiliary Members shall pay annual dues on or before December 31 of each year in an amount determined by the Board of Directors and approved by the unanimous consent of the Permanent Members. The amount of such dues shall be the same for each Auxiliary Member and shall not exceed \$10,000 per year.
- c. Academic Members. Academic Members shall pay annual dues on or before December 31 of each year in an amount determined by the Board of Directors and approved by the unanimous consent of the Permanent Members. The amount of such dues shall be the same for each Academic Member and shall not exceed \$10,000 per year.
- d. The amount of annual dues paid by each Auxiliary or Academic Member for a given year shall not exceed the amount of annual dues paid by each Permanent Member in that same year.

**Section 9. Additional Rights and Obligations of Members and the Corporation.**

- a. Compliance with Antitrust Laws. Each Member and the Corporation, in their relations with each other and with any and all other Members, are committed to fostering open competition in the development of products and services and the OpenACC

specifications are intended to foster and promote such competition. In such relations each Member and the Corporation understand and agree that (i) for certain lines of business they are or may be direct competitors, (ii) it is imperative that they and their representatives act in a manner which does not violate any state, federal or international antitrust laws and regulations, and (iii) they will not, through their membership, engage in conduct that violates any such laws.

b. **License Grant to Permanent Members.** The Corporation hereby grants and agrees to grant a worldwide royalty-free, perpetual license to each Permanent Member and its subsidiaries (with the right to sublicense) to copy, publicly perform, distribute in any form and create derivative works of the OpenACC specifications and standards, including any and all specifications or standards for computer application program interfaces of the Corporation (including drafts). No other licenses, express or implied, are granted by this provision. The Corporation's rights in the OpenACC specifications are subject to the ownership rights retained by Members and licensed to the Corporation under separate Membership Agreements.

c. **Most Favored Licensee.** If the Corporation provides to any Member or third party any licensee terms that are more favorable than those provided to any Permanent Member, then the Corporation will promptly provide fair and complete written notice of all such licensee terms to each Permanent Member, and will promptly make all such licensee terms available for the benefit of each Permanent Member and its subsidiaries.

d. **Public Availability.** The Corporation will act in good faith to make the OpenACC specifications available to the public within a reasonable time.

e. **Notice of Resignation, Removal or Admission of Members.** The Corporation will provide each Member with prompt written notice as to circumstances, effect, identity and effective date of any other Member resigning, being removed, or joining membership of the Corporation.

f. **Merger of Members.** In the event of the merger or majority acquisition of one Member by another Member, the rights and obligations of the affected members will be deemed merged as of the effective date of such merger or acquisition. In the event both affected members are represented on the Corporation's Board of Directors or any committees, their voting rights and representation will be deemed automatically merged as of the effective date. The affected members will provide the Corporation with the name and other applicable membership information of the surviving or remaining member within thirty (30) days of the effective date.

g. **Acquisition of Member by a non-Member.** In the event of the merger or majority acquisition of one Member by a non-Member, the member will have to re-apply for membership, however their dues will be considered paid until the next renewal period of the acquired Member is due. The affected member will provide the Corporation with the new name and other applicable membership information within thirty (30) days of the effective date.

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### ARTICLE III. MEETINGS OF MEMBERS

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**Section 1. Annual Meetings.** The Permanent Members shall hold an annual meeting at such time and place as the Board of Directors shall determine. At each annual meeting, the Permanent

Members shall elect Directors and shall conduct such other business as may properly come before them.

**Section 2. Regular Meetings.** Regular meetings of all the Members or of any class of Members of the Corporation may be held at the discretion of the Board of Directors on an annual or less frequent periodic basis on such dates and at such times and places as may be designated by the Board of Directors in the notices of meeting. At regular meetings the Members shall transact such business as may be appropriate for action by Members.

**Section 3. Special Meetings.** Special meetings of the Members or of any class of Members, for any purpose or purposes appropriate for action by such Members, may be called by the President, the Board of Directors, or by two or more Members of the Corporation. A person or persons entitled to call a special meeting of the Board of Directors may make a written request to the Secretary to call the meeting. The Secretary shall give written notice of the meeting in the manner provided below, and the meeting shall be held between three (3) and fourteen (14) days after receipt of the request to call a special meeting. If the Secretary fails to give notice of the meeting within three (3) days from the day on which the request was received by the Secretary, the person or persons who requested the special meeting may fix the time and place of meeting, and give notice thereof.

**Section 4. Notice of Meetings.** Except where a meeting of all Permanent and Auxiliary Members is an adjourned meeting and the date, time, and place of such meeting were announced at the time of adjournment, notice of all meetings of Members stating the date, time, and place thereof, and any other information required by law or desired by the Board of Directors or by such other person or persons calling the meeting, and in the case of special meetings, the purpose thereof, shall be given to each Member of record entitled to vote at such meeting not less than three (3) nor more than sixty (60) days prior to the date of such meeting. Notice shall be delivered personally, sent by telecopier or facsimile machine, or mailed, first class, postage prepaid, or sent via electronic mail regarding which some form of receipt is attached or received. Said notice shall include proposed agenda items, but the failure to include an agenda item in the notice shall not prevent action from being taken with respect to such item other than amendment to the Articles of the Corporation. Notice of a meeting at which an amendment to the Articles of the Corporation will be proposed must contain the substance of the proposed amendment.

Whenever written notice to Members provides less than five (5) days' prior written notice of the meeting, excluding the date of the meeting, reasonable effort shall be made to notify Members by telephone of the meeting at the time of giving written notice, but the failure to contact any Member(s) by telephone shall not affect the validity of the meeting or any action taken at such meeting.

Any Member may waive notice of any meeting of Members. Waiver of notice shall be effective whether given before, at, or after the meeting and whether given orally, in writing, or by attendance. Attendance by a Member at a meeting is a waiver of notice of that meeting, except where the Member objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened and does not participate thereafter in the meeting, or objects before a vote on an item of business because the item may not lawfully be considered at that meeting and does not participate in the consideration of that item at the meeting.

**Section 5. Quorum.** A majority of Members shall constitute a quorum at a meeting of Members for the purpose of taking any action other than adjourning such meeting. A majority of a class of Members shall constitute a quorum at a meeting of such class of Members for the purpose of taking any action other than adjourning such meeting. If a quorum is not represented at a meeting, the members present shall constitute a quorum for the sole purpose of adjourning such meeting, and the majority of the members so present may adjourn the meeting to such date, time, and place as they

shall announce at the time of adjournment. Any business that might have been transacted at the adjourned meeting if a quorum had been present, may be transacted at the meeting held pursuant to such an adjournment and at which a quorum shall be represented. If a quorum is present when a duly called or held meeting is convened, the members present may continue to transact business until adjournment, even though the withdrawal of a number of members leaves less than the number otherwise required for a quorum.

**Section 6. Voting.** Each Member shall be represented at a Member meeting by one (1) individual designated as such Member's representative by that Member. Additional representatives of each Member may attend Member meetings at the discretion of the designated Member representative but shall not be entitled to vote. At each meeting of the Members, every Permanent and Auxiliary Member present shall be entitled to cast one (1) vote on any question coming before the meeting. The Members shall take action by the affirmative vote of a majority of all Permanent and Auxiliary Members of the Corporation except where a different vote is required by law, the Articles, or these Bylaws. If a certificate concerning a Member action is to be filed with the Secretary of State, the officer signing the certificate on behalf of the Member must indicate on the certificate that such action was taken pursuant to Minnesota Statutes Section 317A.445.

**Section 7. Action Without Meeting of Members.** Any action required or permitted to be taken at a meeting of the Members may be taken without a meeting by written action signed by all of the Members entitled to vote on such action. Such written action shall be effective when signed by all of the Members entitled to vote thereon or at such different effective time as is provided in the written action. A facsimile signature shall constitute a signature for these purposes.

**Section 8. Record Date.** For the purpose of determining Members entitled to notice of and to vote at any meeting of Members or any adjournment thereof, or in order to make a determination of Members for any other proper purpose, the Board of Directors of the Corporation may, but need not, fix a date as the record date for any such determination of Members, which record date, however, shall in no event be more than sixty (60) days prior to any such intended action or meeting.

**Section 9. Meeting by Means of Electronic Communication.** A conference among Members by a means of communication through which the Members may simultaneously hear each other during the conference constitutes a meeting of the Members if the same notice is given of the conference as would be required for a meeting, and if the number of Members participating in the conference would be sufficient to constitute a quorum at the meeting. Participation in a meeting by this means is personal presence at the meeting. In addition, a Member may participate in a meeting of the Members by any means of communication through which the Member, other Members participating and all Permanent and Auxiliary Members physically present at the meeting may simultaneously hear each other during the meeting.

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## ARTICLE IV. BOARD OF DIRECTORS

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**Section 1. General Powers.** The business and affairs of the Corporation shall be managed by or under the direction of a Board of Directors. In addition to the powers conferred upon the Board of Directors by these Bylaws, the Board of Directors may exercise all powers of the Corporation and perform all acts which are not prohibited to it by law, by the Articles or by these Bylaws, all as may be amended.

**Section 2. Number.** The Board of Directors of the Corporation shall be composed of no less than three (3) members nor more than five (5) members, as determined from time to time by the Members

of the Corporation. No decrease in the number of Directors pursuant to this section shall effect the removal of any Director then in office.

**Section 3. Qualifications.** Directors may only be adult natural persons. Each director shall demonstrate his or her willingness to accept responsibility for governance and his or her availability to participate actively in governance activities. Directors shall be selected to bring a variety of interests and expertise to the Corporation. No two or more Directors may be employed by or represent the same corporation or organization.

**Section 4. Term of Office and Election.** The Board of Directors shall be divided into three (3) classes of Directors, based on the length of the term to be served by such Directors, so that the terms of office of approximately one-third of the Directors shall expire each year. In determining the time served by a Director, the period ending at the first annual meeting of the Permanent Members shall be deemed to be one (1) year. The initial term of Class I Directors shall expire at the annual meeting of Permanent Members held in 2012, the initial term of Class II Directors shall expire at the annual meeting of Permanent Members held in 2013, and the initial term of Class III Directors shall expire at the annual meeting of Permanent Members held in 2014. Following expiration of the initial term of each class, the successor Directors of each class shall thereafter be elected for a term of three (3) years by the affirmative vote of a majority of the Permanent Members. A Director's term shall expire at the annual meeting of Permanent Members at which the Director's class must stand for reelection and until a successor is elected by the Permanent Members, or until the earlier death, resignation, removal or disqualification of the Director. All Directors shall have equal voting rights.

**Section 5. Election of Successor Directors.** Before the expiration of the term of office of any Director, a successor Director shall be elected by the Permanent Members of the Corporation. The Board of Directors shall submit the name of one person as successor Director for each Director whose term is expiring to the Permanent Members for approval at the annual meeting of the Permanent Members.

**Section 6. Vacancy.** If the office of any director becomes vacant for any reason, the Board of Directors may choose a successor by the election of a Director by the remaining Directors of the Corporation. A Director elected to fill a vacancy shall hold office until the next election of Directors of the class of Directors which contains the vacancy.

**Section 7. Removal of Directors.** An elected Director of the Corporation may be removed, at any time, with or without cause, upon the affirmative vote of a majority of the Permanent Members of the Corporation.

**Section 8. Resignation.** Any Director may resign at any time by giving written notice of such resignation to the Secretary of the Corporation. Such resignation shall be effective upon delivery, unless a later date is specified in the notice. In the event a Directors employment with the Member for whom they represent terminates, either voluntarily or involuntarily, such termination will be deemed as an automatic resignation from the Board of Directors unless such Member provides written notification to the Secretary of the Corporation that said Director is authorized to represent Member on an continuing basis.

**Section 9. Compensation.** Directors shall not receive compensation for acting as such, but Directors shall be entitled to reasonable compensation for services rendered as an employee of the Corporation. The Corporation shall be entitled to purchase officers' and Directors' liability insurance without obtaining reimbursement of all or any part of the premium without violating these Bylaws.



## ARTICLE V. MEETINGS OF THE BOARD OF DIRECTORS

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**Section 1. Place of Meetings.** The Board of Directors may hold its annual, regular and special meetings at such places, within or without this state, as determined by the President of the Corporation or his or her designee. If no place is determined, the meeting shall be held at the Corporation's principal place of business.

**Section 2. Annual Meetings.** The Board of Directors shall hold an annual meeting at such time and place as the Board of Directors shall determine. If no place is determined, the annual meeting shall be held at the Corporation's principal place of business. At each annual meeting, the Board of Directors shall elect officers and shall conduct such other business as may properly come before it.

**Section 3. Regular Meetings.** In addition to the annual meeting, the Board of Directors shall hold regular meetings according to a schedule established by the Board of Directors, but not less frequently than quarterly. At each regular meeting, the Board of Directors shall conduct such business as may properly come before the meeting.

**Section 4. Special Meetings.** Special meetings of the Board of Directors may be called by: (a) the President, (b) the Chair of the Board of Directors, or (c) upon written request of any three (3) or more Directors of the Corporation. A person entitled to call a special meeting of the Board of Directors may make a written request to the Secretary to call the meeting. The Secretary shall give written notice of the meeting in the manner provided below, and the meeting shall be held between three (3) and fourteen (14) days after receipt of the request to call a special meeting. If the Secretary fails to give notice of the meeting within three (3) days from the day on which the request was received by the Secretary, the person or persons who requested the special meeting may fix the time and place of meeting, and give notice thereof. If no place is identified, the meeting shall be held at the Corporation's principal place of business.

**Section 5. Notice of Meeting.** Not less than ten (10) days' written notice of the annual meeting of the Board of Directors, excluding the day of the meeting, shall be given to all Directors. Said notice shall include proposed agenda items, but the failure to include an agenda item in the notice shall not prevent action from being taken with respect to such item. Other than amendment to the Articles of the Corporation notice of a meeting at which an amendment to the Articles of the Corporation will be proposed must contain the substance of the proposed amendment.

Not less than three (3) days' written notice of a regular or special meeting of the Board of Directors, excluding the day of the meeting, shall be given to all Directors. Notice shall be delivered personally, sent by telecopier or facsimile machine, or mailed, first class, postage prepaid, or sent via electronic mail regarding which some form of receipt is attached or received. Whenever written notice to Directors provides less than five (5) days' prior written notice of the meeting, excluding the date of the meeting, reasonable effort shall be made to notify Directors by telephone of the meeting at the time of giving written notice, but the failure to contact any Director(s) by telephone shall not affect the validity of the meeting or any action taken at such meeting.

Any Director may waive notice of any meeting of the Board of Directors in writing before, at or after a meeting. The attendance of a Director at any meeting shall constitute a waiver of notice of such meeting, unless he or she objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened and does not participate in the meeting, or objects before a vote on an item of business because the item may not be lawfully considered at that meeting and does not participate in the consideration of that item at the meeting. The waiver shall be filed with the person who has been designated to act as secretary of the meeting, who shall enter the waiver upon the records of the meeting.

**Section 6. Quorum and Voting.** The presence of a majority of the members of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, but the Directors present at any meeting, although less than a quorum, may adjourn the meeting from time to time. If a quorum is present when a duly called or held meeting is convened, the Directors present may continue to transact business until adjournment, even though the withdrawal of one or more Directors leaves less than the proportion or number otherwise required for a quorum. At any meeting of the Board of Directors, each Director present at the meeting shall be entitled to cast one (1) vote on any question coming before the meeting. Except as otherwise provided in these Bylaws, a majority vote of the Directors present at any meeting, shall be sufficient to transact any business.

A director may give advance written consent or objection to a proposal to be acted upon at a meeting of the Board of Directors. If the director is not present at the meeting, consent or objection to proposal does not constitute presence for purposes of determining a quorum, but consent or objection shall be counted as a vote of a director present at the meeting in favor of or against the proposal and shall be entered in minutes or other record of action at the meeting, if the proposal acted upon at the meeting is substantially the same or has substantially the same effect as the proposal to which the director has consented or objected.

**Section 7. Rules of Procedure.** The Board of Directors may adopt or establish rules of procedure for conducting meetings provided such rules are not inconsistent with the Corporation's Articles of Incorporation, these Bylaws or Minnesota law. In the absence of Board action the Chair of the Board of Directors shall establish rules of procedure for conducting meetings provided such rules are not inconsistent with the Corporation's Articles, these Bylaws or Minnesota law.

**Section 8. Action without Meeting.** An action required or permitted to be taken at a Board Meeting may be taken by written action signed by the number of Directors that would be required to take the same action at a meeting of the Board of Directors at which all Directors were present; provided, however, that a Board of Directors' action requiring Member approval may be taken by written action only if signed by all of the Directors then in office. If any written action is taken by less than all of the Directors entitled to vote, all Director's entitled to vote shall be notified immediately of its text and effective date. The failure to provide such notice, however, shall not invalidate such written action. A director who has not signed or consented to the written action has no liability for the action or actions taken thereby. A written action is effective when it is signed by all of the Directors required to take the action unless a different effective time is provided in the written action. A facsimile signature shall constitute a signature for these purposes.

**Section 9. Meeting by Means of Electronic Communication.** A conference among Directors by a means of communication through which the Directors may simultaneously hear each other during the conference constitutes a meeting of the Board of Directors if the same notice is given of the conference as would be required for a meeting, and if the number of Directors participating in the conference would be sufficient to constitute a quorum at the meeting. Participation in a meeting by this means is personal presence at the meeting. In addition, a Director may participate in a meeting of the Board of Directors by any means of communication through which the Director, other Directors participating and all Directors physically present at the meeting may simultaneously hear each other during the meeting.

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## ARTICLE VI. OFFICERS

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**Section 1. Number.** The Corporation shall have the following officers: (a) a President; (b) a Treasurer; and (c) Secretary. The Corporation may have one or more of the following officers: (a) a Chair of the Board of Directors, (b) one or more Vice Chairs, or (c) one or more Vice Presidents. They must be natural persons that the Board of Directors elects or appoints. Subject to these Bylaws, the Board of Directors may also elect or appoint one or more additional officers or assistant officers as it may deem convenient or necessary. Except as provided in these Bylaws, the Board of Directors shall fix the powers and duties of all officers.

**Section 2. Election and Term of Office.** All officers of the Corporation shall be elected annually by the Board of Directors. Officers of the Corporation need not be Directors of the Corporation and shall hold office at the discretion of the Board of Directors. An officer shall hold office until his or her successor shall have been elected or until his or her prior death, resignation or removal from office as hereinafter provided. An individual may hold more than one office of the Corporation at the same time.

**Section 3. Removal and Vacancies.** Any officer or agent elected or appointed by the Board of Directors shall hold office at the pleasure of the Board of Directors and may be removed at any time, with or without cause, by a resolution approved by the affirmative vote of a majority of the directors present. Any vacancy in an office of the corporation shall be filled by action of the Board of Directors. The removal of any individual as an officer of the Corporation shall not automatically affect such individual's employee status with the Corporation.

**Section 4. President.** Unless provided otherwise by a resolution adopted by the Board of Directors, the President shall have general active management of the business of the Corporation, shall preside at meetings of the Board of Directors in the absence of the Chair of the Board or if the office of Chair of the Board is vacant, shall see that all orders and resolutions of the Board of Directors are carried into effect, shall sign and deliver in the name of the Corporation any deeds, mortgages, bonds, contracts, or other instruments pertaining to the business of the Corporation, except in cases in which the authority to sign and deliver is required by law to be exercised by another person or is expressly delegated by the Articles, these Bylaws, or the Board of Directors to some other officer or agent of the Corporation, may maintain records of and certify proceedings of the Board of Directors, and shall perform such other duties as may from time to time be prescribed by the Board of Directors.

**Section 5. Treasurer.** Unless provided otherwise by a resolution adopted by the Board of Directors, the Treasurer shall keep accurate financial records for the Corporation, shall deposit all moneys, drafts, and checks in the name of and to the credit of the corporation in such banks and depositories as the Board of Directors shall designate from time to time, shall endorse for deposit all notes, checks, and drafts received by the Corporation as ordered by the Board of Directors, making proper vouchers therefor, shall disburse corporate funds and issue checks and drafts in the name of the Corporation as ordered by the Board of Directors, shall render to the President and the Board of Directors, whenever requested, an account of all such officer's transactions as Treasurer and of the financial condition of the Corporation, and shall perform such other duties as may be prescribed by the Board of Directors or the President from time to time.

**Section 6. Secretary.** The Secretary shall attend all meetings of the Board of Directors and be responsible for ensuring that all actions and the minutes of all proceedings of the Board of Directors are recorded in a book to be kept for that purpose, and shall be responsible for all documents and records of the Corporation, except those connected with the office of the Treasurer. He or she shall give or cause to be given any required notice of meetings of the Board of Directors, and shall mail to all Directors within thirty (30) days after each meeting copies of all said actions and minutes of said proceedings, and shall perform such other duties and have such other powers as the Board of Directors may from time to time prescribe.

**Section 7. Chair of the Board.** The Board of Directors may elect a Chair of the Board who, if elected, shall preside at all meetings of the Board of Directors and shall perform such other duties as may be prescribed by the Board of Directors from time to time.

**Section 8. Vice President(s).** The Vice President, if any, or Vice Presidents in case there be more than one, shall have such powers and perform such duties as the Board of Directors or the President may prescribe from time to time. In the absence of the President or in the event of the President's death, inability, or refusal to act, the Vice President, or in the event there be more than one Vice President, the Vice Presidents in the order designated by the Board of Directors, or, in the absence of any designation, in the order of their election, shall perform the duties of the President, and, when so acting, shall have all the powers of and be subject to all of the restrictions upon the President.

**Section 9. Other Officers.** The Board of Directors may appoint such Vice President(s), Vice Chair, Assistant Secretary or Assistant Treasurer(s) to perform the duties of and exercise the powers of the President, Chair, Secretary or Treasurer, respectively in the absence or disability of such officer. Any other officers shall hold office at the discretion of the Board of Directors and shall have such powers, perform such duties and be responsible to such other officers as the Board of Directors may prescribe.

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## ARTICLE VII. COMMITTEES

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**Section 1. Committees.** The Board of Directors may establish one or more committees. Such committees shall have the authority of the Board of Directors in the management of the business of the Corporation to the extent provided in such resolution. Committee members need not be Directors of the Corporation. Such committees, however, shall at all times be subject to the direction and control of the Board of Directors. Committee members must be natural persons.

**Section 2. Ex Officio Member.** The President of the Corporation, or a representative appointed by the President, shall be an ex officio member, without voting rights, of each committee of the Corporation.

**Section 3. Committee Procedures.** The provisions of these Bylaws shall apply to committees and members thereof to the same extent they apply to the Board of Directors and Directors, including, without limitation, the provisions with respect to meetings and notice thereof, absent members, written actions and valid acts. Each committee shall keep regular minutes of its proceedings and report the same to the Board of Directors.

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## ARTICLE VIII. FISCAL MATTERS

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**Section 1. Accounting Year.** The accounting year of the Corporation shall be the calendar year.

**Section 2. Contracts.** The Board of Directors may authorize such officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be either general or confined to specific instances. Contracts and other instruments entered into in the ordinary course of business may be executed by the President or, in the absence of or pursuant to a delegation by the President, by such officer designated to act in the place of or in the absence of the President, without specific Board of Directors authorization.

**Section 3. Loans.** No loans shall be contracted on behalf of the Corporation, and no evidence of indebtedness other than checks, drafts or other orders for payment of money issued in the ordinary course of business shall be issued in its name unless authorized by the Board of Directors of the Corporation. Such authorization and approval may be general or confined to specific instances.

**Section 4. Checks, Drafts, Etc.** All checks, drafts or other orders for the payment of money issued in the name of the Corporation shall be signed by such officer or officers, agent or agents of the Corporation and in such manner as shall be determined by resolution of the Board of Directors, or by the President or Treasurer upon delegation by the Board of Directors.

**Section 5. Deposits.** All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in such banks, trust companies or other depositories as the Board of Directors, or the President or Treasurer upon delegation by the Board of Directors may select.

**Section 6. Maintenance of Records; Audit.** The Corporation shall keep at its registered office correct and complete copies of its Articles and Bylaws, accounting records, voting agreements, and minutes of meetings of Members, Board of Directors, and committees having any of the authority of the Board of Directors for the last six (6) years. All such records shall be open to inspection upon the demand of any member of the Board of Directors of the Corporation and any Member of the Corporation. The Board of Directors shall cause the books and records of account of the Corporation to be audited by certified public accountants, to be selected by the Board of Directors, at least once in each fiscal year and at such other times as it may deem necessary or appropriate.

**Section 7. Corporate Seal.** The Corporation shall have no corporate seal.

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## ARTICLE IX. INDEMNIFICATION

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The Corporation shall indemnify its officers, Directors, Members and committee members against judgments, penalties, fines, including without limitation, excise taxes assessed against the person with respect to an employee benefit plan, settlements, and reasonable expenses, including attorneys' fees, and disbursements incurred by such persons in connection with a proceeding in which they are or are threatened to be made a party by reason of their action on behalf of the Corporation to the fullest extent permitted under Minnesota law. In order to avail himself or herself of this indemnification provision, however, a person must: (1) not already be indemnified by another organization in connection to the same proceeding and the same acts or omissions; (2) have acted in good faith with respect to the acts or omissions complained of; (3) have received no improper personal benefit; (4) in the case of a criminal proceeding, have had no reasonable cause to believe his or her conduct was unlawful; (5) in the case of a civil proceeding, have reasonably believed that he or she was acting in the best interests of the Corporation.

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## ARTICLE X. DIRECTOR CONFLICT OF INTEREST

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The President shall develop, for Board of Directors' approval, a conflict of interest policy that shall apply to all Directors, officers and committee members. Such policy shall require Directors, officers and committee members to annually acknowledge reviewing the conflicts of interest policy.

**ARTICLE XI. AMENDMENTS**

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The Corporation's Articles and these Bylaws may be altered, amended or restated by the Board of Directors to omit or include any provision which could be lawfully omitted or included at the time of such amendment, provided that the Members of the Corporation shall approve all such amendment(s) before the same shall become effective. Any number of amendments, or an entire revision or restatement of the Articles of Incorporation or these Bylaws, may be voted upon at a meeting of the Board of Directors, by action in writing or by means of electronic communication where due notice of the proposed amendment has been given and shall be adopted upon the affirmative vote of not less than two-thirds (2/3) of all Directors entitled to vote on the proposed amendment or revision and upon the approval of not less than two-thirds (2/3) of the Members of the Corporation. Notwithstanding the foregoing, the amendment of Articles II or III of these Bylaws must be approved by not less than two-thirds (2/3) of all Directors entitled to vote on the proposed amendment and by the unanimous consent of the Permanent Members.

**CERTIFICATION**

The undersigned, as Secretary of OPENACC-STANDARD.ORG, a Minnesota nonprofit corporation, hereby certifies that the foregoing Bylaws of the Corporation were adopted by written action as of the \_\_\_\_ day of \_\_\_\_\_, 201\_\_.

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Secretary