

**THE COMMONWELL HEALTH ALLIANCE INC.  
BYLAWS**

**Effective Date: 08 November 2023**

**I. Definitions**

“**Affiliate**” means any legal entity that directly or indirectly controls another entity via beneficial ownership of more than fifty percent (50%) of voting power or equity (“**Control**”), or is under the Control of another entity, for so long as such Control exists.

“**Alliance**” means the CommonWell Health Alliance Inc., a non-profit 501(c)(6) corporation formed under the laws of Delaware.

“**BOD**” means the Board of Directors elected in accordance with these Bylaws to manage the affairs of the Alliance in accordance with the powers and duties enumerated in these Bylaws.

“**Certificate**” means the Certificate of Incorporation of the Alliance, as filed with the Delaware Secretary of State.

“**Chair**” means a designated employee of a Member who has the role of conducting the proceedings of the BOD, a Committee, or Working Group in the activities of the Alliance.

“**Committee**” means any advisory body created by the BOD that the BOD designates as a Committee, which shall have such authority to take action on behalf of the Alliance as the BOD authorizes from time to time. All voting members of any Committee that has delegated authority of the BOD beyond the power to advise the BOD shall be members of the BOD.

“**Compliant Portion**” has the meaning set forth in the Membership Agreement.

“**Contributor Member**” means a Member with a then-effective Contributor Membership as described in Clause 5(2)(a).

“**Director**” means an individual appointed or elected in accordance with these Bylaws to serve on the BOD.

“**Draft Specification**” means one or more proposals or documents, collectively designated as a “CommonWell Health Alliance Specification” in draft or non-final form, being drafted and considered by the Alliance prior to adoption as a Specification.

“**General Member**” means a Member having a then-effective General Membership as described in Clause 5(2)(b).

“**Majority Vote**” means an affirmative vote of more than fifty percent (50%) of the total number of those Members that are present and entitled to vote on a particular matter (telephonically, electronically, or physically, as applicable).

“**Member**” means any entity having a then-effective membership in the Alliance as described in Clause 5.

“**Membership Agreement**” means the agreement between the Alliance and each Member regarding such Member’s rights and obligations as a Member.

“**Member Services Agreement**” means an Alliance approved agreement between the Alliance and a Member regarding the implementation of Alliance services by such Member.

“**Officer**” means an individual elected to serve as an officer of the Alliance in accordance with Clause 6.

“**Specification**” means each document designated as a “CommonWell Health Alliance Specification” as finally adopted and approved by the BOD pursuant to these Bylaws.

“**Super Majority Vote**” means an affirmative vote of seventy five (75%) or more of the total number of those who are present and entitled to vote on a particular matter (telephonically, electronically, or physically, as applicable).

“**Working Group**” means any advisory body created by the BOD that the BOD designates as a Working Group, which shall have the authority to advise one or more Committees in regard to taking one or more particular actions.

## **II. Introduction**

### **Clause 1. Purpose of the Bylaws**

These Bylaws provide the structure and rules for governance and operation of the Alliance.

### **Clause 2. Duration**

The duration of the Alliance shall be perpetual but may be shortened, or the Alliance dissolved, in accordance with the provisions of the laws of the state of Delaware. If the Alliance ceases operations for a continuous period exceeding one (1) year, the Officers and the BOD shall take all steps necessary to wind-up the affairs of the Alliance in accordance with the laws of the State of Delaware.

### **Clause 3. Objectives of the Alliance**

The Alliance is a consortium dedicated to developing and promoting interoperability between healthcare information technology organizations, using vendor-neutral standards and solutions, for the exchange of healthcare-related data. The nature of the business or purposes to be conducted or promoted by the Alliance is to engage in any lawful act or activity authorized under the General Corporation Law of Delaware for not-for-profit corporations and in accordance with Section 501(c)(6) of the United States Tax Code.

### **Clause 4. Compliance with Laws**

All Members shall comply at all times with applicable laws and regulations relevant to the activities of the Alliance, including, without limitation, applicable competition laws.

Detailed competition guidelines may be issued by the Alliance to Members from time to time and shall be observed by all then-current Members.

Each Member acknowledges that all Members are committed to fostering competition in the development of new products and services and that the Alliance is intended to promote such competition. The Members further acknowledge that some Members may compete with one another in various lines of business and agree that it is therefore imperative that Members and their representatives act in a manner that does not violate any applicable competition laws and regulations. Without limiting the generality of the foregoing, the Members shall not discuss issues relating to absolute or particular product costs, product pricing, methods or channels of product distribution, division of markets, allocation of customers, or any other topic that would be prohibited by applicable antitrust laws. Accordingly, each Member assumes responsibility to provide appropriate legal counsel to its representatives regarding actions taken according to these Bylaws regarding the importance of limiting their discussions to subjects that relate to the purposes of the Alliance, whether or not such discussions take place during formal meetings, informal gatherings, or otherwise.

### **III. Membership**

#### **Clause 5. Membership**

##### **(1) Membership**

The Alliance shall have Members and classes of membership as defined by these Bylaws and the BOD. No Member shall hold more than one (1) membership in the Alliance. A Member and its Affiliates shall be deemed one Member. Unless otherwise authorized by the BOD, a Member parent entity with multiple subsidiaries, or other similar Member legal entities, may only identify itself for marketing purposes through the Alliance by one official Member name; for example, either the parent or a subsidiary's name, but not both. Except as expressly provided in and authorized by the Membership Agreement, the Certificate, these Bylaws, or other provisions of law, all Members shall have the rights and privileges and be subject to the restrictions and conditions established from time to time by resolution of the BOD. Applicants for membership shall be admitted to membership upon execution of the Membership Agreement and payment of any applicable fees established by the BOD.

##### **(2) Classes of Membership**

The Alliance shall initially have two classes of membership: Contributor Membership and General Membership. Subject to Clauses 5(5) and 5(6) and provided the Member is in compliance with all membership obligations, membership shall be automatically renewed annually upon payment of any annual fees established by the BOD.

##### **(a) Contributor Membership**

Contributor Members shall have all the rights afforded General Members as set forth in these Bylaws, as well as any rights and obligations set forth in the Membership Agreement.

(i) Contributor Members shall be eligible to Chair, be a member of, and vote within Committees or Working Groups; provided, however, unless every Contributor

Member of such Committee also serves as a Director, no Contributor Member will have a right to vote within Committees that have delegated BOD authority.

(ii) Unless the Contributor Member also serves as a Director, Contributor Members shall not have the right to attend or vote in BOD meetings.

(iii) Contributor Members shall have the right to nominate and be nominated as candidates for election as a Director to the BOD, subject to Clause 5(2)(a)(iv) and these Bylaws.

(iv) Contributor Members shall meet the minimum Contributor Membership Performance Obligations (“CMPO”) as follows:

(A) CMPO requires each Contributor Member to implement and use at least one (1) of the commercial services available from the Alliance, provided that there is an available commercial service that reasonably applies to such Contributor Member’s business offerings, as determined by the BOD. The CMPO hereunder shall be met by Contributor Member achieving certification in accordance with applicable Alliance procedures for use of any such service within six (6) months from becoming a Contributor Member, or such other time frame required under such Member’s Member Services Agreement.

(B) Contributor Members who do not meet the CMPO within the allotted time period shall be reclassified as General Members, unless the BOD determines, at its sole discretion, that it is reasonable to extend the time available to the Contributor Member to comply within a reasonable period of time, or to exempt the Contributor Member from this obligation. The reclassification of a Contributor Member to a General Member under this section shall occur automatically and shall not require any action on behalf of the BOD. Any and all exceptions to the CMPO shall require a Majority Vote of the BOD. The CMPO shall not apply to any Contributor Member who was a Contributor Member prior to the inclusion of these CMPO terms, so long as that Contributor Member maintains its Contributor Membership status, in all other respects. A Contributor Member whose Contributor Membership lapses for any reason shall be subject to these CMPO if such a Member becomes a Contributor Member following such a lapse.

**(b) General Membership**

General Members shall be entitled to attend and participate in General Meetings (as defined in Clause (7)(1)) of the Alliance. General Members may comment on substantive issues, policy matters, and official positions prior to final adoption by the BOD; provided, however, that all such comments shall be advisory in nature and not binding upon the Alliance or the BOD. General Members may, upon approval by the BOD, attend and participate in, be a member of, and vote in, Committee meetings and Working Group meetings provided that such privileges are allowed in a BOD approved Charter for such Committee or Work Group. Unless the General Member also serves as a Director, General Members shall have no right to attend or vote in BOD meetings, or to nominate candidates to serve as Directors, but a General Member may be nominated by a Contributor Member for consideration for election to serve as a Director. General Members shall generally be afforded the following benefits unless otherwise determined by the BOD:

- (i) subject to procedures adopted by the BOD, the right to submit proposed revisions or proposals for Specifications, test suites, and design guidelines of the Alliance;
- (ii) the right to generally available technical support with regard to any then-supported Specification, test suite, and design guideline of the Alliance;
- (iii) the right to receive generally available support documentation and materials concerning any then-supported Specifications, test suite, and design guidelines of the Alliance;
- (iv) subject to procedures adopted by the BOD, the right to review and comment on Draft Specifications and design guidelines prior to adoption by the Alliance; and
- (v) license rights as specified in the Membership Agreement or as otherwise specified by the BOD.

### **(3) Eligibility for Membership**

Any for-profit corporation, non-profit corporation, government organization, educational institution, or other entity or individual supportive of the Alliance's purposes and not otherwise prohibited by treaty, law, or regulation from abiding by the terms of these Bylaws is qualified to become a Member, conditioned upon approval of the Alliance. The Alliance at its sole discretion shall determine if an applicant's membership would be in the best interests of the Alliance and its objectives.

### **(4) Membership Fees**

Membership fees shall be established and modified by the BOD in a reasonable and non-discriminatory manner.

### **(5) Withdrawal**

Any Member may withdraw from the Alliance in the manner set forth in the Membership Agreement.

### **(6) Termination of Membership**

Membership in the Alliance may be terminated by the BOD if such Member:

- (a) is in default of payment of an applicable membership fee;
- (b) has breached any material obligation under these Bylaws, the Membership Agreement, or other Alliance policies or procedures adopted by, or that may be adopted by, the BOD;
- (c) has performed or omitted to perform any other act, which act or omission has been specified in writing by the BOD as giving rise to termination of membership; provided, however, that such specification by the BOD shall not be retroactively effective; or
- (d) is legally dissolved.

If the BOD determines, in its sole discretion, that a Member did not reasonably correct all acts and/or omissions giving rise to termination of membership within thirty (30) days after the first written request for such correction is sent by the BOD or its duly authorized representative to such Member, the BOD may elect to notify such Member in writing that the BOD has terminated the Member's membership, effective upon such notice, or as otherwise specified by the BOD.

**(7) Effect of Resignation or Termination of Membership**

A Member whose membership is terminated by the BOD or who withdraws from the Alliance shall no longer have the right to participate in any of the activities of the Alliance or receive regular Alliance communications and shall not be entitled to any refund of any membership fees or other fees that have been paid or are due at the time of termination.

**(8) Transition to Another Membership Class**

In the event of transition to a different class of membership, the Member shall have to pay the additional applicable membership fee, if any; however, if the fee for the new class of membership would be lower than the fee already paid, there will be no refund of any amounts already paid. Any adjustments shall become effective at the beginning of the Member's next Member year.

**(9) Transfer of Membership**

No Member may assign or otherwise transfer its membership to another party without the prior written consent of the BOD, except upon a change of control or a sale of all or substantially all assets involving that Member, or by operation of law. Any such assignment or transfer shall be effective only upon the agreement in writing by that Member's intended assignee to (a) be bound by the terms and conditions of these Bylaws and any other Alliance agreements to which that Member is a party and (b) assume all the obligations and liabilities of such Member under these Bylaws or such other agreements. Any attempted assignment or transfer contrary to the terms of this paragraph shall be null and void and have no effect. Any Member acquiring or merging with another Member shall be entitled to only one vote after the consummation of such acquisition or merger. Unless otherwise approved by the Alliance in advance, in the event of a divestiture or similar division of a current Member, the legal entity that is a Member at the time of such divestiture or similar division shall remain a Member and no other entity shall have membership. In such a case the non-Member entity may apply for membership as may any other potential Member. Any change in fees due to a change in revenue due to an acquisition or spin-off shall take effect at the beginning of the Member's next regular annual membership term, and its fees shall remain unchanged during the remainder of the then current annual membership term. In the event of a termination due to the assignment or transfer hereunder, the assignor shall continue to be obligated with regards to license obligations under the Membership Agreement.

**(10) Use of Names**

Each Member agrees and consents, subject to its internal approval process, to the use of its corporate name and corporate logo in membership lists on the Alliance website and membership

list in the Alliance promotional materials, provided that each name listed shall be of equal prominence with all other names listed that are part of the same membership class. Any other public use of a Member's name or logo by the Alliance, including in any press release, shall require that Member's prior written consent and approval of the communication involved. The use of the corporate name or corporate logo of each Member will inure solely to the benefit of such Member.

**(11) Non-liability of Members**

By virtue of being a Member, no Member of the Alliance shall be liable for the debts, liabilities, or obligations of the Alliance.

**(12) Membership Roll**

The Alliance shall keep a membership roll containing the name and address, including email addresses, of each Member, the date upon which the applicant became a Member, and the name of one individual from each Member who shall serve as that Member's primary contact with the Alliance, receive all correspondence and information, distribute this information within his or her organization, and vote on all issues submitted to a vote of the Members. Termination of the membership of any Member shall be recorded in the roll. The membership roll will not be sold or otherwise be made available to third parties.

**IV. Organization**

**Clause 6. Officers**

**(1) Appointment**

The BOD shall elect a Chair and vice Chair ("Vice Chair") from the BOD, and will elect a secretary ("Secretary") and treasurer ("Treasurer"). The BOD also may elect an executive director ("Executive Director"). The BOD may elect such other Officers as it deems necessary. Any two or more offices may be held by the same person, except the offices of Chair and Secretary; however, no instrument required to be signed by more than one Officer may be signed by one person in more than one capacity. The Officers shall be elected by the BOD annually and shall each hold office until that Officer's successor is elected or until he or she resigns or is removed.

**(2) Removal and Resignation**

The BOD may remove any Officer, with or without cause, at any time by vote as described in Clause 8(8). Any Officer who is an employee of a Member shall automatically be removed from all of his or her Officer positions with the Alliance if that Member ceases to be a Member. Unless otherwise agreed to and modified by contract, any Officer may resign at any time by giving written notice to the BOD.

**(3) Powers and Duties**

The Officers shall have the powers and duties customarily associated with their respective offices except as the BOD may otherwise determine.

**(4) Duties of the Chair**

The Chair shall lead the BOD. The Chair shall, subject to BOD control, supervise the affairs of the Alliance and the activities of the Officers. The Chair shall perform all duties incident to the office and such other duties as may be required by the Certificate, these Bylaws, or any other Alliance agreements or BOD resolutions, including presiding over all Member meetings. Except as otherwise expressly provided by law, the Certificate, these Bylaws, or any BOD resolutions, the Chair shall, in the name of the Alliance, execute any legal documents or instruments that the BOD authorizes.

**(5) Duties of Vice Chair**

In the absence of the Chair, or if he or she is unable or refuses to act, the Vice Chair shall perform all duties of the Chair and, when so acting, shall have all the powers of, and be subject to all the restrictions on, the Chair. The Vice Chair shall have other powers and perform other duties as authorized by the Certificate, these Bylaws, or the BOD.

**(6) Duties of Secretary; Assistant Secretaries**

The Secretary shall maintain the corporate records of the Alliance, including minutes of all BOD and Member meetings; provide notices to Members as required by law and these Bylaws; be custodian of records of the Alliance and authorized to affix the corporate seal (if one is adopted by the BOD) as authorized by law or these Bylaws to duly executed corporate documents; maintain the membership roll; distribute information to Members as authorized by law, these Bylaws, or the BOD; and perform all other duties incident to the office of Secretary or assigned by the BOD. Assistant Secretaries may be elected by the BOD. In the absence of the Secretary or in the event of his or her disability or inability or refusal to act, any Assistant Secretary may perform the duties and exercise the powers of the Secretary until the BOD otherwise provides. Assistant Secretaries shall perform such other duties as the BOD may from time to time prescribe.

**(7) Duties of Treasurer; Assistant Treasurers**

The Treasurer shall have custody of the corporate funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Alliance and shall deposit all moneys and other valuable effects in the name and to the credit of the Alliance in such depositories as may be designated by the BOD. The Treasurer shall perform all duties incident to the office of Treasurer or assigned by the BOD, including the submission of the annual budget to the BOD for its approval and the implementation of appropriate financial policies and procedures. Assistant Treasurers may be elected by the BOD ("Assistant Treasurers"). In the absence of the Treasurer or in the event of his or her disability or inability or



refusal to act, any Assistant Treasurer may perform the duties and exercise the powers of the Treasurer until the BOD otherwise provides. Assistant Treasurers shall perform such other duties as the BOD may prescribe from time to time.

### **(8) Executive Director**

Any Executive Director elected by the BOD would have such powers and duties of supervision and management as are usually vested in the chief administrative officer of a corporation and as may be otherwise prescribed by these Bylaws or the BOD and would carry into effect all directions of the BOD; direct the day-to-day affairs of the Alliance; collect any charges or fees; prepare for the Treasurer an annual budget and all supplements thereto for each fiscal year; submit to the BOD at least once annually a report summarizing the operations and affairs of the Alliance and its activities during the preceding year and setting forth all plans, programs, or projects for future development; report to the BOD any material violation of rules and regulations; keep records in the form prescribed from time to time by the BOD; and make such reports to the BOD as may be appropriate or required by these Bylaws or the BOD. Any Executive Director would have the power to employ, remove, and suspend all agents and employees not elected or appointed by the BOD and determine the compensation, duties, responsibilities, and titles of such persons. Any Executive Director shall be directly responsible to the BOD and the foregoing powers and duties are subject to oversight by the BOD.

Any Executive Director may be invited to participate in any meeting of the BOD and any Committee, whether or not a member thereof; provided, however, that he or she would not be entitled to vote, and would not be counted for purposes of determining whether a quorum is present, at any meeting of (a) the BOD, if the Executive Director is not a Director, or (b) a Committee, if the Executive Director is not a member of such Committee.

In the absence of an Executive Director or in the event of his or her disability or inability or refusal to act, the BOD may designate another person to exercise, and, in the absence of such designation the Chair of the BOD may exercise, all of the powers and perform all of the duties of the Executive Director.

## **Clause 7. Meetings of the Members**

### **(1) Objectives and Activities**

A general meeting of the Members (“General Meeting”) shall be held once a year upon the call of the BOD. General Meetings may be held in conjunction with Alliance meetings and may be held telephonically or otherwise as the BOD sees fit.

At each General Meeting, the BOD shall report a summary of the activities of the Alliance during the past year, as well as the plan for the next year’s activities. Other regular meetings of Members shall be held on dates and at times to be determined by the BOD.

Special meetings of the Members for any purpose shall be called by the BOD within ninety (90) days of a written request by at least seventy five percent (75%) of the Contributor Members, such meeting to be called by the Chair.

**(2) Participants**

All Members shall be entitled to attend and participate in discussions at the meetings of Members.

**(3) Organization**

The meetings of Members shall be presided over by the Chair.

**(4) Notice**

Unless otherwise provided in these Bylaws or by provisions of law, the Secretary shall provide at least thirty (30) days' prior written notice of the time and place for any General Meeting and shall give at least fourteen (14) days' prior written notice of the time and place for any regular or special meetings. Notice may be provided in person, by telephone, mail, fax, or electronic message with return confirmation.

**(5) Quorum**

Except as otherwise provided by law, the Certificate, or these Bylaws, Members entitled to vote more than fifty percent (50%) of the aggregate votes of all voting Members (or such higher percentage as may be required by law, the Certificate, or these Bylaws to approve any action to be taken at such meeting), present in person (including via telephone or video conference) or represented by proxy, shall constitute a quorum at all meetings of the Members for matters requiring a vote or for the transaction of business. If such quorum is not established at any meeting of the Members requiring a vote of the Members, the participants shall not transact official business or vote, and the Members present in person or by proxy and entitled to vote at such meeting may recess the meeting without notice other than announcement at the meeting, until such quorum is established.

**(6) Proxies**

Each Member entitled to vote with respect to any election or corporate action at a meeting of Members may authorize another person or persons to act for that Member by proxy, but no such proxy shall be voted or acted upon after one (1) year from its date, unless the proxy provides for a longer period. Without limiting the manner in which a Member may authorize a person or persons to act for such Member as proxy pursuant to this paragraph, a Member may execute a writing authorizing another person or persons to act for such Member as proxy. Execution may be accomplished by the Member or such Member's authorized officer, Director, employee, or agent signing such writing or causing such person's signature to be affixed to such writing by any reasonable means, including, but not limited to, by facsimile signature.

## **(7) Voting Requirements**

Except as otherwise specified by law, the Certificate, or these Bylaws, any action or decision to be taken by the Members must be approved by a Majority Vote, or, in the case of the election of Directors, a plurality of the votes cast in such election.

## **Clause 8. Board of Directors and Advisors**

### **(1) Authority**

Subject to controlling law, the Certificate, and these Bylaws, the BOD shall manage the general affairs, property, and interests of the Alliance. All activities and affairs of the Alliance shall be conducted and all corporate powers shall be exercised by or under the direction of the BOD. The BOD shall have voting rights in the associational governance of the Alliance and in all its meetings.

### **(2) Activities and Duties**

The BOD shall have BOD meetings no less than once per year in which it shall discuss activities of the Alliance and make decisions regarding such activities. The duties of the BOD include, but are not limited to the following: perform all duties imposed by law, the Certificate, or these Bylaws; elect and manage all Officers, nominate and elect Directors for newly created and vacant positions, nominate and elect Advisors, agents, and employees of the corporation; establish, charter, and staff Committees, Working Groups, as necessary to conduct the Alliance activities and objectives; establish policies and procedures for the Alliance; approve all public disclosure of information by the Alliance; approve the Alliance annual budget; establish annual membership fees; establish or revise Member rights and obligations; and perform such other duties as are customary for the Directors of a 501(c)(6) nonprofit corporation.

### **(3) Participants**

(a) BOD: The BOD shall consist of up to eleven (11) Directors, as follows:

(i) Electronic Health Record Member (“EHR Members”): Up to six (6) Directors representing EHR Members, such EHR Members representing either the ambulatory, acute, or post-acute industry, the composition of such Directors to be determined by the BOD (“EHR Member Directors”).

(ii) Care Continuum Member (“Care Continuum Members”): Up to three (3) Directors from Members representing other than EHR Members, the composition of such Directors to be determined by the BOD (“Care Continuum Directors”).

(iii) The BOD may, at its discretion, change the number of Directors (including the number of EHR Member Directors, Care Continuum Directors, or other category of Director, as determined by the BOD) to serve on the BOD as provided in these Bylaws.

(b) **Advisors:** The BOD, at its discretion, may appoint non-Director advisors to the BOD (“Advisors”) that may participate in BOD meetings, in whole or in part, at the invitation of the BOD; however, Advisors shall not count towards a quorum for a meeting of the BOD nor be entitled to vote. The role of a Advisor is to provide to the BOD strategic and other advice for consideration in the BOD’s governance of the Alliance, however such advice is only advisory in nature, and shall not be binding on the BOD or the Alliance without action by the BOD. The BOD at its discretion shall determine the number, composition, and qualifications of Advisors.

(c) Directors and Advisors shall serve without compensation by the Alliance. The Alliance may at its discretion reimburse Directors or Advisors for their reasonable expenses incurred in performance of their duties.

(d) If a Director is elected or appointed to the BOD while employed by a Member and the Director’s employment with such Member is subsequently terminated, such Director shall be automatically removed from the BOD effective upon such termination of employment or consultancy.

(e) An Advisor who is elected by the BOD while an employee or as a representative of a Member or other organization or entity, if such Advisor’s employment or representation of such Member or entity is subsequently terminated, shall be automatically removed as an Advisor, effective upon such termination of employment or representation, unless otherwise provided for by the BOD. Unless otherwise approved by the BOD, the removal of an Advisor under this section, or the resignation, death, or incapacity of an Advisor, shall not entitle the Member or entity such Advisor represented to appoint a replacement Advisor.

**(4) Director Member Performance Obligations.** Directors are expected to be active participants in the governance of the Alliance through their participation on the BOD, and Director Member organizations are expected to be active participants in the Alliance through contributions to the overall success of the Alliance. Directors and their Member organizations have the following minimum performance obligations (“Director Member Performance Obligations” or “DMPO”):

(a) **Support for Committees and Work Groups.** Member shall regularly provide resources to the Alliance by appointing personnel to serve as members of Committees and Work Groups, and;

(b) **Implementation of Alliance Services.** Member shall implement the Alliance services as set forth below:

(i) Member shall implement and use at least one (1) of the commercial services available from the Alliance, provided that there is an available commercial service that reasonably applies to such Member’s business offerings (“Use Case”), as determined by the BOD. Such obligations shall be met by the Member executing the applicable Member Services Agreement for such services within six (6) months from such election to the BOD, and achieving certification in accordance with applicable Alliance procedures, for use of such a service, within one (1) year from election to the BOD.

(ii) In the case where there is no applicable Use Case, but a Use Case later becomes available, Member shall execute the applicable Member Services Agreement for such services when such Use Case is available, and shall implement and use at least one (1) of the commercial services available for such Use Case within one (1) year from its availability.

(iii) Members who do not meet the DMPO within the above time periods shall be automatically removed from the BOD, unless the BOD determines at its sole discretion that it is reasonable to extend the time available for the Member to comply with such obligations, or to waive the obligation. The removal of a Member under this section shall be automatic, and shall not require any action on behalf of the BOD. Exceptions to the DMPO shall require a Majority Vote of the BOD.

(c) Director Participation in Board Meetings. Directors shall participate actively in the governance of the Alliance, as determined by the BOD, including, without limitation, such Director's attendance and participation at the meetings of the BOD.

## **(5) Election and Term of Office**

(a) Directors: Directors are elected to three (3) year terms. Elections will be held annually, staggered over three (3) years; the details of the appointment of any Director, or class of Directors, including but not limited to the length of initial terms to be determined by the BOD. Each Director, at the end of his or her current term, shall be eligible for nomination for election to a subsequent three (3) year term. The BOD shall determine the detailed procedures for the nomination and election of Directors. Only Contributor Members may nominate candidates for election to serve as Directors, however such nominations may include both General and Contributor Members. Each Director shall serve for its elected term, or until his or her earlier death, resignation, or removal, unless an elected Director is replacing an existing Director, where the newly elected Director shall serve out the remaining term of the Director being replaced. Subject to BOD approval, upon the death, resignation, or removal of a Director elected to the BOD, the Member organization of such Director shall have the right to appoint a successor Director to fill such vacancy for the remainder of the term.

(b) Advisors: Advisors shall be elected to one (1) year terms. Each Advisor, at the end of his or her current term, shall be eligible for nomination for election to a subsequent one (1) year term, at the discretion of the BOD.

## **(6) Vacancies**

Any vacancies in the BOD, and any newly created Directorships resulting from an increase in the authorized number of Directors, shall be elected by the Directors then in office or by a sole remaining Director, and the Directors so chosen shall hold office until the next election of the class for which such Directors shall have been chosen and until their respective successors are duly elected and qualified, or until their earlier death, resignation, or removal.

Advisors are elected at the discretion of the BOD. Vacancies left by Advisors shall not be automatically replaced by personnel representing such Advisor's Member organization or other organization or entity.

## **(7) Organization**

The Chair shall preside over each BOD meeting. Each Director shall be notified by the Secretary in advance of any BOD meeting so that each Director can reasonably prepare for and attend such BOD meeting. Each Director has a right to attend and shall make a reasonable effort to attend each BOD meeting. Regular or special BOD meetings shall be held at a place proposed by any of the Directors and accepted by all of the other Directors or at a place designated by the Secretary in proper consultation with the Directors.

Unless otherwise provided in these Bylaws or by provisions of law, the Secretary shall provide at least thirty (30) days' prior written notice to each Director of the time and place for any meeting of the BOD and shall give at least fourteen (14) days' prior written notice of the time and place for any special meetings. Notice may be provided in person, by telephone, mail, fax, or electronic message with return confirmation.

## **(8) Decisions by BOD**

Any decision of the BOD will enter into force on the date specified in such decision or on the date when such decision is made, if no effective date is specified in such decision.

The BOD shall make all decisions in accordance with the voting rules below.

(a) A Director that reasonably cannot be physically present at a BOD meeting can participate in the BOD meeting and the voting during such BOD meeting by telephone, video conference, or other means by which the Director can communicate with, and be communicated to, by the other Directors. No attendance or voting is allowed by proxy at the BOD.

(b) Abstentions shall be considered a waiver of voting right and shall not be counted either for or against the proposal being voted on. It shall, however, count towards the applicable quorum. If any director has abstains or recused himself or herself from voting on any matter at a meeting of the BOD, such director will not be counted as a member of the BOD for that vote (whether that vote is to be Majority, Supermajority or otherwise) (for example, if there are eight directors on the BOD, one of whom recuses herself from voting on a matter, approval by four of the remaining seven directors would satisfy any requirement for a Majority vote on that matter).

(c) Except as otherwise provided by law, the Certificate, or these Bylaws, seventy-five percent (75%) of the Directors present (telephonically, electronically, or physically) and entitled to vote (or such higher percentage as may be required by law, the Certificate, or these Bylaws to approve any action to be taken at such meeting), conference, shall constitute a quorum at all meetings of the BOD for the transaction of business. If such quorum is not established at any BOD meeting, the Directors present in person or otherwise as provided above, and entitled to vote at such meeting, can recess the BOD meeting, without notice other than announcement at the meeting, until such quorum is established.

(d) Each Director present at any meeting shall be entitled to cast one (1) vote on each matter coming before such meeting for decision.

(e) Except in the case provided in Section 8(f) below, any decision made by the BOD without calling a BOD meeting must be made by unanimous written consent.

(f) Upon unanimous consent of the directors present at a meeting of the BOD, an action on a matter which is commenced, by the minimum number of directors necessary to take such action at a meeting of the BOD or committee of the BOD, but where no vote was held, or the vote was held but was not completed, may be approved without convening a meeting of the BOD, or obtaining a unanimous written consent, provided that the vote on the action is completed by written consent (including via email) delivered to and collectively obtained by the BOD within two (2) weeks of the meeting at which action on the matter was commenced. In such a case, the approval of an action requires affirmative votes from the minimum number of directors that were necessary at the meeting of the BOD where the action was commenced. Any such vote, the written consents, any emails containing such votes, and the results, shall be filed with the minutes of the proceedings of the BOD or committee meeting.

## **(9) Voting Percentages**

Each act or decision of the BOD must be approved by the vote required for such act or decision as set forth in the table below:

<b>Matter to be Voted On</b>	<b>BOD Vote Required</b>
(a) General business matters	Majority Vote
(b) Changing or modifying these Bylaws	Super Majority Vote
(c) Approval of Specifications	Super Majority Vote
(d) Removal of a Director	Super Majority Vote
(e) Increase or decrease in the number of BOD seats	Super Majority Vote
(f) Termination of the membership of Contributor or General Members	Super Majority Vote
(g) Determination of Fees	Super Majority Vote
(h) Election of Directors/Advisors	Plurality/Majority
(i) Election of Officers	Majority Vote
(j) Removal of Officers	Super Majority Vote
(k) Revision or modification of Membership Agreement	Super Majority Vote
(l) Dissolution of the Alliance	Super Majority Vote
(m) Approval of annual budget, expenses above ten percent (10%) over such budget, and material contracts	Super Majority Vote
(n) Permission for a terminated Member to reapply	Super Majority Vote
(o) Waiver of Contributor Member or Director Member Performance Obligations	Majority Vote

Except as otherwise specified by law, the Certificate, or these Bylaws, any action or decision to be taken by the Directors must be approved by a Majority Vote.

## **(10) Consultation of Third Parties**

The BOD can consult third parties for advice in relation to the activities of the Alliance. Unless otherwise authorized by the BOD, such consultation shall be conducted only with non-confidential information to be exchanged with such third parties. If the BOD has determined that it is necessary to disclose confidential information to such third party advisors, the BOD shall enter into a confidentiality agreement with the third party advisors and disclose only such confidential information as is reasonably necessary to be disclosed to the third party advisors to obtain advice on specific issues.

## **Clause 9. Committees, Working Groups**

The BOD may create Committees and Working Groups to assist in the work of the Alliance. The creation of Committees or Working Groups; the membership criteria for the same; the appointment of the Chair of such Committees and Working Groups; the procedures for meetings; and any other essential issues necessary for composition and management of a Committee or Working Group shall be at the BOD's sole discretion. Except as otherwise specified by the BOD, no Committee or Working Group shall have legal authority to bind the Alliance or incur any liability related thereto. Each Committee and Working Group shall keep a record of its activities and regularly report them to the BOD at every meeting thereof.

Except as otherwise specified by the BOD or required by law, the Certificate, or these Bylaws, a majority of the members of each Committee or Working Group present (telephonically, electronically, or physically, as applicable) and entitled to vote (or such higher percentage as may be required by law, the Certificate, or these Bylaws to approve any action to be taken at such meeting) shall constitute a quorum for the transaction of business. If such quorum is not established at any meeting, the members of such Committee or Working Group present in person or as otherwise permitted herein, and entitled to vote at such meeting, can recess the meeting without notice other than announcement at the meeting until such quorum is established. Except as otherwise specified by the BOD, any action or decision to be taken by a Committee or Working Group must be approved by a Majority Vote. Each Committee or Working Group may determine the time and place for its meetings, the notice necessary therefor, and its rules of procedure, provided that each shall, where appropriate, endeavor to follow the principles of Robert's Rules of Order.

## **V. Indemnification**

### **Clause 10. Actions other than by or in the Right of the Alliance**

The Alliance shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Alliance) by reason of the fact that he or she is or was a Director or Officer of the Alliance, or is or was a Director or Officer of the Alliance serving at the request of the Alliance as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against



expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit, or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Alliance, and, with respect to any criminal action or proceedings, had no reasonable cause to believe that this conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, or 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 that he or she reasonably believed to be in or not opposed to the best interests of the Alliance, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

#### **Clause 11. Actions by or in the Right of the Alliance**

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

#### **Clause 12. Success on the Merits**

To the extent that any person described in Clause 10 or 11 has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in that Clause, or in defense of any claim, issue, or matter therein, he or she shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection therewith.

#### **Clause 13. Specific Authorization; Indemnification of Others**

Any indemnification under Clause 10 or 11 (unless ordered by a court) shall be made by the Alliance only as authorized in the specific case upon a determination that indemnification of any person described in that Clause is proper in the circumstances because he or she has met the applicable standard of conduct set forth in that Clause. Such determination shall be made by a majority vote of (1) Directors who were not parties to such action, suit, or proceeding, even though less than a quorum, or (2) by the Contributing Members.

Subject to the provisions of these Bylaws, the Alliance shall have the power to indemnify its employees and agents to the extent not prohibited by applicable law. The BOD shall have the power to determine whether any employee or agent shall be indemnified.

#### **Clause 14. Advance Payment**

Expenses incurred in defending a civil or criminal action, suit, or proceeding may be paid by the Alliance in advance of the final disposition of such action, suit, or proceeding upon receipt of an undertaking by or on behalf of any person described in Clause 10 or 11 to repay such amount if it shall ultimately be determined that he or she is not entitled to indemnification by the Alliance as authorized pursuant to these Bylaws.

#### **Clause 15. Non-Exclusivity**

The indemnification and advancement of expenses provided by, or granted pursuant to, Clauses 10 - 14 shall not be deemed exclusive of any other rights to which those provided indemnification or advancement of expenses may be entitled under these Bylaws, any agreement, any vote of Contributing Members or disinterested Directors, or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office.

#### **Clause 16. Jurisdiction of Delaware Court of Chancery**

The Delaware Court of Chancery is vested with exclusive jurisdiction to hear and determine all actions for advancement of expenses or indemnification. The Delaware Court of Chancery may summarily determine the Alliance's obligation to advance expenses (including attorney's fees).

#### **Clause 17. Insurance**

The BOD may authorize the Alliance to purchase and maintain insurance on behalf of any person who is or was a Director, Officer, employee, or agent of the Alliance, or is or was serving at the request of the Alliance as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Alliance would have the power to indemnify him or her against such liability under the provisions of these Bylaws.

#### **Clause 18. Continuation of Indemnification and Advancement of Expenses**

The indemnification and advancement of expenses provided by, or granted pursuant to, these Bylaws shall continue as to any person who has ceased to be a Director, Officer, employee or agent of the Alliance and shall inure to the benefit of the heirs, executors, and administrators of that person.

**Clause 19. Severability**

If any word, clause, or provision of Clauses 14 - 20 or any award made hereunder shall for any reason be determined to be invalid, the provisions hereof shall not otherwise be affected thereby but shall remain in full force and effect.

**Clause 20. Intent of Clauses 14 – 20**

The intent of Clauses 14 - 20 is to provide for indemnification and advancement of expenses to the fullest extent permitted by Section 145 of the General Corporation Law of Delaware. To the extent that such Section or any successor section may be amended or supplemented from time to time, Clauses 14 - 20 shall be amended automatically and construed so as to permit indemnification and advancement of expenses to the fullest extent from time to time permitted by law.

**VI. General Provisions****Clause 21. Accounting**

The fiscal year of the Alliance for accounting purposes shall be from January 1 to December 31 unless otherwise determined by the BOD. An auditor shall be appointed by the BOD to audit the annual balance sheet and statement of accounts of the Alliance. The Treasurer shall prepare and submit to the BOD an audited balance sheet of the Alliance as of the end of each fiscal year, such report to be produced within a timely manner, and when possible within forty-five (45) days from the end of the fiscal year.

**Clause 22. No Agency or Partnership**

These Bylaws shall not be construed to create an agency, joint venture, or partnership between or among the Members. No Member shall have the authority to conclude agreements or enter into any obligation on behalf of the Alliance without the prior written consent or authorization from the BOD. No Member shall be liable for any loss or damages whatsoever resulting from any act performed by another Member(s) on behalf of the Alliance, for which act such Member had not obtained prior written consent or authorization from the BOD.

**Clause 23. Effective Date**

These Bylaws shall become effective immediately upon their adoption. Amendments to these Bylaws shall become effective immediately upon their adoption unless the BOD in adopting the amendments provides that they are to become effective at a different date.

**Clause 24. Settlement of Disputes**

In the event of any dispute between or among Members, former Members, or one or more third parties arising from or related to these Bylaws or the activities of the Alliance, the Members and former Members concerned shall make reasonable effort to amicably settle such disputes. Notwithstanding the foregoing, nothing in these Bylaws shall preclude any Member at any time from seeking an injunction, damages, or any other legal relief available under applicable laws

against any other Member, former Member, or third party for intellectual property infringement.

**Clause 25. Execution of Instruments**

The BOD, except as otherwise provided in these Bylaws, may authorize any Officer, agent, or employee of the Alliance to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Alliance, and such authority may be general or confined to specific instances. Unless so authorized, no agent or employee shall have any power or authority to bind the Alliance by any contract or engagement or to pledge its credit or to render it liable monetarily for any purpose in any amount.

**Clause 26. Deposits**

All funds of the Alliance shall be deposited from time to time to the credit of the Alliance in such banks, trust companies, or other depositories as the Treasurer may select.

**Clause 27. Tax Exempt Status**

Notwithstanding any other provisions of these Bylaws, the Alliance shall not carry on any activities not permitted to be carried on by a corporation exempt from federal income tax under Section 501(c)(6) of the United States Tax Code. Without limitation of the foregoing, the Alliance shall not “engage in a regular business of any kind ordinarily carried on for profit” within the meaning of Treasury Regulation Section 1.501 (c)(6)-1 promulgated under Section 501(c)(6) of the United States Tax Code. The BOD and Officers shall have broad discretion to curtail activities of Members that conflict with the tax exempt status of the Alliance, and the BOD may expel a Member if necessary to protect that tax exempt status.

No part of the net earnings of the Alliance shall inure to the benefit of, or be distributable to, its Members or other private persons, except that the Alliance shall be authorized to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes of the Alliance as approved by the BOD.

**Clause 28. Enforceability**

If any provision or portion of these Bylaws is held unenforceable or invalid for any reason, the remaining provisions and portions of these Bylaws shall be unaffected by such holding.

**Clause 29. Governing Law**

These Bylaws shall be governed by, and construed in accordance with, the laws of the State of Delaware without regard to the conflict of laws provisions of any state or jurisdiction.

*These Bylaws were adopted by the BOD effective as of October 17, 2013 ("Effective Date"), amended on February 19, 2014, further amended on November 23, 2015, further amended on January 17, 2018, further amended on November 08, 2021, and further amended on November 8, 2023.*