

**FIRST AMENDED AND RESTATED BYLAWS (“BYLAWS”)  
OF  
HDMI FORUM, INC. (“FORUM”)**

A nonprofit mutual benefit corporation

**1 OFFICES**

**1.1 Principal Office**

The principal office of the Forum shall be located at 1211 SW Fifth Avenue, Suite 1900 Portland, OR 97204. The designation of the Forum’s principal office may be changed from time to time by the Board of Directors, which change of address shall be effective upon written notice to all Members.

**1.2 Other Offices**

The Forum may also have offices at such other places, within or without of the State of Delaware, where it is qualified to do business, as its business and activities may require, and as the Board of Directors may, from time to time, designate.

**2 DEFINITIONS**

**“Administrator”** shall mean a contracted service provider whose duties and responsibilities are set forth in Section 9.8 below. The Administrator is not a member of the Board of Directors.

**“Affiliate”** or **“Affiliates”** means any entity, now or hereafter, that is controlled by, under common control with or that controls the subject party. For purposes of this definition “control” means direct or indirect control of more than fifty percent (50%) of the voting power to elect directors of a corporation in the case of a corporate entity, or for any other entity, the power to direct management of such entity.

**“Board of Directors”** has the meaning set forth in Section 7 of the Bylaws. For the purpose of this Agreement the term **“Board”** shall have the same meaning as **“Board of Directors”**.

**“Bylaws”** means these BYLAWS OF HDMI FORUM, INC.

**“Code”** shall mean the Internal Revenue Code of 1986, as amended from time to time.

**“Compliant Portion”** means only those specific portions of a product (hardware, software or combinations thereof) that implement and are compliant with all relevant Normative Requirements of the Final Specification. **“Normative Requirements”** means those portions of the Final Specification, including text, design features, and tables, that are expressly identified as required for compliance with the Final Specification including those portions of an optional or alternative portion of the Final Specification that are identified as required for compliance with such optional or alternative portion. For clarity, those portions of the Final Specification, including any portions of an optional or alternative portion thereof, which are designated by the terms “must”, “shall”, “mandatory”, “normative” or “required” are expressly identified as being required for compliance. For the avoidance of doubt, Compliant Portion does not include any

portions of a product that implement and are compliant solely with Formerly Adopted Specifications. In the event that a product contains one or more portions that implement and are compliant with, respectively, the Final Specifications and the Formerly Adopted Specifications, such portions shall collectively be considered a Compliant Portion.

**“Confidential Information”** means only information that is (i) marked or designated as “Confidential” by the disclosing party at the time of disclosure or (ii) approved and designated as “Confidential Information” by act of the Board of Directors in accordance with Section 7.6.8, as well as any copies or abstracts of any of the above information and portions of minutes of any General Meeting or Working Group meeting. Notwithstanding the foregoing, Confidential Information shall not include any information that is (a) rightfully in the public domain other than by a breach of a duty to the disclosing party; (b) rightfully received from a third party without any obligation of confidentiality; (c) rightfully known to the receiving party without any limitation on use or disclosure prior to its receipt from the disclosing party; (d) independently developed by employees of the receiving party without reference or access to any Confidential Information; or (e) generally made available to third parties by the disclosing party without restriction on disclosure.

**“DGCL”** shall mean the Delaware General Corporation Law, as it may be amended from time to time.

**“Draft Errata”** means all versions of documents designated by the Technical Working Group that, if adopted as a Final Erratum, would correct one or more technical, grammatical, or other errors in and/or clarify an ambiguity in an existing Final Specification but make no other modifications to such Final Specification. Without limiting the generality of the foregoing, a Draft Erratum may not purport to add new features, functionality, or Normative Requirements to an existing Final Specification, but may correct an error in or clarify an ambiguity regarding existing features, functionality, or Normative Requirements of a Final Specification.

**“Draft Specification”** means all versions of documents designated by the Technical Working Group for the purpose of creation, addition or modification of an existing specification hereunder.

**“Entity”** means any corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization or governmental body or other legal entity having interest in participating in one of the activities of the Forum.

**“Final Erratum”** means the final draft version and contents of a Draft Erratum approved by the Technical Working Group and adopted by the Board of Directors as a Final Erratum pursuant to Section 8.2 of the Bylaws.

**“Final Specification”** means the final draft version and contents of the Draft Specification approved by Technical Working Group and adopted by the Board of Directors as the Final Specification pursuant to Section 8.2 of the Bylaws together with and including any Final Errata thereto. For the avoidance of doubt, it does not include the Formerly Adopted Specifications.

**“Formerly Adopted Specifications”** means all specifications which had been already adopted by HDMI Founders, i.e., HDMI Specification Version 1.0 through HDMI Specification Version 1.4b.

**“Forum”** shall mean HDMI Forum, Inc.

**“Forum Meeting”** means all General Meeting(s), the Working Group(s) meeting or other meeting held by the Forum in any manner authorized by Bylaws.

**“General Meeting”** means the meetings as described in Section 6.

**“HDMI Founders”** means Hitachi Consumer Electronics Co., Ltd., Koninklijke Philips Electronics N.V., Panasonic Corporation, Silicon Image, Inc., Sony Corporation, Technicolor S.A. and Toshiba Corporation, or their successors.

**“HDMI Licensing Administrator”** means HDMI Licensing Administrator, Inc., which acts as agent for licensing and promoting the Formerly Adopted Specifications and related IPRs.

**“IPR Policy”** means the policy as set out in Annex B hereto and constitutes part of the Bylaws.

**“IPRs”** mean patent rights, utility model rights, rights deriving from inventor’s certificates and other equivalent rights under any laws or international treaties or conventions, technical information, know-how, trade secrets, copyrights, and other intellectual property rights conferred by statute or law.

**“Licensee”** means any Entity which takes a license from the HDMI Forum to the Final Specifications.

**“Majority Vote”** means an affirmative vote of more than fifty percent (50%) of the total number of the Members entitled to vote on such matter and present for such vote (telephonically, electronically, in writing, by proxy, or physically, as applicable); provided that the following numbers shall not be counted in the denominator in the calculation of fifty percent (50%) above: (1) number of abstention, and (2) number of the Members who did not vote.

**“Member”** shall mean an Entity which has qualified as a member of the Forum pursuant to the Bylaws and continues to comply with the requirements as set forth in these Bylaws.

**“Membership”** means the status of being a Member of the Forum.

**“Membership Fee”** means the fees to be paid by an Entity to become a Member as set forth in Section 4.3 below.

**“Necessary Claims”** means the claims of all patents, and patent applications to the extent such applications issue as patents throughout the world, which are necessarily infringed in order to implement and comply with the Final Specification, where such infringement could not have been avoided by another non-infringing implementation of such Final Specification. Necessary Claims shall not include: (a) claims necessarily infringed to implement and comply solely with the Formerly Adopted Specification; (b) informative implementation examples included in the Final Specification; (c) claims, which if subject to the non-assertion covenant hereunder, would require the payment of monetary consideration by the party making the non-assertion covenant to third parties (which shall not include Affiliates or employees within the scope of their employment); (d) claims relating to semi-conductor materials, semi-conductor manufacturing apparatus, semi-conductor manufacturing methods, semi-conductor circuit designs; (e) claims relating to copy protection technology; (f) claims necessarily infringed to make a compliant

implementation with non-HDMI industry standards (including, without limitation, HDCP, E-DDC, E-EDID, I2C, CEA861 and Project 50) referenced in Formerly Adopted Specifications or the Final Specifications, except to the extent that such claims are necessarily infringed to make a compliant implementation of those portions of the HDMI on the product which do not implement or comply with corresponding non-HDMI industry standards; or (g) claims not necessarily infringed in implementing and complying with the Final Specification even if in the same patent as Necessary Claims.

**“Other Working Group”** has the meaning set forth in the Section 8.3 of the Bylaws.

**“Participation Agreement”** shall mean the form of agreement adopted by the Board of Directors and required to be signed by any Entity wishing to become a Member of the Forum.

**“Patent Beneficiary”** means (i) in the case of a Member, Member and its Affiliates and (ii) in the case of a Licensee, a Licensee and its Affiliate, who receives the benefit of the patent non-assert set forth in the IPR policy.

**“President”** means the Chief Executive Officer of the Forum whose duties and responsibilities are set forth in Section 9.5 below.

**“Secretary”** means the secretary of the Forum whose duties and responsibilities are set forth in Section 9.7 below.

**“Submitted Material”** means the copyrighted material submitted by a Member for inclusion in a Draft Specification, Draft Erratum, Final Specification, and/or a Final Erratum.

**“Technical Working Group”** has the meaning set forth in the Section 8.1 of the Bylaws.

**“Treasurer”** means the treasurer of the Forum whose duties and responsibilities are set forth in Section 9.6 below.

**“Working Group(s)”** means the Technical Working Group and Other Working Groups.

**“Work Product”** means the materials produced in or by committees and/or Working Groups.

### **3 PURPOSES**

The Forum is a non-profit mutual benefit corporation formed for purposes of achieving Members’ common business interest in developing and maintaining technological standards to be implemented into the Final Specifications which may be utilized by Members’ and Licensees’ various competing products, thereby improving the business conditions of the electronics industry (**“Purpose”**). To achieve these Purposes, the Forum will undertake activities including, but not limited to the following:

- a. creating and developing specifications and solution for additional and improved functionality to Formerly Adopted Specifications in line with the Scope as defined in the IPR Policy of this document;
- b. encouraging and promoting the adoption and widespread utilization of its Final Specifications, including, providing information to those who are interested;

- c. supporting the creation and maintenance of an ecosystem of interoperable products;
- d. providing an open, fair, reasonable and non-discriminatory licensing program with respect to its Final Specifications; and
- e. promoting the Final Specifications and conducting its activities in conformance with all applicable laws, ordinances, rules and regulations, expressly including antitrust laws and regulations.

For the avoidance of doubt, the Purposes of the Forum do not prevent or obstruct any Member in any way from participating in or from supporting any research or development for any format standard which might be viewed as a competitive standard format to its specifications; provided, however, that such participation or support of research and development shall not violate any confidentiality obligations hereunder.

## **4 MEMBERSHIP**

All Members are required to observe the Bylaws to be covered by an executed Participation Agreement as a condition of becoming and remaining Members of the Forum.

### **4.1 Classes of Participation.**

There shall be one class of Membership: Member. Subject to the Participation Agreement, the Certificate of Incorporation and the Bylaws, or provisions of law, the Members shall be entitled to (i) attend the Technical Working Group to participate in format development activities; (ii) access to its technical specifications developed through the format development activities for such format development purposes only; (iii) attend all General Meetings and Other Working Groups established by the Forum; and (iv) nominate a candidate and vote personnel to serve as a Board of Director.

### **4.2 Qualifications of Membership.**

The Forum shall be open for participation by any Entity.

In order for any Entity to become a Member of the Forum, such Entity shall be required to: (i) submit an application to become a Member to the Administrator; (ii) receive an approval from the Board of Directors or the incorporator in the absence of a Board of Directors; and (iii) properly execute the Participation Agreement.

All applications for Membership shall be submitted to the Administrator pursuant to the procedural instructions provided by the Administrator. The Administrator shall be entitled to make inquiries to any applying Entity as to any vague statement on the application from the Entity, its legal status, its contact information, its organizational background, actual activities in the past and/or constituting equity holders of the Entity only to the extent that the Administrator wishes to clarify the intention stated on the application or confirm that the applying Entity has standing to comply with and fulfill the rules and obligations, including but not limited to confidentiality obligation, under the Bylaws.

With respect to the approval by the Board of Directors or the incorporator in the absence of a Board of Directors as set forth in the above (ii), the Board of Directors or the incorporator

shall approve an application of such applying Entity, unless the Board of Directors finds a legitimate cause of disqualification based upon inquiries by the Administrator.

“A legitimate cause of disqualification” shall mean where:

- (a) The Administrator cannot verify information described in the application of such applying Entity, such as its legal status, its contact information or its organizational background and such applying Entity fails to provide adequate response or does not respond within reasonable period of time after inquiry from the Administrator as set forth above; or
- (b) Such applying Entity or its Affiliates had or have any association with “hacking”, copyright violation or any other unlawful activity which is not consistent with the Purposes of the Forum; or
- (c) Such applying Entity or its Affiliates has had its Membership terminated for a breach of any of the Bylaws or applicable agreements of the Forum; or
- (d) The Administrator, the Board of Directors, or the incorporator reasonably believe that there are objective indications that such applying Entity is either unable or unwilling to comply with the policies, procedures and duties of participation as set forth under this Bylaws.

An Entity whose admission has been rejected shall have the right to appeal the Board of Directors' decision to a single neutral arbitrator (“**Arbitrator**”) for final and binding settlement in accordance with the Arbitration Rules of the International Chamber of Commerce. The Arbitrator shall not admit such Entity if such Entity has not proven clearly and convincingly to the Arbitrator that exclusion from the Forum gives rise to an appreciable competitive disadvantage for such Entity in the relevant market or markets. If such Entity has provided such proof, the Arbitrator shall admit such Entity only if such Entity agrees to meet the requirements for Members as set forth in the Bylaws, applied in accordance with applicable law. The place of arbitration shall be San Francisco, California, USA. The arbitral procedure shall be conducted in the English language. This arbitration clause is a third-party beneficiary clause. If such Entity avails itself of this clause, the Arbitrator shall have exclusive competence.

#### **4.3 Membership Fee.**

The annual dues payable to the Forum by Members (“**Membership Fee**”) shall be established and may be changed from time to time by resolution of the Board of Directors, subject to the approval by the General Meeting under Section 6.4. Initial dues shall be due and payable upon execution of the Participation Agreement according to terms defined in the Participation Agreement.

#### **4.4 Number of Members.**

There is no limit on the number of the Members the Forum may admit. All entities that are Affiliates of each other shall be permitted only one Membership in the Forum.

Any Affiliate of a Member shall possess the same rights to participate in the Forum Meetings as such Member, so long as such Member shall remain a Member, subject to the terms and conditions of the Bylaws; however, no Affiliate shall enjoy any voting rights by virtue of its being an Affiliate of a Member. An Affiliate can only vote on behalf of its Member. Any

Affiliate is bound by the same rules and obligations hereunder as the Member and the Member will be jointly and severally responsible with its Affiliate for all legal and other consequences in the event of any breaches of the Bylaws by one of its Affiliates.

#### **4.5 Participation Roll.**

The Forum shall keep a participation roll containing the name and address including electronic mail addresses, of each Member, the date upon which the applicant became a Member, and the name of one (1) individual from each Member who shall serve as a primary contact for the Forum, receive all correspondence and information, distribute this information within his or her organization, including those of such Member's Affiliates, if appropriate, and vote on all issues submitted to a vote of the Members. Termination of the participation of any Member shall be recorded in the roll, together with the date of termination of such participation. Such roll shall be kept at the Forum's principal office. Participation in the Forum is a matter of public record. The Forum shall use addresses and other contact information provided by Members on their Participation Agreements. If the address or other contact information of a Member changes it shall be the responsibility of the Member to provide the Forum with updated information.

#### **4.6 Nonliability of Members.**

No Member of the Forum, as such, shall be individually liable for the debts, liabilities, or obligations of the Forum.

#### **4.7 Nontransferability of Membership.**

All rights of Membership cease upon the Member's dissolution. No Participation Agreement may be assigned to third parties without the prior written consent of the Forum, which decision shall be made by the Board of Directors, and any purported assignment without such written approval shall be null and void.

#### **4.8 Termination of Membership.**

The Membership of a Member shall terminate upon the occurrence of any of the following events:

##### **4.8.1 Failure to Renew Membership.**

Upon a failure to initiate or renew Membership by paying Membership Fee on or before their due date, such termination to be effective thirty (30) days after a written notification of delinquency is given personally or mailed to such Member by the Administrator of the Forum. A Member may avoid such termination by paying the amount of delinquent dues within a thirty (30) day period following the Member's receipt of the written notification of delinquency.

##### **4.8.2 Resignation.**

A Member may resign from the Forum at any time by providing written notice to the Administrator. Such resignation shall terminate the Member's Membership effective on the earliest of the indicated date of such written notice, a post marked date, or an electronic transmission date of such written notice. Upon receiving a resignation notice, the Administrator shall confirm resignation of the Member and confirm the effective date of the termination of the Member's Membership.

##### **4.8.3 Violation of Policies or Duties of Membership.**

Upon unanimous vote of all disinterested Directors when such Directors determine, after

affording the Member in question the right to be heard on the issue, that the Member has violated the policies, procedures and duties of participation herein, including the requirements for Membership as stated in Section 4.2 above and failed to cure where, in the discretion of the disinterested Directors of the Board of Directors, such violation can be cured.

#### **4.8.4 Member's Dissolution.**

Upon a Member's dissolution, in the event that two (2) or more Members are merged or a Member is acquired by another Member, the resulting entity shall have only one (1) Membership and one (1) vote in all Member votes thereafter. The former voting Member may, however, upon written notice to the Board, be permitted to continue attendance at applicable meetings on a nonvoting basis and be provided with notices thereof for the remainder of such former voting Member's original participation period.

### **4.9 Rights of Participation.**

#### **4.9.1 Equal Rights and Obligations.**

For the avoidance of doubt, Members with employees serving on the Board of Directors or otherwise in the officers of the Forum or participating in Working Groups shall not, merely by reason of such participation, incur any different intellectual property related rights or obligations than are incurred by other Members.

#### **4.9.2 Termination of Participation Rights.**

All rights of a Member in the Forum shall cease on termination of Membership as herein provided. Upon termination of its Membership or the dissolution of the Forum, a Member shall not be entitled to receive any refund of dues already paid for the unexpired part of the current dues period.

### **4.10 Survival.**

Upon termination in accordance with this Section 4, the ex-Member's rights and obligations under these Bylaws shall cease, except that any obligation as a Member which accrued before such termination, including, but not limited to the obligation of non-assertion covenant and the licenses granted by such ex-Member (and its Affiliates) under the IPR Policy (but only within the scope as set forth in Section 7 of the IPR Policy ), and the obligations of confidentiality under Section 10.9, shall remain in full force and effect and survive termination.

### **4.11 Distribution of Assets upon Dissolution.**

Upon a dissolution of the Forum, and after all of the known debts and liabilities of the Forum have been paid or adequately provided for in accordance with applicable state and federal corporate laws, any remaining net assets of the Forum shall be distributed by the Board of Directors to one (1) or more organizations selected by the Board of Directors which will help to further the purposes of the Forum. No part of the Forum's net earnings will inure to the benefit of any Member, director or private person. Any such plan of distribution will be conducted in a manner consistent with Code Section 501(c) (6).

### **4.12 Notices to Members.**

Any notices that are required or permitted to be provided to the Members in writing under the Certificate of Incorporation, these Bylaws, or applicable law may be sent via electronic mail, U.S. or international postal service, or internationally recognized courier to each Member at its



electronic mail address or postal mailing address as it appears on the records of the Forum.

## **5 INTELLECTUAL PROPERTY RIGHTS**

### **5.1 Intellectual Property Rights Policy (“IPR Policy”).**

IPR Policy is in the form set out in Annex B hereto as part of the Bylaws.

### **5.2 License Terms of Formerly Adopted Specifications Provided For the Purpose of the Forum Specification Development.**

The license terms of Formerly Adopted Specifications to be provided to the Members by HDMI Founders for the purpose of the Forum’s specification development shall be subject to a separate license agreement to be executed between the Forum and HDMI Founders. The Members shall not use the Formerly Adopted Specifications for any other purpose than expressly authorized in such separate license agreement.

## **6 GENERAL MEETING AND VOTES OF THE MEMBERS**

### **6.1 Objectives and Activities.**

A General Meeting shall be held once a year upon the call of the Board of Directors. Such meeting shall be notified by the Administrator in writing to all Members at least thirty (30) days prior to the scheduled meeting date. At each General Meeting, the Board of Directors shall report a summary of the activities of the Forum during the past year, as well as the plan for the next year’s activities.

### **6.2 Participants.**

All Members shall be entitled to attend and participate in discussions at the General Meetings.

### **6.3 Organization.**

The General Meeting shall be presided over by one (1) or more members of the Board of Directors, who may make this duty the subject of rotation by and amongst themselves.

### **6.4 Decisions by General Meeting.**

At a General Meeting, the presence in person or by a proxy of at least fifty percent (50%) of all Members shall constitute a quorum. For clarity, a Member who is present in person or by proxy at a meeting shall be deemed present for the purpose of constituting a quorum even if such Member abstains from voting on one or more matters at such meeting. Decisions may only be made at a General Meeting if such quorum is established. Only Members who reached such status as of thirty (30) days prior to such General Meeting shall be entitled to vote at such General Meeting and shall be counted in the denominator for the purpose of determining the existence of a quorum. Each such Member shall have one (1) vote for each decision in the General Meeting, which vote may be made in person, by a proxy or in writing, the manner of which shall be designated by the Board of Directors.

The General Meeting shall approve or make decisions on the following:

- (a) annual Membership Fees proposed by the Board of Directors;
- (b) annual statement for the applicable year of accounts for the Forum submitted by the Board of Directors;
- (c) annual budget for the next year of the Forum prepared by the Board of Directors;
- (d) amendments to these Bylaws, if applicable; and
- (e) annual Board of Directors fees proposed by the Board of Directors.

Provided that the quorum has been reached, decisions taken at the General Meeting shall require a Majority Voting of all those Members present and entitled to vote at such meeting.

### **6.5 Action by Written or Electronic Ballot.**

Except as otherwise provided under the Certificate of Incorporation, these Bylaws, or applicable law, any action that may be taken at any meeting of Members may be taken without a meeting or in conjunction with a meeting by written or electronic ballot. Written or electronic ballots shall be solicited by written notice to all Members entitled to vote on the matter that:

- (a) Describes in reasonable detail the matter to be voted upon by the Members;
- (b) Indicates the number of responses needed and the percentage of approvals necessary to pass the proposed measure; and
- (c) Specifies the time by which the ballot must be received by the Forum in order to be counted, which time shall not be less than fourteen (14) days from the date of such notice.

Action by written or electronic ballot shall be valid only when the number of ballots duly submitted (including without limitation ballots indicating abstention) equals or exceeds the quorum that would be required to be present at a meeting authorizing the action, and the number of affirmative votes equals or exceeds the number of affirmative votes that would be required to approve the action at a meeting at which the total number of members present who were entitled to vote was the same as the number of ballots submitted. An electronic ballot must allow the Forum to determine (a) that the electronic ballot was transmitted by the Member and (b) the date on which such Member transmitted the electronic ballot. An electronic ballot shall be delivered upon receipt by the Forum through electronic means specified pursuant to the electronic ballot or its instructions and upon being recorded in the corporate records of the Forum (electronically or in paper form). The Board of Directors may, upon notice to the Members, extend the time period to submit ballots to the Forum if the ballots received in the original time period specified in the solicitation notice do not meet the foregoing quorum requirements, subject to the requirements of the DGCL.

## **7 BOARD OF DIRECTORS**

### **7.1 Powers.**

The Board of Directors shall serve as the executive body of the Forum. Subject to the limitations of the Certificate of Incorporation, of the Bylaws, and of the DGCL and subject to the duties of

Directors as prescribed by the Bylaws, the Board of Directors shall be responsible for administration of the Forum and shall have the power to select and remove all officers, agents, employees and contractors, and to fix reasonable compensation thereof, to authorize and empower officers or agents to enter into contracts and other commitments on behalf of the Forum, and to appoint and delegate responsibilities and authority to committees, officers and agents.

## **7.2 Qualification, Appointment and Election of Directors.**

### **7.2.1 Qualification.**

Directors shall be employees of a Member or its Affiliates. For purposes of the Bylaws, a Member and its Affiliates shall be deemed to be one (1) Member.

### **7.2.2 Appointment and Election.**

All Directors shall be elected at an election of Directors to be held every two (2) years. The detailed procedures for the election and the number of the Directors to be elected shall be determined by the Board of Directors that conducts the election. Only Members may nominate candidates to serve as Directors. Only one employee of a Member may run for election; if more than one employee of a Member is nominated, such Member must designate only one of such nominees who will run for election, and the nominations of such Members' other employees shall automatically be deemed cancelled and withdrawn. The initial Board of Directors shall be elected by the then-current Members from among the duly nominated candidates.

### **7.2.3 Board of Directors Fees**

Each Member that has a representative Director serving as a member of the Board of Directors shall pay an annual fee equal to five thousand US Dollars (US\$5,000), payable within thirty (30) days of such Director first serving on the Board of Directors and within thirty (30) days of any anniversary date thereof for the length of time the Director serves on the Board of Directors. Once paid, all Board of Director fees are nonrefundable for any reason, including termination of Member's Membership or resignation or removal of a Director. For the avoidance of doubt, a Member shall not be required to pay an additional annual Board of Directors fee in the event that a representative Director is replaced by a new representative Director during the annual term of such directorship.

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

The Board of Directors (referred to herein individually as “**Directors**”) shall consist of a maximum of fifteen (15) Directors and a minimum of three (3) Directors. Within this range, except as otherwise provided in these Bylaws, the number of Directors shall be fixed from time to time by the Board of Directors.

### **7.3.1 General Rules of the Board Election.**

Each Member shall be entitled to cast as many votes as there are places on the Board, allocating no more than one (1) vote per candidate. The candidate having received the greatest number of votes shall be declared elected, as shall the candidate having received the second greatest number of votes, continuing in descending order until the number of Directors fixed by the Board of Directors have been named. Where two (2) or more candidates receive the same number of votes (“**tied candidates**”) and this number is high enough to result in election by the method described, all shall be declared elected, and, if

necessary, the number of Directors previously fixed by the Board of Directors shall automatically be increased to permit election of all such persons, unless that would result in a maximum number specified in this Section 7.3 being exceeded. In that case there shall be a further ballot to decide which of the tied candidates shall be elected. In such case, Members shall dispose of a number of votes equal to the number of outstanding places on the Board and cast their votes by allocating one (1) vote only to each of their preferred tied candidates. If necessary, this process shall be repeated until all of the places available on the Board have been allocated.

#### **7.4 Vacancies; Resignations.**

Vacancies on the Board of Directors shall exist whenever: (1) a Director resigns from the Board of Directors in accordance with this Section 7.4; (2) a Director resigns from or is terminated from employment by the Member's organization employing such Director ("**Member as Employer of Director**") during the term of the Director's appointment, which includes death or disqualification; (3) a Member as Employer of Director terminates its Membership of the Forum; (4) a Director is removed from office by the Member as Employer of Director; and (5) the non-breaching Board of Directors decides that a certain Director has breached the terms and conditions set forth under this Bylaws.

Any Director may resign effective upon giving written notice to the President, the Secretary, Administrator or the Board of Directors. No Director may resign if the Forum would then be left without a duly appointed Director or Directors in charge of its affairs, except upon notice to the Office of the Attorney General or other appropriate agency of the State of Delaware.

The Member as Employer of Director employing the resigning or removed Director shall replace that Director with another employee or representative by providing the Secretary or Administrator with written notice of the same within thirty (30) days after the effective date of the Director's resignation, termination or removal. The Board of Directors may not otherwise fill a vacancy existing under this Section 7.4. Except as otherwise herein provided, a Director shall be ineligible to serve as a Director and such person's term of office shall immediately cease if the Director's employment with the Member as Employer of Director is for any reason terminated. A person appointed to fill a vacancy on the Board shall hold office until the remaining office terms of his or her predecessor.

In the event that two (2) or more Members as Employer of Director are merged or one (1) Member as Employer of Director is acquired by another Member as Employer of Director, the resulting or acquiring Member as Employer of Director shall designate which of the Directors is to remain on the Board and the term of office of the other Director or Directors will cease from the Board immediately upon the closing of the acquisition or merger.

#### **7.5 Chairman of the Board.**

The Chairman of the Board ("**Chairman**") presides at all meetings of the Board of Directors, and is a voting member of the Board. The Chairman shall have such other powers and duties as may be designated from time to time by the Board of Directors. The Chairman may be appointed on a two-yearly basis from the date of appointment by the Board of Directors. Any removal from the Chairman position does not limit the rights as a member of the Board of Directors. The appointment or the removal of the Chairman is considered an act of the Board. The Chairman shall lose his or her status, upon such Chairman losing his or her status as a Director of the Board.

## **7.6 Meetings.**

### **7.6.1 Place of Meetings.**

Board of Directors' meetings shall be held at places and times as may be agreed to by a majority of the Board of Directors. Meetings may be held in person, by audio, or videoconferencing techniques or any other means or combinations thereof permitted under the DGCL.

### **7.6.2 Regular Meetings.**

Regular Meetings of the Board of Directors shall be held prior to the General Meeting of the Members.

### **7.6.3 Special Meetings.**

Special Meetings of the Board of Directors may be called by any one-third (1/3) of the then current Board of Directors, or, if different, by the persons specifically authorized under the DGCL to call Special Meetings of the Board. On the occasion of a Special Meeting, the Board shall aim to set one or more subsequent meeting dates.

### **7.6.4 Notice of Meetings.**

Unless otherwise provided by the Certificate of Incorporation, the Bylaws, the DGCL or provisions of law, the following provisions shall govern the giving of notice for meetings of the Board of Directors:

- a. Regular Meetings. The Administrator shall give at least sixty (60) days' prior notice to each Director.
- b. Special Meetings. The Administrator shall give at least fourteen (14) days' prior notice to each Director.

The primary means for the provision of notice shall be via electronic mail to the Director at the electronic mail address as it appears on the records of the Forum, provided that the Director to be contacted shall acknowledge personal receipt of the electronic message by a return electronic message or telephone call within three (3) business days of the first notification. If notification is provided by mail (including the U.S. Postal Service, express courier services and the like), such notice shall be deemed to be delivered when deposited in the mail addressed to the Director at his or her address as it appears on the records of the Forum, with postage prepaid. Personal notification may also include notification by telephone, facsimile, or other electronic means; provided, however, such notification shall be subject to any and all acknowledgment requirements as may be set forth in the DGCL, as it may be amended from time to time.

### **7.6.5 Consent to Meetings.**

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

records and made a part of the minutes of the meeting.

**7.6.6 Action without Meeting.**

Any action required or permitted to be taken by the Board of Directors under any provision of the DGCL may be taken without a meeting if all Directors of the Board shall consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board. Such action by written consent shall have the same force and effect as a unanimous vote of such Directors.

**7.6.7 Telephone or Videoconference Meetings.**

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

**7.6.8 Quorum and Action of Board of Directors.**

Seventy percent (70%) of the Directors in office shall be necessary to constitute a quorum for the transaction of business, except to adjourn as hereinafter provided. Suspended Directors and vacant seats shall not be counted as “Directors in office” for purpose of the foregoing quorum requirements. Unless otherwise expressly specified hereunder, every act or decision done or made by three-fourths (3/4) of the Directors present at a meeting duly held at which a quorum is present shall be regarded as the act of the Board of Directors. An abstention vote shall not be counted in the denominator for the purpose of calculating the Directors present for that vote.

**7.6.9 Adjournment.**

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

**7.6.10 Conduct of Meetings.**

Meetings of the Board of Directors shall be presided over by a Chairman of the Board of Directors, or in his or her absence, by an acting Chairman chosen by a majority of the Directors present at that meeting. The Secretary of the Forum shall act as secretary of all meetings of the Board, provided that, in his or her absence, the presiding officer shall appoint another person to act as Secretary of the Meeting. Meetings shall be governed by such procedures as may be approved from time to time by the Board, insofar as such rules are not inconsistent with or in conflict with the Certificate of Incorporation, the Bylaws, DGCL or with other provisions of law. Where practical, the Board of Directors will model its procedures and actions on *Robert's Rules of Order*, although the Board shall not be required to adopt *Robert's Rules of Order* in its entirety or any part thereof.

**7.7 Compensation.**

Directors shall serve without compensation by the Forum.

### **7.8 Standard of Conduct.**

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

- a. One (1) or more officers or employees of the Forum whom the Director believes to be reliable and competent in the matters presented; or
- b. Legal counsel, independent accountants or other professionals as to matters which the Director believes to be within such person's professional or expert competence; or
- c. A committee of the Board upon which the Director does not necessarily serve, as to matters within the committee's designated authority, which committee the Director believes to merit confidence. Provided that, in any such case, the Director acts in good faith, after reasonable inquiry when the need therefore is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted.

### **7.9 Self-Dealing Transactions.**

As used in this Section 7.9, a “self-dealing contract” is any contract or transaction, other than those between the Forum and HDMI Licensing Administrator that are reasonably associated with the performance of HDMI Licensing Administrator’s obligations and the exercise of its rights hereunder, (i) between the Forum and one (1) or more of its Directors, or between the Forum and any corporation, firm or association in which one (1) or more of the Directors or, to the best of each respective Director’s knowledge at the time the contract or transaction is proposed, or thereafter, one (1) or more members is employed or has a material financial interest, or (ii) between the Forum and a corporation, firm or association of which one (1) or more of its directors or employees or consultants are Directors of the Forum (collectively, “**Interested Director(s)**”). The Director shall not engage in any self-dealing contract. Notwithstanding the foregoing, pursuant to the DGCL, no self-dealing contract shall be deemed to be in breach of this Section 7.9 and void or voidable because such Interested Director(s) or corporation, firm or association is a party or because such Interested Director(s) are present at the meeting of the Board or committee which authorizes, approves or ratifies the self-dealing contract, if:

- a. The material facts as to the Interested Director’s relationship or interest and as to the self-dealing contract are disclosed or are known to the Board of Directors or committee, and the Board of Directors or committee in good faith authorizes the self-dealing contract by the affirmative votes of two-thirds (2/3) of the disinterested Directors, even though the disinterested Directors be less than a quorum; or
- b. The self-dealing contract is fair as to the Forum as of the time it is authorized, approved or ratified, by the Board of Directors or committee

## 8 WORKING GROUPS

### 8.1 **The Technical Working Group.**

The Forum shall organize the Technical Working Group which shall carry out the development activities of the Draft Specifications and Draft Errata and shall approve Final Specifications and Final Errata. Participation on the Technical Working Group shall be open to all Members. The participating Members of the Technical Working Group may appoint a chairperson of the Technical Working Group and carry out the development activities under the written rules and procedures to be adopted, and from time to time amended by the Technical Working Group, subject to ratification by the Board of Directors.

### 8.2 **Process for Approval of a Draft Specification or Draft Erratum.**

- a. The Technical Working Group shall have the responsibility for drafting and developing Draft Specifications after the adoption by the Board of Directors of the submitted market requirements for the Draft Specifications taking into consideration the Scope and Purposes of the Forum. The Technical Working Group shall if so directed by the Board of Directors, and may on its own initiative, draft and develop Draft Errata to correct errors or clarify ambiguities identified in an existing Final Specification. When the chairperson of the Technical Working Group determines, in accordance with procedures to be developed by the Technical Working Group as set forth in Section 8.1 above, that a Draft Specification or Draft Erratum is sufficiently substantial and defined so as to provide for meaningful review by the participants of the Technical Working Group, he or she shall propose to initiate a review period of at least fourteen (14) days for a Draft Erratum and forty-five (45) days for any Draft Specification (“**Review Period**”). At the outset of the Review Period, the Draft Specification or Draft Erratum shall be made available to all Members of the Forum. The Technical Working Group shall have the right to consider observations made during the Review Period.
- b. Either the Board of Directors or the chairperson of the Technical Working Group may determine that a proposed revision to a Final Specification is a Draft Erratum; if no such determination is made, the proposed revision will not be deemed a Draft Erratum. If the chairperson of the Technical Working Group determines that a proposed revision is a Draft Erratum, the chairperson shall notify the Board of Directors of such determination promptly and prior to commencement of the Review Period. If the Board of Directors disagrees with the Technical Working Group chairperson’s determination that a revision is a Draft Erratum, the Board of Directors may override such determination and extend the Review Period to not less than forty-five (45) days from the date of its commencement, and the Members of the Forum shall be promptly notified of such extension.
- c. For clarity, the purpose of the Review Period is to enable review, discussion, feedback, and evaluation of and regarding Draft Specifications and Draft Errata. Although the Members of the Forum and Technical Working Group are not prohibited from investigating, disclosing, or evaluating Necessary Claims or other intellectual property rights owned or controlled by Members or non-Members, these Bylaws are not intended to require any such investigation, disclosure, or evaluation during a Review Period or otherwise.
- d. If, upon completion of the Review Period, the Technical Working Group approves such Draft Specification or Draft Erratum by Majority Vote of all participants of the Technical



Working Group who have attended not less than two (2) of the previous three (3) meetings, the Draft Specification or Draft Erratum, as the case may be, may be proposed to the Board of Directors for adoption as a Final Specification or Final Erratum of the Forum. If the Board of Directors fails to adopt such Draft Specification or Draft Erratum, it shall be returned to the Technical Working Group.

- e. For avoidance of doubt, the term “Final Specification” when used herein or in the IPR Policy, includes any Final Errata to such Final Specification.

### **8.3 Other Working Groups and Working Group Procedures.**

In addition to the Technical Working Group, the Board of Directors shall organize other working groups (“**Other Working Groups**”) as may from time to time be designated upon vote of the Board of Directors. Meetings and actions of Other Working Groups shall be governed by, noticed and held in accordance with written Working Group procedures to be adopted, and from time to time amended by, the Board of Directors (“**Working Group Procedures**”).

Upon establishment of a Working Group, that Working Group may, through its chairperson, propose specific procedures to govern that Working Group; such specific procedures shall be subject to ratification by the Board of Directors. Working Group-specific procedures not otherwise incorporated into the Working Group Procedures shall apply only to the Working Group proposing such procedures. All Members shall be eligible to serve as chairperson of a Working Group.

### **8.4 Composition of Working Groups.**

Participation on any Working Group shall be open to all Members. Participants on any Working Group shall have the right to vote on any matters brought before such Working Group, subject to Working Group Procedures adopted in accordance with this Section 8.

### **8.5 Record of Activities.**

Each Working Group shall elect a secretary or other person to document and record the Working Group’s activities.

### **8.6 Meetings.**

Working Groups shall hold regular meetings on a schedule determined by the Working Group Procedures. The noticing of meetings of the Working Group and the governance thereof shall be subject to the Working Group Procedures. Where practical, *Robert’s Rules of Order* shall be used as a guide in the conduct of meetings.

### **8.7 Removal from Working Groups.**

The then-current Working Group Procedures shall govern the removal of any member of a Working Group.

## 9 OFFICERS

### 9.1 **Officers.**

The required officers of the Forum shall be a President and Secretary. The Forum may have a Vice President, a Treasurer, an Administrator, and such other officers with such titles as may be determined from time to time by the Board of Directors.

### 9.2 **Election.**

The officers of the Forum, shall be elected by the Board of Directors in accordance with this Section 9, and each officer shall hold his or her office for a term of two (2) years from the date such officer is appointed, or until he or she shall resign, or shall be removed, or his or her successor shall be elected and qualified in accordance with this Section 9.

### 9.3 **Removal and Resignation.**

#### 9.3.1 **Removal.**

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

#### 9.3.2 **Resignation.**

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

### 9.4 **Vacancies.**

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

### 9.5 **President.**

The President shall serve as the “**Chief Executive Officer**” of the Forum. Subject to the control of the Board of Directors, the President shall have general supervision, direction and control of the business and affairs of the Forum. The President shall have such other powers and duties as may be designated from time to time by the Board of Directors.

### 9.6 **Treasurer.**

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

### 9.7 **Secretary.**

The Secretary shall keep a full and complete record of the proceedings of the Board of Directors and General Meetings, shall keep the seal of the Forum and affix it to such papers and instruments as may be required in the regular course of business, shall make service of such notices as

may be necessary or proper, shall supervise the keeping of the records of the Forum, and shall deliver the annual statement required in the Bylaws to the Directors. The Secretary shall have such other powers and duties as may be designated from time to time by the Board of Directors.

### **9.8 Administrator.**

The Administrator shall not be a Board of Director member. The Administrator, if any, shall perform such undertakings as are necessary to manage the day-to-day needs of the Forum, including:

- a. scheduling and setting up meetings;
- b. facilitating communication between Members, including providing timely notices of meetings;
- c. acting as the liaison to other consortia or associations with which the Forum may choose to associate as instructed by the Board of Directors;
- d. providing Members with timely minutes, summaries and other reports with respect to the activities of the Forum as may be prepared by the Secretary or the Administrator;
- e. receiving and processing Participation Agreements, creating and updating lists of Members, and executing Participation Agreements on behalf of the Forum;
- f. archiving and holding Draft Specifications, Draft Errata, Final Specifications, and Final Errata; and
- g. performing all duties incident to the office of Administrator and such other duties as may be required by law, by the Certificate of Incorporation, or by these Bylaws, or which may be assigned to him or her from time to time by the Board of Directors.

Administrator may engage third parties to undertake the activities described in this Section 9.8, provided that (i) Administrator enters into appropriate contracts protective of the Forum, and ensures compliance with terms and conditions of the Bylaws including confidentiality obligations and (ii), in the event that Administrator engage third party for (a) a substantial portion of its activities or (b) the activities beyond day-to-day administrative work (the details of (a) and (b) to be further clarified by the Board of Directors), Administrator shall obtain a prior approval from the Board of Directors.

## **10 MISCELLANEOUS**

### **10.1 Fiscal Year.**

The fiscal year of the Forum shall start on December 1 and end on November 30 of each year.

### **10.2 Inspection of Corporate Records.**

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

### **10.3 Checks, Drafts, Etc.**

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

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

#### **10.4 Execution of Contracts.**

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

#### **10.5 Indemnification.**

##### **10.5.1 Coverage.**

The Forum has the power to indemnify, defend and hold harmless 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 Forum) by reason of the fact that such person is or was an officer, Director, chairperson of any Working Group, advisory committee, working or research group or any other organizational unit, employee or agent of the Forum or who is or was serving at the request of the Forum as an officer, Director, Chairman of the Board, advisory committee, Working Group or research groups or any other organizational unit, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding if such person acted in good faith and in a manner such person reasonably believed to be in, or not opposed to, the best interests of the Forum, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful, as reasonably and in good faith determined by the Forum in accordance with Section 10.5.2. The termination of any action, suit or proceeding by judgment or settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interest of the Forum, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful. To the extent that an officer, Director, Chairman of the Board, advisory committee, Working Group or research group or any other organizational unit, employee or agent of the Forum has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 10.5.1, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith.

##### **10.5.2 Authorization.**

Any indemnification under Section 10.5.1 (unless ordered by a court) shall be made by the Forum only as authorized in the specific case upon a determination that indemnification of the officer, Director, Chairman of any Board, advisory committee,

Working Group or research group or any other organizational unit, employee or agent is proper in the circumstances because such person has met the applicable standard of conduct set forth in Section 10.5.1 above. Such determination shall be made (a) by a Majority Vote of a quorum consisting of the disinterested Directors who were not parties to such action, suit or proceeding, or (b) if there are no disinterested Directors, by the Forum's legal counsel's written opinion.

#### **10.5.3 Exclusivity and Survival.**

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

#### **10.5.4 Insurance.**

The Forum will purchase and maintain appropriate insurance policies as the Board shall, in its discretion approve, on behalf of any person who is or was an officer, Director, Chairman of the Board, advisory committee, Working Group or research group or any other organizational unit, employee or agent of the Forum, or is or was serving at the request of the Forum as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise.

#### **10.5.5 Expenses.**

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

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

The Forum shall not make any advances or make any loan of money or property to or guarantee the obligation of any Director or officer, except as is expressly allowed under the DGCL.

### **10.7 Public Inspection and Disclosure.**

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

## **10.8 Political Activities.**

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

## **10.9 Confidential Information.**

### **10.9.1 Confidential Information.**

Each Member agrees that it will maintain all Confidential Information, disclosed to it during its Membership, including but not limited to, the Formerly Adopted Specifications, Draft Specifications, Draft Errata, Final Specifications, and Final Errata, in confidence with at least the same degree of care that it uses to protect its own proprietary material and in no event with less than reasonable care. Each Member agrees that it will not disclose, nor will it assist or allow any third party to disclose any Confidential Information, except: (a) with the prior written consent of the Member which provided the Confidential Information; (b) as otherwise may be required by law or legal process, including to legal and financial advisors in their capacity of advising a Member in such matters; (c) during the course of litigation, so long as the disclosure of such terms and conditions are restricted in the same manner as is the confidential information of other litigating parties, (d) to employees on a need to know basis within a Member or an Affiliate thereof, (e) to its legal counsel, accountants, banks and financing sources and their advisors solely in connection with complying with financial transactions; or (f) to its legal counsel in connection with providing legal advice; provided that, in (b) through (f) above, (i) the disclosing Member shall use all reasonable legitimate and legal means available to minimize the disclosure to third parties, including without limitation seeking a confidential treatment request or protective order whenever appropriate or available; and (ii) the disclosing Member shall provide the relevant Member with at least ten (10) days prior written notice of such disclosure. Each Member shall mark any copies of Confidential Information it makes “confidential” or with a similar legend. Unless the applicable Members agree otherwise, this obligation of confidentiality will expire ten (10) years after the expiration of the Membership.

Each Member agrees to use the Confidential Information only for the following purpose; (i) to facilitate discussion within the Forum Meetings or discussions amongst Members during interim periods between such Forum Meetings for the definition, development and promotion of technical specifications; (ii) to evaluate Draft Specifications, Draft Errata, Final Specifications, and Final Errata internally for use in developing, designing and/or manufacturing possible future products which are compliant with such Specifications; and (iii) exercising its rights and obligations hereunder.

Members also agree to comply with any export laws or regulations regarding a Member’s own disclosure of the Confidential Information.

No license, express or implied, is granted to Members for the Confidential Information other than the above mentioned purpose.

Members agree to give the Forum prompt written notice of any unauthorized use or disclosure of the Confidential Information, with verification. Upon receipt of any such notice, the Forum will take those steps that it deems appropriate in its discretion in light

of the notice it receives.

#### **10.9.2 Residuals.**

Notwithstanding anything herein to the contrary, any Member may use Residuals for any purpose, including without limitation use in development, manufacture, promotion, sale and maintenance of its products and services; provided that this right to Residuals does not represent a license under any patents, trademarks or copyrights of the disclosing Member. The term “**Residuals**” means any information retained in the unaided memories of the receiving Member’s employees who have had access to the disclosing Member’s Confidential Information in connection with such Member’s participation in a Working Group or otherwise as a participant. An employee’s memory is unaided if the employee has not intentionally memorized the Confidential Information for the purpose of retaining and subsequently using or disclosing it.

#### **10.9.3 Independent Development.**

The terms of confidentiality hereunder shall not be construed to limit any Member’s right to independently develop or acquire products or technology, including similar or competing products or technology, without the use of another Member’s Confidential Information and without breach of the terms of these Bylaws.

#### **10.9.4 Return or Destruction After Termination**

Upon termination of its Membership, each Member agrees to destroy all copies of the Confidential Information, include the Draft Specifications, Draft Errata, Final Specifications, and Final Errata in its possession and if the Forum requests, at its option, to certify such destruction.

#### **10.10 Communication Policies.**

No Members may make a press or other public announcement regarding its activities as a Member of the Forum which names the identities of any other Member unless prior written consent is received from any Member named in the press release or public announcement. The Forum may make a press or other public announcement regarding any subject germane to its purposes provided that prior written consent is received from any Member named in the press release or public announcement.

#### **10.11 Compliance with Antitrust Laws.**

Each of the Members of the Forum is committed to fostering competition in the development of new products and services, and the Final Specifications and technologies embodied therein are intended to promote such competition. Each Member further acknowledges that it may compete with other Members in various lines of business and that it is therefore imperative that they and their representatives act in a manner which does not violate any applicable state, federal or international antitrust laws or regulations. Accordingly, each Member hereby assumes responsibility to provide appropriate legal counsel to its representatives acting on such Member’s behalf regarding the importance of limiting the scope of their discussions to the topics that relate to the purposes of the Forum, whether or not such discussions take place during formal meetings, informal gatherings, or otherwise. Each Member further acknowledges that it and each other Member is free to develop competing technologies and standards and to license its patent rights to third parties, including without limitation, to enable competing technologies and standards. The Forum will adopt Antitrust Compliance Guidelines substantially similar to the ones attached

hereto as Annex A.

**10.12 Waiver of Warranties.**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ALL DRAFT SPECIFICATIONS, DRAFT ERRATA, FINAL SPECIFICATIONS, AND FINAL ERRATA OF THE FORUM, ANY INTELLECTUAL PROPERTY OF THE FORUM THEREIN, ANY CONTRIBUTIONS TO FINAL SPECIFICATIONS MADE BY MEMBERS, OTHER INFORMATION PROVIDED BY THE MEMBERS, AND ANY OF THE INFORMATION OF THE HDMI FOUNDERS AND THE HDMI LICENSING ADMINISTRATOR PROVIDED HEREUNDER, ARE PROVIDED “AS IS” AND WITHOUT ANY WARRANTY OF ANY KIND, INCLUDING WITHOUT LIMITATION, ANY EXPRESS OR IMPLIED WARRANTY OF NONINFRINGEMENT, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.

**10.13 Limitation of Liability.**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL THE FORUM BE LIABLE TO THE MEMBERS, ITS MEMBERS LIABLE TO THE FORUM, MEMBER LIABLE TO THE OTHER MEMBERS OR THE HDMI FOUNDERS AND THE HDMI LICENSING ADMINISTRATOR LIABLE TO THE FORUM AND THE MEMBERS, INCLUDING MONETARY DAMAGES, IN CONNECTION WITH THE CONTRACTUAL NATURE OF THESE BYLAWS OR ANY INTELLECTUAL PROPERTY RIGHTS AGREEMENTS OF THE FORUM, ANY INFORMATION PROVIDED HEREUNDER, FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, RELIANCE OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOST PROFITS, EVEN IF THE OTHER MEMBER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EACH MEMBER RELEASES THE OTHER MEMBER AND ALL OF THE OTHER MEMBER’S AFFILIATES, EMPLOYEES, AND AGENTS FROM ANY SUCH DAMAGES.

**10.14 Mediation.**

The Members agree to first submit any controversy or claim between any Member and the Forum arising out of or relating to these Bylaws, or the breach thereof, to nonbinding mediation in San Francisco, California, by a mediator to be selected by the parties from a panel selected by the International Chamber of Commerce (“ICC”) ADR Dispute Resolutions Services. The parties agree to mediate in good faith over a minimum period of thirty (30) days.

**10.15 Language.**

The official language of the Forum shall be English.



## **11 EFFECTIVE DATE AND AMENDMENTS**

### **11.1 Effective Date.**

These Bylaws are an amendment to and restatement of the Bylaws of the Forum. The bylaws of the Forum in effect immediately prior to these Bylaws becoming effective shall be referred to herein as the “**Superseded Bylaws.**”). These Bylaws, if approved by the Members in accordance with Section 11.2 of the Superseded Bylaws, shall become effective on the earliest date permitted under the Superseded Bylaws.

### **11.2 Amendments.**

The Bylaws may be altered, amended or repealed by affirmative vote of at least three-fourths (3/4) of all Members. The Administrator shall provide written notice of the results to all Members within forty-eight (48) hours of such an affirmative vote. Notwithstanding the foregoing, no alteration, amendment or repeal of these Bylaws shall be effective until the thirty- first (31st) day after notice.

Further, no change to Annex B (The HDMI IPR Policy) or the Purposes as set forth in Section 3 can be validly adopted unless

- (i) the text of the proposed change has been communicated to the Members by the Board of Directors at least thirty (30) days before the deadline for submission of electronic or written ballots or the meeting at which it is to be put to a vote, and
- (ii) at least eighty percent (80%) of all the Members of the Forum vote in favor.

**CERTIFICATE OF SECRETARY**

I, the undersigned, do hereby certify:

1. That I am the Secretary of HDMI FORUM, INC.
2. That the foregoing First Amended and Restated Bylaws of the Forum were approved by at least three-fourths (3/4) of all Members on January 30, 2018.
3. That notice to the Members of results of the vote taken with regard to the First Amended and Restated Bylaws was given on February 13, 2018.
4. That in accordance with the requirements of Section 11.2 of the Bylaws, these First Amended and Restated Bylaws shall become effective on March 16, 2018, being the thirty-first (31<sup>st</sup>) day after such notice has been provided to the Members.

DATED: February 13, 2018.

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Chris van Haersma Buma, Secretary

## Annex A

### **Antitrust Compliance Guidelines**

The Forum intends to conduct its affairs in compliance with the antitrust laws of the United States and, whenever applicable, the antitrust laws of the states within the United States and the antitrust/competition laws of the European Union and its member states, the European Economic area and its members states, and of Korea, Japan and all other countries/territories where the Forum may do business or to the laws of which the Forum may become subject (generally, "Antitrust Laws"). The Antitrust Laws are intended to preserve and promote free, fair and open competition. This competition benefits consumers and companies that are innovative and efficient. A violation of the Antitrust Laws can have serious consequences for consumers, the Forum, and for Members. Accordingly, the Forum hereby issues the following guidelines ("Guidelines") for itself and its Members, as guidance in connection with participation in the Forum's activities.

1. The activities of the Forum are not intended to restrain competition. The purpose of the Forum is to foster competition and to benefit consumers.
2. The Forum and its committees, Working Groups or activities shall not be used for the purpose of bringing about or attempting to bring about any understanding or agreement, written or oral, formal or informal, express or implied, between and among competitors with regard to their prices, terms or conditions of sale, distribution, volume of production, territories, customers, strategic, business, marketing or product development plans, or credit terms.
3. In connection with participation in the Forum, there shall be no discussion, communication, agreement or disclosure among Members that are actual or potential competitors, regarding their prices, discounts or terms or conditions of sale or licensing of products or services, pricing methods, profits, profit margins or cost data, production plans, market shares, sales territories or markets, allocation of territories or customers, or any limitation on the timing, cost or volume of their research, production, strategic, business, marketing or product development plans, or sales.
4. Each Member is obligated and expected to exercise its independent business judgment in pricing its services or products, dealing with its customers and suppliers, and choosing the markets in which it will compete.
5. The Forum and its Members, in connection with their participation in the Forum, shall not enter into any agreement or understanding among themselves to refrain, or to encourage others to refrain, from purchasing any raw materials, product, equipment, services or other supplies from any supplier or vendor or from dealing with any supplier or vendor.
6. The Forum and its Members, in connection with their participation in the Forum, shall not attempt to prevent any person from gaining access to any market or customer for goods and services, or attempt to prevent any person from obtaining a supply of goods or services or otherwise purchasing goods or services freely in the market. (This paragraph is not intended to preclude a Member from disclosing and asserting its intellectual property rights).
7. The qualifications for participation in the Forum are as established by the Board of Directors of the Forum. No applicant for participation, which meets the qualifications therefor, shall be denied participation for any anti-competitive purpose. No Member shall

- be excluded from a working group of the Forum for an anti-competitive reason.
8. To the extent that the Forum recommends, develops, promulgates, approves, or adopts proposed standards, implementation of any such proposed standards shall be voluntary on the part of Members, and shall in no way be compelled or coerced by the Forum or any committee or Member, it being solely a voluntary and unilateral decision on the part of the particular Member or Members whether to implement any such proposed standard.
  9. Any standards which may be recommended, developed, promulgated, approved, or adopted by the Forum in order to effectuate its purposes shall be based upon relevant considerations, and shall not be based upon any effort, intention, or purpose to unreasonably reduce or eliminate competition in the sale, supply and furnishing of products and services.
  10. The Forum may condition use of its trademark on compliance with standards developed to regulate the use of and to protect such mark. The Forum reserves the right to take appropriate action against any person or entity which engages in false or misleading advertising regarding use of or compliance with standards of the Forum.
  11. No person is authorized to make an official or a public statement on behalf of the Forum regarding whether a particular product complies or does not comply with an approved standard, unless such authority is specifically conferred in writing by the Board of Directors.
  12. During the course of the activities of the Forum, no Member will disclose any information to any other Member that is not reasonably related to the Purposes of the Forum as set forth in the Bylaws.
  13. The Forum and each Member, in connection with the activities of the Forum, shall use their best reasonable efforts to comply in all respects with the Antitrust Laws.
  14. These Guidelines are conservative and intended to promote compliance with the Antitrust Laws, not to create duties or obligations beyond what the Antitrust Laws actually require. In the event of inconsistency between these Guidelines and the Antitrust Laws, the Antitrust Laws shall control.
  15. These Guidelines shall be promulgated to all Members. All Members shall abide by these Guidelines.

## Annex B

### HDMI Forum, Inc.

#### **Intellectual Property Policy**

This Intellectual Property Policy (hereinafter mentioned as “**IPR Policy**”) is designed to fix the scope of activity to state clearly the expectation of the Forum, with regard to any Member’s IPRs, as well as IPRs of the Forum, the HDMI Founders and the HDMI Licensing Administrator, Inc. (“**HDMI Licensing Administrator**”), respectively, and this IPR Policy shall apply to any Member effective as of the date such Member becoming a Member.

All capitalized terms used in this IPR Policy shall have the same meaning as those defined respectively in the Bylaws of the Forum.

**Scope.** The Forum shall ensure that all Final Specifications approved under its authority shall: (a) be backward-compatible with the Formerly Adopted Specification, and (b) only prescribe technologies related to the bi-directional transmission, retransmission, and reception of audiovisual content, control information, data, and power from one or more source and/or repeater devices to one or more repeater and/or sink devices, by means of physical connectors. For purposes of the foregoing, the physical connectors shall not include an optical connector. In the event that the Forum incorporates technology from any third party generally accepted standard, either in whole or in part, in any Final Specification, Forum should make reference to such standard rather than include it in any Final Specifications.

The Forum is committed to an inclusive standard and strives to establish specifications that can be implemented in a compliant manner by any interested party. Therefore, the Forum will only include proprietary technology in the Forum’s specifications if the owner of that technology agrees to the non-assert covenants and terms as set forth below.

Each Member agrees to abide by the terms of this IPR Policy including with respect to any Final Specifications, which were adopted during its Membership. In addition to all contractual remedies which may be available to the Forum and its Members and Licensee under applicable law, Members failing to abide by this IPR Policy are subject to termination from the Forum in accordance with Section 4.8.3 of these Bylaws.

#### 1. Patent Non-Assertion.

Covenant to Not Assert. Effective upon adoption by the Forum of the Final Specification, each Member and its Affiliates (each acting as a Patent Owner) hereby agrees not to bring, commence, maintain or prosecute any action or other proceeding based on any Necessary Claims that they may now or in the future own or control, or to otherwise assert any such Necessary Claims, worldwide, against any Licensee or their Affiliates (each acting as a Patent Beneficiary), solely to make (including design and develop), have made (including have designed and have developed), use, import, and directly and indirectly, offer to sell, sell, lease, promote and otherwise distribute Compliant Portions; provided that such non-assertion agreement shall not extend to any part or function of a product in which a Compliant Portion is incorporated that is not itself a Compliant Portion.

Conditions to Non-Assertion. Each Patent Owner's non-assertion agreement is conditioned upon the applicable Patent Beneficiary(ies) agreeing to a reciprocal non-assert for the benefit of the Patent Owner. For purposes of clarification, if a Patent Beneficiary(ies) does not agree to a reciprocal non-assert for all of their Necessary Claims (relating to a Final Specification), then the applicable Patent Owner will also have no obligation to not assert Necessary Claims against such Patent Beneficiary(ies).

Transfer of Necessary Claims. Any transfer by a Patent Owner to an unaffiliated third party of a patent having Necessary Claims shall be subject to the terms and conditions of this IPR Policy. Any agreement for assigning, exclusively licensing or otherwise transferring the right to enforce Necessary Claims shall include a provision binding the assignee, exclusive licensee or transferee to the same non-assertion agreements to which the Patent Owner was bound. Each Patent Owner further represents and warrants that it has not and agrees that it will not intentionally transfer or encumber its patents that reasonably may contain Necessary Claims or patent applications that reasonably may support Necessary Claims for the purpose of circumventing the obligation to grant non-asserts contained in this IPR Policy.

Separate Right to Enforce. Each Patent Beneficiary is a third party beneficiary of the non-assertion and other agreements made by each Patent Owner under this Section 1 of the IPR Policy, and may enforce its rights directly against the Patent Owner.

No Other License. No patent license, immunity or other right is granted under this IPR Policy by any Member or its Affiliates to any other Member or their Affiliates, either directly or by implication, estoppel or otherwise, other than the non-assertion agreements expressly set forth in this Section 1 of the IPR Policy.

Royalty Fees. The Forum reserves the right to establish and charge fees for the non-assertion agreements and other rights set forth in this IPR Policy.

Patent License for Formerly Adopted Specification. Notwithstanding anything to the contrary in this IPR Policy and for purpose of greater certainty, any claims of all patents, and patent applications to the extent such applications issue as patents which are necessarily infringed in order to implement and comply solely with the Formerly Adopted Specifications shall be owned by each of the HDMI Founders and shall not be governed by the terms herein. Such claims may be licensed to Licensee and/or its Affiliates under the terms of the HDMI Specification Adopter Agreement by HDMI Licensing Administrator. For the avoidance of doubt, if any use or exploitation of Necessary Claims by any Licensee and/or its Affiliates infringes any claims of the patents which are necessarily infringed to implement and comply solely with the Formerly Adopted Specifications, such claims shall not be covered under the non-assertion provision of this IPR Policy and may be licensed to Licensee and/or its Affiliates under the terms of the HDMI Specification Adopter Agreement by HDMI Licensing Administrator.

## 2. Copyrights

Submitted Material excluding the copyrights in the Formerly Adopted Specification shall include at the time of settlement included in Draft Specification and/or Final Specification, a non-exclusive, perpetual, irrevocable, royalty free, world-wide license to the (i) Forum and its Members to internally use, reproduce, modify, prepare derivative works of in order to develop the Draft Specifications and the Final Specifications, and (ii) Forum, with the right to sublicense, to distribute and license

(including via a licensing agent) such Submitted Materials as a part of the Final Specifications to the Licensees, pursuant to terms and conditions, as determined by the Board of Directors pursuant to the Bylaws. The applicable Member (on behalf of itself and any employees, contractors, consultants or agents involved in the creation of such Submitted Material) hereby waives and agrees not to assert any and all moral rights, including without limitation, any right to identification of authorship or limitation on subsequent modification in such Submitted Material. The Member represents and warrants that to the best of its knowledge, (a) there are no limits to the Members' ability to make the grants, acknowledgements and agreements herein, and (b) the Member has not included in the materials any information which is defamatory, untrue or which is illegal under the laws of the jurisdiction in which the Member has its principal place of business. The Members shall so conduct themselves that the Forum shall own the copyrights in both Draft Specifications and Final Specifications, subject to the underlying copyright of the submitting Member in the Submitted Material, provided that the submitting Member shall have no rights, whether expressly or by implication, estoppel or otherwise, in such Draft Specification and Final Specification, including the modifications made to Submitted Material by the Forum, its Technical Working Groups or Other Working Groups, and other materials combined or collected with such Submitted Material. Any distribution of a Final Specification shall contain an appropriate copyright notice in the name of the Forum and its licensors (in the case of specifications incorporating portions of a Formerly Adopted Specification, owned by each of the HDMI Founders), without further identification or attribution to the submitting Member.

Notwithstanding the foregoing, the copyrights in the Formerly Adopted Specifications shall be owned by each of the HDMI Founders and licensed by the HDMI Licensing Administrator under the terms of the HDMI Specification Adopter Agreement.

### 3. Trade Secrets

Each Member grants to the Forum a perpetual, irrevocable, royalty free, non-exclusive, sublicensable worldwide license to any information, trade secret or know-how of such Member that has been provided by such Member and incorporated into any Final Specifications, only as incorporated into such Final Specifications, to distribute and license (including via the licensing agent) such Final Specifications to Licensees pursuant to terms and conditions, and to otherwise use and disclose such Final Specifications, as determined by the Board of Directors pursuant to Bylaws.

Notwithstanding the foregoing, any information, trade secrets or know-how incorporated into a Formerly Adopted Specifications shall be owned by the HDMI Founders and licensed through HDMI Licensing Administrator under the terms and conditions of the HDMI Specification Adopter Agreement.

### 4. Commercial use of the Final Specifications

Commercial use of the Final Specifications requires a separate written definitive license agreement to be consummated between Member and the Forum and/or the HDMI Licensing Administrator as appropriate. Members agree that the Forum, each member of the HDMI Founders and the HDMI Licensing Administrator shall have standing and rights to enforce their respective interests in any intellectual property rights covered by this IPR Policy.

#### 5. Conflict

Any (i) proposals for new Draft Specifications and Final Specifications, (ii) changes to the Formerly Adopted Specifications and/or existing Final Specifications, and/or (iii) any questions or conflicts regarding the proposals for new Draft Specifications and Final Specifications shall be submitted to the Forum Technical Working Groups for their review. The Technical Working Groups can elect whether to accept the proposal for consideration or to reject it by returning it to the submitting Member, together with formal comments as may be applicable. If rejected, the submitting Member shall be notified with formal comments as may be applicable by the chairperson of the Working Groups thereof through which it was originally submitted. If rejected, the proposal and all related proposal inputs, shall not be included within the applicable minutes for that Technical Working Groups meeting, but the minutes shall include sufficient information to describe the proposal and results of the discussion thereof including the reason for rejection.

If the Technical Working Groups fail to decide whether or not a proposal shall be considered, the proposal and applicable information shall be submitted to the Board of Directors. The Board of Directors may elect to accept or reject the proposal for consideration or delegate further action. Applicable comments and resultant decision by the Board shall be included in the minutes of their applicable meeting(s) but the proposal itself need not be included.

#### 6. Committee and Working Group Work Product

Members acknowledge that, subject to the other provisions of this IPR Policy, the copyrights and all other rights, excluding patent rights, in or to the Work Product, including without limitation Specifications and related documentation created by the Forum committees and/or Working Groups shall be owned by the Forum and the Forum may register copyrights in its own name. Such copyrighted materials are to be owned by the Forum as “works made for hire” as set forth in the US Copyright Act. To the extent that all such rights in Work Products are not vested in the Forum as “works made for hire” all such Members agree to assign and hereby assign all such rights in and to the Work Product to the Forum and further agree to take any actions reasonably requested by the Forum to perfect Forum’s ownership in the Work Product, including execution of additional documents of assignment.

#### 7. General Rights and Survival

Member rights and obligations under this IPR Policy may not be assigned or delegated without prior written consent of the Forum. The provisions of this IPR Policy shall survive the termination of the Membership of any Member as follows; Sections 1, 2, 3, 4, 6, 7, and 8 shall survive to the extent that Specification is still used for its implementation. Patent Non-Assertion set forth in the Section 1 of this IPR Policy and the license set forth in Sections 2 and 3 of this IPR Policy shall survive with respect to (a) any Final Specifications adopted prior to such termination and (b) any Submitted Material provided by the terminating Member for so long as such Submitted Material is included in one or more Final Specifications adopted after such termination.

#### 8. Governing Law

This IPR Policy will be governed by the laws of the State of Delaware, USA and the federal and state courts located in Delaware shall have exclusive jurisdiction regarding any matters under the IPR Policy.