

**NFC FORUM, INC.**

**Rules of Procedure**

As approved on June 13, 2014

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## 1. Introduction

This document describes the formation, activities and dissolution of Member Committees, Working Groups and Sub-Groups of NFC Forum, Inc. (the “Consortium”). It also applies to the procedures for creation of Draft Specifications and Specifications, Draft Recommendations and Recommendations, marketing and educational material, and Other Solutions, as well as the members’ responsibilities and obligations in these processes. Additionally, this document sets forth the Description and Rules for Participation in NFC Forum Plugfest Events as applicable to all Consortium Members who participate in such events. This document is intended to detail the issues that are mentioned in the By-laws and IPR Policy of the Consortium, and to supplement them; in no case will this document overrule the respective clauses in the By-laws or IPR Policy.

## 2. References

NFC Forum, Inc. Intellectual Property Rights Policy (the “IPR Policy”)

By-laws of NFC Forum, Inc. (the “By-laws”)

Document Development Process of NFC Forum

NFC Forum Certification Policy

## 3. Definitions

Capitalized terms used in this document without definition and defined in the By-laws or the IPR Policy of the Consortium shall have the meanings ascribed to them in such documents. As used in these Rules of Procedure:

“IPR Election Form” means a properly completed Intellectual Property Rights Election Form, as required to be submitted under certain circumstances under the IPR Policy

“End Products” are any materials that are created by the Consortium, and include:

- a) Specifications, which are subject to the provisions of the IPR Policy that relate to patent claims
- b) “Supporting End Products”, such as Recommendations and White Papers, to which only the provisions of the IPR Policy that relate to copyrights apply
- c) “Marketing/Educational End Products”, to which only the provisions of the IPR Policy that relate to copyrights apply.

“Notice” means a communication sent by letter, telecopy or electronic mail, unless otherwise specifically stated.

For purposes of counting attendance, “meeting” means every session for which a unique agenda is published, either for a face-to-face meeting or teleconference.

“Policy documents” define the working methods of the organization at various levels and means by which the deliverables of the Forum are produced. These include, but are not limited to,

Certification Policy; Document development procedures; Specification and Test document maintenance procedures; and so forth.

“Quorum” means, with respect to any meeting or action of a Member Committee, Working Group or Sub-Group, the participation, in person or electronically, of the representatives of 50% or more of the members of that Member Committee, Working Group or Sub-Group eligible to vote in the Member Committee, Working Group, or subgroup. Non-voting participants and members whose right to vote has been suspended will not be counted for purposes of determining Quorum. Unless otherwise specified in these Rules of Procedure, each vote mentioned herein requires a Quorum to be valid.

“Simple Majority Vote” means the approval by more than 50% of all votes cast (excluding abstentions) by those Members eligible to vote in a Member Committee, Working Group or subgroup, where a Quorum is present in person or participating electronically.

## **4. Scope**

This document applies to Member Committees, Working Groups and their Sub-Groups.

## **5. Member Committees**

Member Committees serve as an oversight over the work in their respective subordinate Working Groups, support the coordination and alignment of Working Groups and lead the Voting Member Ballot. In the absence of such subordinate Working Groups, Member Committees may actually develop End Products.

### **5.1. Member Committee Formation**

A Member Committee is formed when the Board of Directors approves the request of three or more Voting Members (such Voting Members collectively referred to in this Section 5 as the “MC Initiator Group”), in the following procedure:

- a) To initiate a request for Member Committee formation, the MC Initiator Group must deliver to the Board of Directors a Preliminary Statement of Work (see Appendix 3) describing the goals, objectives and deliverables of the proposed activity. The MC Initiator Group must also propose a temporary Chairman of the Committee.
- b) Within 4 weeks after its receipt of the formation request, the Board of Directors shall hold a meeting to discuss the proposed scope of the new Member Committee. The Board of Directors may request additional information from the MC Initiator Group to clarify the request before the Board issues its Request for Comments and Call for Participation (as described below) in connection with such Member Committee.
- c) Thereafter, the Board of Directors shall deliver a “Request for Comments and Call for Participation” electronically (see Appendix 1) to each Member (i) requesting comments on the proposed scope of such Member Committee, (ii) requesting that such Member identify any Intellectual Property owned by it and/or its Related Party(ies) which might be Necessarily Infringed by the implementation of any Specification to be created by such Member Committee and which such Member is not willing to license on such terms as set

forth in the IPR Policy and Rules of Procedure as of that time, (iii) requesting all eligible Members of the NFC Forum to indicate their interest in participation (“Call for Participation”), and (iv) setting forth a date by which all Members must have submitted their responses in order for such responses to be considered by the Consortium (the “Response Date”), which Response Date must be no less than six (6) weeks after the date of any such Notice for comments regarding the Technical Committee, the Compliance Committee, or any Sub-Group thereof.

- d) The Board of Directors shall hold a second meeting on or after the Response Date to assess the Members’ responses and to decide on the formation of the Member Committee.
- e) If the Board of Directors approves the establishment of the Member Committee, the Board defines the scope and deliverables (“Statement of Work”) of such Member Committee, appoints a temporary Chairman of such Member Committee, who will be in office until the Member Committee has voted on a successor, and decides on the participation of Members of the different Membership classes in such Member Committee in accordance with Section 5.2 below.
- f) If the Board of Directors does not approve the establishment of the Member Committee, it informs the MC Initiator Group about the decision, giving the reasons for the disapproval of the request.

## **5.2. Member Committee Membership**

The Board of Directors determines the particulars of Member Committee participation according to the following guidelines:

### **5.2.1. Voting Membership**

Only Sponsor Members and Principal Members may have voting representatives on Member Committees. Each such Member may only have one (1) voting representative in a Member Committee at a time.

Voting membership in a Member Committee is guaranteed to representatives of Sponsor Members. Voting membership in a Member Committee is granted to representatives of Principal Members, based on availability of seats and fulfillment of other pre-requisites that may be set from time to time by the Board of Directors.

In the case of failure by any Member entitled to vote in a Member Committee to meet the attendance requirements as set forth in Section 5.5, the voting rights of such Member (and its Primary MC Representative or MC Alternate) in such Member Committee will temporarily be suspended, and such Member shall not be counted for purposes of determining a quorum in such Member Committee. Upon satisfaction of such attendance requirements with respect to such Member Committee, such suspended voting rights shall immediately be reinstated and such Member shall again be counted for purposes of determining a quorum in such Member Committee.

### **5.2.2. Non-Voting Membership**

Non-voting membership in each Member Committee is granted to Principal Members that have not received a voting membership seat in such Member Committee, subject to the availability of

non-voting seats in that Member Committee and fulfillment by such Members of other prerequisites that may be set from time to time by the Board of Directors.

If the Chairman of a Working Group within a Committee is from a Member that does not have a seat in the Member Committee, this Working Group Chairman is granted permission to participate in the proceedings of the Member Committee, in person or electronically.

### **5.2.3. Primary Member Committee Representatives and Other Participants**

Each voting member company of a Member Committee must designate one primary representative qualified to vote in the proceedings of such Member Committee (each a “Primary Voting MC Representative”), and may designate a permanent alternate for such Primary MC Representative (each a “Voting MC Alternate”).

Each non-voting member of a Member Committee must designate one primary representative qualified to act in the proceedings of such Member Committee (each a “Primary Non-Voting MC Representative”), and may designate a permanent alternate for such Primary Non-Voting Representative (each a “Non-Voting MC Alternate”). For purposes of this Section 5, each Primary Voting MC Representative and each Primary Non-Voting MC Representative is referred to as a “Primary MC Representative”, and each Voting MC Alternate and Non-Voting MC Alternate is referred to as a “MC Alternate”.

Each member may change any of its Primary MC Representatives and/or MC Alternates on a permanent basis upon written Notice to the applicable Member Committee Chairman.

Persons other than the Primary MC Representative and MC Alternate may attend Member Committee meetings on behalf of a Member as contributing representatives (each, a “Contributing MC Representative”, and each Primary MC Representative, MC Alternate and Contributing MC Representative, a “MC Representative”). It is the duty of the Primary MC Representative to inform any such MC Representative of the IPR Policy. The Chairman of a Member Committee may set reasonable limits on the number of Contributing MC Representatives per Member who may participate in face-to-face meetings of such Committee. Such limits (if any) will not take effect until four (4) weeks after Notice thereof to all members of such Member Committee.

### **5.2.4. Addition or Deletion of Membership**

While a Member Committee is active, members may be added to or deleted from the Committee roster in the manner specified below.

If a Member Committee has available seats, or if a Member Committee has been set up without limitation of the number of seats, and a Member meets the membership criteria for such Member Committee as decided by the Board of Directors (which may differ depending on Membership class), such Member may at any time designate a Primary MC Representative, and if desired, an MC Alternate, to participate in such Member Committee.

Each member of a Member Committee may be removed by the Chairman of that Committee for material cause.

A member of a Member Committee may resign from participation in that Member Committee at any time, effective on the date of receipt of its written statement of resignation by the Chairman of the Member Committee.

### **5.2.5. Observers**

Employees of any Member of the Consortium, which Member is (i) a member of such Member Committee or (ii) eligible to join such Member Committee as a voting or non-voting member thereof, may become “Observers” in such Member Committee. Observers are not entitled to participate in the proceedings of the Member Committee, but may access such Member Committee’s documents. Members that do not nominate a Primary MC Representative for a Member Committee, but follow the activities only by means of Observers, are not considered “Participants” as defined in the IPR Policy or members of the Member Committee.

### **5.3. Member Committee Organization**

After the Board of Directors approves the establishment of the Member Committee, the temporary Chairman will invite the members of the MC Initiator Group and the primary and alternate contacts of each Member eligible for participation in the Member Committee to an organizational meeting. At the organizational meeting or at the following meeting in person, the Member Committee shall elect a Chairman and Vice-Chairman. For the purpose of electing officers at the first four meetings of a newly established Member Committee, the Primary Voting MC Representatives or their Voting MC Alternates shall be entitled to participate in ballots, irrespective of the fulfillment of the Member Committee Attendance Requirements. If desired, the Member Committee may elect a Secretary to keep minutes of the meetings, a Document Editor (these latter two can be the same person), and, if any Task Force is formed, a Chairman and Vice-Chairman of such Task Force. Each Member Committee Chairman, Task Force Chairman and all other Member Committee or Task Force officers are elected for a term of two years.

Any such officer may cease to hold office before the expiry of such term for the following reasons:

- a) The officer resigns;
- b) The Member Committee elects a new officer in accordance with Section 5.4 below;
- c) The officer is removed from office by the Board of Directors;
- d) The officer ceases to be an active participant in the Member Committee, for example, due to change of responsibilities, change of employer or the Member company ceases to be a member of the Member Committee;
- e) The employer of the officer is not (or no longer is) entitled to designate a representative to run for election of that officer position, for example due to a change in Membership class of the Member.

Any officer may be elected to any number of consecutive terms. If a Chairman of a Member Committee ceases to hold office, the Vice-Chairman will assume the responsibilities of the Chairman until a new Chairman is elected.

If any such officer changes employment from one Member to another Member, the officer must ask for a vote of confidence in order to continue serving in his current officer capacity. If the vote of confidence fails, then a new officer must be elected according to the procedures described in Section 5.4.

#### **5.4. Voting Procedures**

Unless otherwise stated, all votes regarding elections of officers of Member Committees, such as Chairman, Vice-Chairman, Secretary, Document Editor, etc., of such Member Committee, shall be conducted according to the following procedure:

An agenda item for the officer election must be officially requested by a Primary MC Representative or MC Alternate of a member of the Member Committee or put on the meeting agenda by the Chairman of the Member Committee, giving a reason for requesting the officer election. The request for an agenda item for the officer election must be received at least two weeks prior to the meeting where the election will take place, except for the initial meeting of the Member Committee when it will be on the agenda without prior request. The Chairman of the Board of Directors must be informed at the same time. All Sponsor Members and Principal Members that have voting seats in the Member Committee in question have the right to designate a representative to run for each of the open officer positions.

If a Quorum is present at the meeting, and, in the case of an opposed election pursuant to Section 5.3(b), the Member Committee has resolved by a Simple Majority vote to hold an election for that officer position, a first vote shall be cast with respect to each office open for election. Any candidate who receives a Simple Majority Vote with respect to a given office is thereby elected to that office. If no candidate receives a Simple Majority Vote, then the two or more candidates who received the two highest numbers of votes in the first ballot shall be the subject of a second vote, and the candidate who receives the highest number of votes in the second vote is thereby elected to that office. If the second vote for a given office is a tie, the Board of Directors shall elect the new officer at its next meeting.

#### **5.5. Member Committee Attendance Requirements**

A Member's Primary MC Representative should seek to participate in all meetings of the Committee on which they serve as Primary MC Representative. Unless otherwise decided by the Board of Directors, a Member's MC Representative must attend at least 50% of the meetings of the Member Committee over any period of the previous eight (8) successive Committee meetings in order for such Member to earn or maintain voting privileges.

#### **5.6. Disbanding Member Committees**

Each Member Committee may propose to disband itself at any time by a Simple Majority Vote of its members, and may want to do so when it has completed the work it has set out for itself. The Chairman of such Member Committee shall inform the Chairman of the Board of Directors of such a vote, and the Board of Directors shall decide at its next meeting about the continuation or disbandment of such Member Committee and its Sub-Groups.

Member Committees may also be disbanded by the Board of Directors acting on its own initiative.

Whenever a Member Committee is disbanded, all of its Working Groups, Subcommittees or Sub-Groups subordinated to the Committee shall be assigned by the Board of Directors to other Member Committees or shall be disbanded as well.

### **5.7. Task Forces of Member Committees**

From time to time, a Member Committees may establish Task Forces, each a Member Committee Task Force or “MCTF”. MCTFs are special Sub-Groups within Member Committees, established by the members of the parent Member Committee in order to achieve progress on specific topics or work items in an efficient and focused way. The following rules and procedures apply to all Member Committee Task Forces:

- a) MCTF members must be participants of the parent Member Committee.
- b) The procedures for Member Committee Formation as described in Section 5.1 above do not apply to MCTFs.
- c) MCTFs may not have their own Sub-Groups.
- d) MCTF Chairmen and Vice-Chairmen are elected by their parent Member Committee.
- e) MCTFs shall internally elect their own officers other than Chairman and Vice-Chairman, such as MCTF Secretary, MCTF Document Editors, etc.
- f) The scope of each MCTF must be determined by the parent Member Committee, may be changed by the parent Member Committee from time to time, and must at all times be within the scope of the Statement of Work of its parent Member Committee.
- g) MCTFs should work on a consensus basis and are not permitted to make decisions that require attention by the entire parent Member Committee, for example, voting on alternative technical proposals (as defined in Section 7.3.3 below).
- h) Attendance at MCTF meetings does not constitute attendance at parent Member Committee meetings.
- i) Each MCTF shall provide regular status/progress reports to its parent Member Committee.
- j) Each Member Committee shall review and provide guidance to its Task Forces regarding the aforementioned MCTF status/progress reports, and shall report the status of each of its Task Force deliverables in the manner requested by the Board of Directors.

## **6. Working Groups**

The development of End Products is performed by Working Groups with the approval of the Board of Directors.

A Working Group is composed of its Chairman and Vice-Chairman, its voting members, and its non-voting Participants (as defined in the IPR Policy), if any.

### **6.1. Working Group Formation**

Working Groups are Sub-Groups within Member Committees. A Working Group is formed upon the request of three or more Voting Members who are members of the parent Member Committee (such Voting Members collectively referred to in this Section 6 as the “WG Initiator Group”), with the approval of the Board of Directors in the following procedure:

- a) To initiate a request for Working Group formation, a WG Initiator Group must deliver to the Board a Preliminary Statement of Work (see Appendix 3), describing the goals, objectives and deliverables of the proposed activity. The WG Initiator Group must also propose a temporary Chairman of the Working Group.
- b) Within 4 weeks after its receipt of the formation request, the Board of Directors shall hold a meeting to discuss the proposed scope of the new Working Group. The Board of Directors may request additional information from the WG Initiator Group to clarify the request before the Board issues its Request for Comments and Call for Participation (as described below) in connection with such Working Group.
- c) Thereafter, the Board of Directors shall deliver a “Request for Comments and Call for Participation” electronically (see Appendix 1) to each Member (i) requesting comments on the proposed scope of such Working Group, (ii) requesting that such Member identify any Intellectual Property owned by it and/or its Related Party(ies) which might be Necessarily Infringed and which such Member is not willing to license on such terms as set forth in the IPR Policy and Rules of Procedure as of that time, (iii) including a Call for Participation, and (iv) setting forth a date by which all Members must have submitted their responses in order for such responses to be considered by the Consortium (the “Comment Date”), which Comment Date must be no less than six (6) weeks after the date of any such Notice for comments regarding Working Groups under either the Technical Committee or the Compliance Committee.
- d) The Board of Directors shall hold a second meeting on or after the Comment Date to assess the Members’ responses and to decide on the formation of the Working Group.
- e) If the Board of Directors approves the establishment of the Working Group, the Board defines the scope and deliverables (“Statement of Work”) of such Working Group, assigns this Working Group to a Member Committee, appoints a temporary Chairman of such Working Group, who will be in office until the Working Group has voted on a successor, and decides on the participation of Members of the different Membership classes in such Working Group in accordance with Section 6.2 below.
- f) If the Board of Directors does not approve the establishment of the Working Group, it informs the WG Initiator Group about the decision, giving the reasons for the disapproval of the request.
- g) The Statement of Work of each Member Committee or Working Group and each of its Sub-Groups, as well as regular progress reports from the Chairman of the Working Group, shall be made accessible to all Members of the Consortium through the Members Community Web site.

## **6.2. Working Group Membership**

The Board of Directors determines the particulars of Working Group participation according to the following guidelines:

### **6.2.1. Voting Membership**

Only Sponsor Members and Principal Members may have voting representatives in Working Groups. Each such Member may only have one (1) voting representative in a Working Group at a time.

Voting membership in a Working Group is guaranteed to representatives of Sponsor Members and Principal Members.

In the case of failure by any Member entitled to vote in a Working Group to meet the attendance requirements as set forth in Section 6.5, the voting rights of such Member (and its Primary WG Representative or WG Alternate) in such Working Group will temporarily be suspended, and such Member shall not be counted for purposes of determining a quorum in such Working Group. Upon satisfaction of such attendance requirements with respect to such Working Group, such suspended voting rights shall immediately be reinstated and such Member shall again be counted for purposes of determining a quorum in such Working Group.

### **6.2.2. Non-Voting Membership**

Non-voting membership in a Working Group is granted to Associate and Non-Profit Members, based on the availability of non-voting seats in that Working Group and upon fulfillment of other pre-requisites that may be set from time to time by the Board of Directors.

### **6.2.3. Primary Working Group Representatives and Other Participants**

Each voting member company of a Working Group must designate one primary representative qualified to vote in the proceedings of such Working Group (each, a “Primary Voting WG Representative”), and may designate a permanent alternate for such Primary Voting WG Representative (each a “Voting WG Alternate”).

Each non-voting member of a Working Group must designate one primary representative qualified to act in the proceedings of such Working Group (each, a “Primary Non-Voting WG Representative”), and may designate a permanent alternate for such Primary Non-Voting WG Representative (each a “Non-Voting WG Alternate”). For purposes of this Section 6, each Primary Voting WG Representative and each Primary Non-Voting WG Representative is referred to as a “Primary WG Representative”, and each Voting WG Alternate and Non-Voting WG Alternate is referred to as a “WG Alternate”.

Each member may change any of its Primary WG Representatives and/or WG Alternates on a permanent basis upon written Notice to the applicable Working Group Chairman.

Persons other than the Primary WG Representative and WG Alternate may attend Working Group meetings on behalf of a Member as contributing representatives (each a “Contributing WG Representative”, and each Primary WG Representative, WG Alternate and Contributing WG Representative, a “WG Representative”). It is the duty of the Primary WG Representative to inform any such WG Representatives of the IPR Policy.

The Chairman of a Working Group may set reasonable limits on the number of Contributing WG Representatives per Member who may participate in face-to-face meetings of such Working Group. Such limits (if any) will not take effect until four (4) weeks after Notice thereof to all members of such Working Group, and shall not require any Contributing Member to cease participating or change its status to that of an Observer.

#### **6.2.4. Addition or Deletion of Membership**

While a Working Group is developing an End Product, members may be added to or deleted from the Working Group roster in the manner provided below.

Upon joining the Consortium, new Members may join any Working Groups for which they are eligible and which have available seats. If a Working Group has available seats, or if a Working Group has been set up without limitation of the number of seats, and a Member meets the membership criteria for such Working Group as decided by the Board of Directors (which may differ depending on Membership class), such Member may at any time designate a Primary WG Representative, and if desired, an WG Alternate, to participate in such Working Group.

Each member of a Working Group may be removed by the Chairman of that Working Group for material cause.

A member of a Working Group may resign from participation in a Working Group at any time, effective on the date of receipt of its written statement of resignation by the Chairman of the Working Group.

#### **6.2.5. Observers**

Employees of any Member of the Consortium, which Member is (i) a member of such Working Group or (ii) eligible to join such Working Group as a voting or non-voting member thereof, may become an “Observer” in such Working Group. Observers are not entitled to participate in the proceedings of the Working Group, but may access such Working Group’s documents. Members that do not nominate a Primary WG Representative for a Working Group, but follow the activities only by means of Observers, are not considered “Participants” as defined in the IPR Policy or members of the Working Group.

### **6.3. Working Group Organization**

After the Board of Directors approves the establishment of the Working Group, the temporary Chairman will invite the Initiators and the Primary and Alternate Representatives of Members eligible for participation in the Working Group to an organizational meeting. At the organizational meeting or at the following meeting in person, the Working Group shall elect a Chairman and Vice-Chairman. For the purpose of electing officers at the first four meetings of a newly established Working Group, the Primary Voting WG Representatives or their Voting WG Alternates shall be entitled to participate in ballots, irrespective of the fulfillment of the Working Group Attendance Requirements. If desired, the Working Group may elect a Secretary to keep minutes of the meetings, a Document Editor (these latter two can be the same person), and, if any Task Force is formed, a Chairman and Vice-Chairman of such Task Force. Each Working Group Chairman, Task Force Chairman and all other Working Group officers are elected for a term of two years. Any such officer may cease to hold office before the expiry of such term for the following reasons:

- a) The officer resigns;
- b) The Working Group elects a new officer in accordance with Section 6.4 below;
- c) The officer is removed from office by the Board of Directors;
- d) The officer ceases to be an active participant in the Working Group, for example, due to change of responsibilities, change of employer or the Member company ceases to be a member of the Working Group;
- e) The employer of the officer is not (or no longer is) entitled to designate a representative to run for election of that officer position, for example due to a change in Membership class of the Member.

Any such officer may be elected to any number of consecutive terms. If a Chairman of a Working Group ceases to hold office, the Vice-Chairman will assume the responsibilities of the Chairman until a new Chairman is elected.

If any such officer changes employment from one Member to another Member, the officer must ask for a vote of confidence in order to continue serving in his current officer capacity. If the vote of confidence fails, then a new officer must be elected according to the procedures described in Section 6.4.

#### **6.4. Voting Procedures**

Unless otherwise stated, all votes regarding elections of officers of Working Groups (or Sub-Groups thereof), such as Chairman, Vice-Chairman, Secretary, Document Editor, etc., of such Working Group (or Sub-Groups thereof), shall be conducted according to the following procedure:

An agenda item for the officer election must be officially requested by a Primary or Alternate Representative of a member of the Working Group or put on the meeting agenda by the Chairman of the Working Group, giving a reason for requesting the officer election. The request for an agenda item for the officer election must be received at least two weeks prior to the meeting where the election will take place, except for the initial meeting of the Working Group when it will be on the agenda without prior request. The Chairman of the respective Member Committee must be informed at the same time. All Members of the Working Group in question have the right to designate a representative to run for each of the open officer positions.

If a Quorum is present at the meeting, and, in the case of an opposed election pursuant to Section 6.3(b), the Working Group has resolved by a Simple Majority vote to hold an election for that officer position, a first vote shall be cast with respect to each office open for election. Any candidate who receives a Simple Majority Vote with respect to a given office is thereby elected to that office. If no candidate receives a Simple Majority Vote, then the two or more candidates who received the two highest numbers of votes in the first ballot shall be the subject of a second vote, and the candidate who receives the highest number of votes in the second vote is thereby elected to that office. If the second vote for a given office is a tie, the Board of Directors shall elect the new officer at its next meeting.

### **6.5. Working Group Attendance Requirements**

A Member's Primary WG Representative should seek to participate in all meetings of the Working Group on which they serve as Primary WG Representative. Unless otherwise decided by the Board of Directors, a Member's WG Representative must attend at least 50% of the meetings of the Working Group over any period of the previous eight (8) successive meetings of such Working Group in order for such Member to earn or maintain voting privileges.

### **6.6. Disbanding and Continuing Working Groups**

Each Working Group may propose to disband itself at any time by a Simple Majority Vote of its members, and may want to do so when it has completed the work it has set out for itself, although continuing in existence is certainly permissible and may make it easier to revise a specification as implementations evolve. The Chairman of such Working Group shall inform the Chairman of the respective Member Committee of such a vote, and the respective Member Committee shall decide at its next meeting about the continuation or disbandment of such Working Group and its Sub-Groups. In the latter case the Committee Chairman will recommend the disbandment of the Working Group to the Board of Directors.

After completion of the End Products it has developed, a continuing Working Group shall propose its future Statement of Work. The Working Group Chairman then submits the proposal to the Chairman of the respective Committee and to the Board of Directors, which will then be considered as an Initiation as described in Section 6.1 above, eventually resulting in another Request for Comments and Call for Participation.

Working Groups may also be disbanded by the Board of Directors upon the recommendation of the respective Member Committee, or by the Board of Directors on its own initiative.

Whenever a Working Group is disbanded, all of the Sub-Groups subordinated to the Working Group shall be disbanded as well.

### **6.7. Task Forces of Working Groups**

From time to time, a Working Group may establish Task Forces, each a Working Group Task Force or "WGTF". WGTFs are special Sub-Groups within Working Groups, established by the members of the parent Working Group, as internal Sub-Groups, in order to achieve progress on specific topics or work items in an efficient and focused way. The following rules and procedures apply to all Working Group Task Forces:

- a) WGTF members must be participants of the parent Working Group.
- b) The procedures for Working Group Formation as described in Section 6.1 above do not apply to WGTFs.
- c) WGTFs may not have their own Sub-Groups.
- d) WGTF Chairmen and Vice-Chairmen are elected by their parent Working Groups.
- e) WGTFs shall internally elect their own officers other than Chairman and Vice-Chairman, such as WGTF Secretary, WGTF Document Editors, etc.

- f) The scope of each WGTF must be determined by the parent Working Group, may be changed by the parent Working Group from time to time, and must at all times be within the scope of the Statement of Work of its parent Working Group.
- g) WGTFs should work on a consensus basis and are not permitted to make decisions that require attention by the entire parent Working Group, for example voting on alternative technical proposals.
- h) Attendance at WGTF meetings does not constitute attendance at parent Working Group meetings.
- i) Each WGTF shall provide regular status/progress reports to its parent Working Group.
- j) Each Working Group shall review and provide guidance to its Task Forces regarding the aforementioned WGTF status/progress reports, and shall report the status of each of its Task Force deliverables in the manner requested by the Board of Directors.

## **7. Development, Approval and Maintenance of Specifications**

### **7.1. Submission and Approval of New Work Items**

A minimum of three members of a Working Group or Member Committee, of which a minimum of two are Voting Members in such Working Group or Member Committee whose voting rights have not been suspended, are required to submit a New Work Item Request Form.

The applicable Member Committee shall ask for comments on the new work item. If objections are raised, the Member Committee shall seek to resolve the objections by consensus. The Member Committee shall then vote on the approval or rejection of the new Work Item. If the Working Group or Member Committee rejects the request, it should inform the submitters that the work item request has been rejected, along with the reasons for the decision.

Refer to the *Document Development Process* for details on the process.

### **7.2. Development of Requirements**

The Working Group creates a Requirements Specification for the work item. When the Working Group reaches consensus on the Requirements Specification, it is submitted to the Member Committee for review. After consulting with the other Member Committees on an ‘as needed’ basis, the Member Committee conducts a formal vote to approve the Requirements Specification.

Refer to the *Document Development Process* for details on the process.

### **7.3. Specification Development**

#### **7.3.1. Periodic Meetings and Posting Requirements**

A Working Group should meet periodically by conference call or in person, and Notice of such meetings must be provided by or at the direction of the Chairman at least one week in advance

for conference calls or three weeks for meetings in person, with individual notifications sent to all representatives and the Chairman of the respective Member Committee.

A Working Group may decide to hold regularly scheduled meetings, in which case a single notification of the schedule will be sufficient. For conference calls, the contact information for the call must be distributed no later than the day before each call.

Submissions and proposals to be discussed at a meeting must comply with the IPR Policy and must be distributed at least one week in advance of the meeting. Discussion of late submissions is subject to the approval of the Working Group.

At the beginning of each meeting of each Member Committee, Working Group or Sub-Group thereof (excluding the Marketing Committee and any Working Group or Sub-Group thereof), the Chairman must present a brief summary of the IPR Policy of the Consortium as provided in Appendix 2 to these Rules of Procedure and such other information as is appropriate, and encourage the meeting attendees to review the IPR Policy in full.

### **7.3.2. Formal Submissions of Technology**

Any formal submission of technology by a Working Group member for consideration for inclusion in a specification must be done in compliance with Section 3.2 of the IPR Policy. Only Primary WG Representatives and their WG Alternates, but not other Participants (as defined in the IPR Policy) from Members, may submit a formal submission of technology.

Refer to the *Document Development Process* for details on the process.

### **7.3.3. Voting on Alternative Technical Proposals**

If two or more Submissions of mutually exclusive technical proposals are competing for inclusion in a Specification (each an “Alternative Technical Proposal”), then the members of the Working Group or Member Committee, as applicable, must cast votes until one proposal has been approved by a Simple Majority Vote. Any number of ballots may be used to eliminate proposals that place worse than second place in votes, unless a proposal obtains more than 50%, in which case that proposal wins immediately.

### **7.3.4. Format of Specifications**

Specifications shall be written and formatted according to the template provided by the Chairman of the Technical Committee and published on the Members Community Web site.

### **7.3.5. General Voting Items**

Member Committees and Working Groups shall seek to make decisions in a consensual way. If a decision cannot be made by consensus, the Chairman may call for a Simple Majority Vote to resolve the issue. Each voting member company that has voting rights in the respective group is entitled to one vote. Only Primary WG Representatives and their WG Alternates (if the voting item is at Working Group level), or Primary MC Representatives and their MC Alternates (if the voting item is at Committee level), but not other Participants (as defined in the IPR Policy) may cast a vote. The wording of the ballot shall be decided by the Chairman. If more than 25% of the Voting Members of the group, where a Quorum is present, oppose the wording of the ballot, the

Chairman will notify the parent Member Committee (if the voting item is at Working Group level) or the Board (if the voting item is at Committee level) with a request to make the decision.

#### **7.4. Specification Review and Adoption**

##### **7.4.1. Working Group Review of Draft Specifications**

The purpose of this first review among the members of a Working Group is to achieve consensus on the technical content of the Draft Specification, make comments, and identify features that are unacceptable in the view of the members.

When a Working Group decides that a Draft Specification is ready for the Working Group review process, the Chairman of the Working Group will post a draft of the Specification on the Working Group's space on the NFC Forum's Members Community Web site, and will notify all members of the Working Group and the Chairman of the respective Member Committee.

The Working Group Chairman will ask for return of final comments within no less than two weeks from the date of notification. Within one week after the due date for comments, the comments will be made available to all members of the Working Group.

After the Working Group resolves all comments and achieves consensus, the Working Group Chairman will present the Draft Specification to the Chairman of the respective Member Committee and request to submit the Draft Specification to a Voting Member Review and Adoption Ballot.

The Member Committee will review the Draft Specification for conformance to documentation rules such as numbering and disclaimers, and for conformance with the Working Group's Final Statement of Work.

##### **7.4.2. Approval by the Membership**

The Members of the NFC Forum will review the Draft Specification and submit their IP Election Forms. Voting Members will vote on the Draft Specification.

###### **7.4.2.1. All Members IPR Election**

When the Draft Specification is ready for the Voting Member ballot, the Committee Chairman must send the IPR Election Forms to all Members to ensure that all Necessary Claims are available for license. The deadline to return the IPR Election Form shall be no less than three weeks. Within one week after the deadline for returning the IPR Election Forms, the Committee Chairman will publish a summary of all responses.

New Members shall return their New Member IPR Election forms for all Specifications and Draft Specifications, for which the All Member IPR Election has been initiated (or completed) prior to the joining date of the new Member.

###### **7.4.2.2. Process When Members Choose Not to Make IP Available**

If a member chooses not to license its Controlled Necessary Claims under terms of the NFC Forum IPR Policy, the Chairman of the Member Committee refers the Draft Specification to the

Board of Directors of the Consortium. The Board of Directors will either refer the specification back to the Working Group that created the Draft Specification to seek a technically feasible alternative that would not result in infringement of the Necessary Claim(s) in question, or the Board will seek alternative means of resolution, consulting appropriate experts if and to the extent necessary in the reasonable judgment of the Board of Directors.

#### **7.4.2.3. Publication of Candidate Specification**

When the IPR Election has been completed the respective Member Committee will give a recommendation to the Board of Directors whether or not it is advisable to publish the Draft Specification as a “Candidate Specification.” The Board of Directors may then decide with Super Majority Vote to publish such Draft Specification as Candidate Specification. The Board will also designate, as part of that vote, whether the Candidate Specification will be made available to non-Members, as well as the length of the Candidate Specification review period. Publication as a Candidate Specification shall not constitute Adoption. Candidate Specifications shall be formatted in an appropriate way, clearly identify their status as Candidate Specifications, and include licensing terms designated by the Board of Directors.

If a Draft Specification is designated by the Board of Directors as a Candidate Specification, the period of publication of Candidate Specifications may be used to verify its quality, to progress on related test specifications, or the like. The respective Member Committee shall collect all comments related to such Candidate Specification during the period of its publication.

At the time when the respective test Specification is ready for the Voting Member Ballot, or when the respective Member Committee has decided that there will be no test Specification for such technical Specification, the respective Member Committee may decide to start the Voting Member Ballot for the Candidate Specification. Any edits to fix errata shall be done before the Draft Specification is submitted to Voting Member Ballot.

If the respective Member Committee acknowledges that during the period of publication of the Candidate Specification substantive changes have been proposed and that such proposals have not already been discussed and decided upon during the development of the Draft Specification, or if such Member Committee becomes aware of IPR that would be Necessarily Infringed by implementation of the Draft Specification but that will not be made available under the terms of the IPR Policy, it will refer the Draft Specification to the appropriate Working Group for resolution of open issues or to the Board of Directors for resolution in accordance with the first paragraph of Section 7.4.2.2.

#### **7.4.2.4. Voting Member Ballot**

At the same time that the Committee Chairman sends the IPR Election Forms to all Members, the Chairman will post a final draft of the Specification and all relevant supporting documents on the NFC Forum’s Members Community Web site, and may additionally otherwise disseminate it in a way that is accessible to all Members, and inform them of the availability of the Draft Specification and all other applicable documents. The Chairman will also issue an Approval Ballot to all Voting Members (the “Voting Member Ballot”). Voting choices on the Voting Member Ballot shall be “Yes,” “No” and “Abstain”. Ballot responses with a “No” vote must

include a statement of the reasons for disapproval (a “Disapproval Rationale”) in order to be deemed valid Voting Member Ballots.

The deadline for return of the Approval Ballot shall be no less than six weeks from the date of posting of the Notice of availability of such Ballot.

After completion of the ballot, the Chairman of the respective Member Committee posts the results of the Voting Member Ballot on the NFC Forum’s Members Community Web site.

The Specification will be considered approved by the Voting Membership if a Simple Majority of the Voting Members entitled to vote on the Specification vote “Yes”. For the purpose of determination of the quorum, any Voting Member who does not submit a valid Voting Member Ballot (including “No” votes that do not include a Disapproval Rationale), or who does not submit any Voting Member Ballot, is deemed to have not participated in that ballot. If a ballot fails, ballot responses with an “Abstain” or “No” vote that include a statement indicating disapproval on technical or other non-IPR related grounds will be resolved in the Negative Ballot Review process.

#### **7.4.2.5. Negative Ballot Review**

If the Voting Member Ballot is not approved, the Working Group, together with the respective Member Committee, will collect all the comments from abstentions and disapproving ballots and review them to collectively decide what actions to take with respect to each comment. The Draft Specification should then be edited to reflect the changes made in the process of Negative Ballot Review, and re-circulated, along with a summary of the comments and the actions taken, to all members of the Working Group. In the event that the Chairman of the Working Group, the Chairman of the respective Member Committee, and the voting members of the Working Group by a Simple Majority Vote, determine that eventual approval by the Members is unlikely, they may abandon the Draft Specification and the respective Work Item. Otherwise, the revised document is then again submitted to the members of the Working Group for comments according to Section 7.4.1 above and subsequently to the voting members for IPR election and Ballot according to 7.4.2 above.

#### **7.4.3. Adoption by Board of Directors**

Within eight (8) weeks after approval of a Voting Member Ballot regarding a Draft Specification, the Board of Directors must vote on adoption of the Draft Specification. Adoption by the Board must be by Super Majority Vote or approved in the manner described in Section 4.11 of the NFC Forum By-laws by the consent of an equivalent number of Directors. Once adopted, the Chairman of the respective Member Committee shall publish the approved and adopted Specification on the public Web site of the NFC Forum and may make it available by additional means as well to all interested parties under the conditions that may from time to time be defined by the Board.

If the Specification is not approved by the Board of Directors, it will be referred back to the Working Group and the respective Member Committee, together with the reasons for disapproval.

## **7.5. Maintenance of Specifications**

Once approved by the Board of Directors, responsibility for maintenance of a Specification is assigned according to the following rules:

- (a) If the Working Group that has developed the Specification is still active, the responsibility for maintenance lies with the Working Group.
- (b) If such Working Group has already been disbanded, the respective Member Committee shall have responsibility for maintenance of a Specification.

### **7.5.1. Errata**

Any purported erratum should be communicated to the Chairman of the respective Member Committee. If the relevant Working Group is still active, the Chairman of the Member Committee refers such reports to the Working Group for disposition. The Working Group, or the Member Committee in the absence of an active Working Group, should draft a statement either dismissing the purported error or correcting it. In either case the Chairman of the Member Committee should then present the statement to the Directors for their consent.

Upon consent of the Board of Directors, statements recognizing the validity of an error and providing a correction should be distributed with all copies of the affected specification.

### **7.5.2. Editorial Changes**

The Member Committee may, at its option or at the direction of the Board, make editorial changes to an approved Specification, providing that such changes do not materially change the intent of the Specification.

### **7.5.3. Specification Revisions**

Changes to a Specification that are neither errata nor editorial should be made in the context of an active Working Group and must follow the approval process described in Section 7.

## **7.6. Storage and Access to Specifications and Draft Specifications**

All Specifications and Draft Specifications (in any revision) as well as other working documents of a Working Group shall be stored on the Members Community Web site.

All Draft Specifications and other working documents of a Working Group shall only be accessible to the members and Observers of such Working Group and to the Board of Directors, Officers and staff of the Consortium. Accordingly, prior to release to the general public by the Consortium, Members may not distribute to non-Members any documents or other materials that have been marked as “NFC Forum Confidential”.

All Specifications, including their amendments, errata, etc., that have been adopted by the Consortium will be made available to all Members of the Consortium through the Members Community Web site.

All ballots and their results will be stored and published through the Members Community Web site.

### **7.7. *Withdrawal of Specifications***

From time to time, the Consortium may withdraw approved Specifications. The Board of Directors may withdraw a Specification according to Section 4.10 of the By-laws. Pursuant to Section 3.7 of the IPR Policy, the vote shall also explicitly address whether all licensing obligations to provide future licenses under RAND terms related to such Specification shall remain intact or whether all such obligations to provide future licenses under RAND terms shall terminate on a date of the withdrawal of such Specification.

Once the Board of Directors has withdrawn a Specification, it may be removed altogether from the public Web site of the Consortium or anywhere else it may have been published. Otherwise, should the withdrawn Specification remain available on the public Web site, it shall be clearly labeled as 'withdrawn' and with the appropriate license statements included. Further, the Members of the Consortium shall be notified promptly about any Specification withdrawal, including of a summary of the Board's position regarding license obligations related to the withdrawal.

## **8. Development, Approval, Maintenance and Storage of Marketing/Educational End Products and Supporting End Products**

The obligation of Members to license Controlled Necessary Claims in accordance with the IPR Policy does not apply to Marketing/Educational End Products and Supporting End Products.

Application Documents developed as a result of an Application Work Item are one type of Supporting End Product.

For Application Work Items the procedures as described in Section 8.1 – Section 8.3, shall be followed. For all other Supporting End products their development, approval, adoption, storage and maintenance will follow the same procedures as described in Chapter 7 above, with the sole exception that all provisions related to Intellectual Property Rights (IPR Election Forms, etc) are optional and any member may provide information about the existence of Controlled Necessary Claims and its willingness to license certain Necessary Claims on a voluntary basis.

The development and approval of Marketing/Educational End Products does not need to follow the procedures as described in Section 7 and Section 8.1 – Section 8.3. The Board of Directors may task development of such End Products to staff, or it may put such responsibility onto a particular Member Committee or Working Group. Any Marketing/Educational End Products created by a Member Committee or Working Group shall be approved by that group through a unanimous vote. The Chairman of the Member Committee or Working Group must notify the Chairman of the Marketing Committee upon the availability of each such new Marketing/Educational End Product if developed by the group, in order to jointly decide on the way of publication in line with guidance from the Board of Directors.

All types of Supporting End Product shall follow the rules set out in Section 8.4 for Storage and Access.

## **8.1. Submission and Approval of New Application Work Items**

A minimum of three members of a Working Group or Technical Committee are required to submit a New Work Application Work Item Request Form.

The Technical Committee shall ask for comments on the new work item. If objections are raised, the Technical Committee shall seek to resolve the objections by consensus. The Technical Committee shall then vote on the approval or rejection of the New Application Work Item. If the Technical Committee rejects the request, it should inform the submitters that the New Application Work Item request has been rejected, along with the reasons for the decision.

Refer to the *Document Development Process* for details on the process.

### **8.1.1. Format of Application Documents**

Application Documents created as output from Application Work Items shall be written and formatted according to the template for Application Documents published on the Members Community Web site.

## **8.2. Review and Adoption of Application Documents**

### **8.2.1. Working Group Review**

The purpose of this first review among the members of a Working Group is to assure that the formal requirements for the document have been fulfilled such as numbering and disclaimers, and for conformance with the New Application Work Item on which the work is based.

Refer to the *Document Development Process* for details on the process.

After the Working Group resolves all comments and achieves consensus, the Working Group Chairman will present the Draft Application Document to the Chairman of the Technical Committee and request for approval.

The Technical Committee will review the Draft Application Document and conduct an approval ballot of its voting members. After the Draft Application Document is approved by a Simple Majority Vote, the chairman of the Technical Committee forwards the Draft Application Document to the Board for Adoption.

### **8.2.2. Adoption by Board of Directors**

Within eight (8) weeks after approval by the Technical Committee, the Board of Directors must vote on adoption of the Draft Application Document. Adoption by the Board must be by Super Majority Vote or approved in the manner described in Section 4.11 of the NFC Forum By-laws by the consent of an equivalent number of Directors. Once adopted, the Chairman of the Technical Committee shall publish the approved and adopted Application Document on the public Web site of the NFC Forum and may make it available by additional means as well to all interested parties under the conditions that may from time to time be defined by the Board.

If the Application Document is not approved by the Board of Directors, it will be referred back to the Working Group and the Technical Committee, together with the reasons for disapproval.

### **8.3. Maintenance of Application Document**

Once approved by the Board of Directors, responsibility for maintenance of an Application Document is assigned according to the following rules:

- (c) If the Working Group that has developed the Application Document is still active, the responsibility for maintenance lies with the Working Group.
- (d) If such Working Group has already been disbanded, the Technical Committee shall have responsibility for maintenance of the Application Document.

#### **8.3.1. Errata**

Any purported erratum should be communicated to the Chairman of the Technical Committee. If the relevant Working Group is still active, the Chairman of the Technical Committee refers such reports to the Working Group for disposition. The Working Group, or the Technical Committee in the absence of an active Working Group, should draft a statement either dismissing the purported error or correcting it. In either case the Chairman of the Technical Committee should then present the statement to the Directors for their consent.

Upon consent of the Board of Directors, statements recognizing the validity of an error and providing a correction should be distributed with all copies of the affected Application Document.

#### **8.3.2. Editorial Changes**

The Member Committee may, at its option or at the direction of the Board, make editorial changes to an approved Application Document, providing that such changes do not materially change the intent of the Application Document.

#### **8.3.3. Revisions of Supporting End Products**

Changes to Application Documents that are neither errata nor editorial should be made in the context of an active Working Group and must follow the approval process described in Section 8.

### **8.4. Storage and Access to Supporting End Products and Draft Supporting End Products**

All Supporting End Products and Draft Supporting End Products (in any revision) as well as other working documents of a Working Group shall be stored on the Members Community Web site.

All Draft Supporting End Products and other working documents of a Working Group shall only be accessible to the members and Observers of such Working Group and to the Board of Directors, Officers and staff of the Consortium. Accordingly, prior to release to the general public by the Consortium, Members may not distribute to non-Members any documents or other materials that have been marked as “NFC Forum Confidential”.

All Supporting End Products, including their amendments, errata, etc., that have been adopted by the Consortium will be made available to all Members of the Consortium through the Members Community Web site.

All ballots and their results will be stored and published through the Members Community Web site.

### **8.5. *Withdrawal of Non-Specification Documents***

The Consortium may withdraw Application Documents, Marketing/Educational End Products, Supporting End Products and Policy documents on occasion. These documents may be withdrawn according to section 4.10 of the By-laws. Once withdrawn, these documents shall be removed altogether from the public Web site of the Consortium or anywhere else they may have been published.

### **8.6. *Policy Documents***

A policy document, as well as a revision to it, is approved by a simple majority vote of the Member Committee(s) that has created it. Once a policy document has been approved by the Member Committee, the Chairman of that Member Committee must submit to Board of Directors for approval.

## **9. All types of Policy documents shall follow the rules set out in Section 8.4 for Storage and Access. Precedence of Documents**

These Policies and Procedures are subsidiary to the By-laws and IPR Policy of the NFC Forum, and any conflict should be resolved in favor of the By-laws and/or IPR Policy.

## **10. Maintenance of the Policies and Procedures**

It is the responsibility of the Board of Directors to maintain this document, to promptly amend it to address any conflict between it and the By-laws or the IPR Policy, or to recommend other changes that will harmonize the documents. According to Section 4.10 of the By-laws, changes to this document have to be approved by an affirmative vote of a Strong Super Majority of the Board of Directors.

## **11. Powers and Responsibilities of a Member's Primary Contact**

The person who is identified as the Primary Contact of a Member in the Member's membership application shall have the following powers and responsibilities on behalf of the Member:

- (a) Receive all Notices of the Consortium, such as Requests for Comments, Calls for Participation, Adoption Ballots and other Notices, and respond to such Notices accordingly;
- (b) Nominate Participants (as defined in the IPR Policy) in Member Committees and Working Groups as Primary MC Representatives, Primary WG Representatives, MC Alternates and WG Alternates (see 5.2.3 and 6.2.3);
- (c) Initiate Member Committees and Working Groups (Voting Members only) (see 5.1 and 6.1);

- (d) Ensure that all Participants (as defined in the IPR Policy) in Member Committees and Working Groups are fully aware of the provisions of the IPR Policy and the Rules of Procedures.

A Member may appoint a new Primary Contact and/or a standing Alternate Contact at any time by sending a Notice to the Secretary. Such Primary Contact or Alternate must be an employee or officer of such Member.

## **12. Plugfest Participation Policy**

The purpose of each Consortium Plugfest event (each a “Plugfest”) is to bring Participants (as defined below) together at a single location to validate components, software and platforms based on the Consortium Specification. At each Plugfest, Participants may test interoperability of their products with those of other Participants.

Except as otherwise expressly provided herein, the Consortium’s policy regarding participation in, and confidentiality and use of information disclosed in connection with, each Plugfest is as follows (the “Plugfest Participation Policy”), and governs each Participant’s participation in each and all Plugfests. As used in this Section 12, “Participant” means any Member or non-Member (collectively with each Related Party thereof) that participates in a Plugfest; and “Related Party” means any entity which controls or is controlled by a Participant or which, together with a Participant, is under the common control of a third party, in each case where such control results from ownership, either directly or indirectly, of more than 50% of the voting rights in the entity in question.

### **12.1. Organization of Events; General Procedures**

#### **12.1.1. Organization**

Each Plugfest is organized by an event organizer (the “Organizer”), who must not have a vested interest in any product being tested at the Plugfest. This role may be filled by the Consortium. Organizers coordinate Plugfests, set such limits as may be necessary due to logistical constraints, as to the maximum number of Participants and platforms to be included in a given Plugfest, and collect Plugfest information, such as Participant names, descriptions of tested implementations, features supported by such implementations and results of anonymous tests.

#### **12.1.2. Plugfest Reports**

A report of aggregated results and global statistics (each a “Plugfest Report”) will be prepared by the Organizer following each Plugfest and made available to Members, and to the non-Member Participants who participated in that Plugfest (each a “Non-Member Participant”). Each may include (as applicable), among other things, the number of test cases run, the number of Participants (but not the identity of their products) and a description of any technical issues that arose during testing (subject to any applicable Participant confidentiality restrictions arising other than under this Plugfest Participation Policy or any Non-Member Plugfest NDA (defined below)), none of which shall constitute Confidential Information (defined below) for purposes of this Plugfest Participation Policy. Individually supported implementation features and individual results are not included in such Plugfest Reports and all Plugfest Reports are deemed to be

Confidential Information protected by the restrictions set forth in this Plugfest Participation Policy.

### **12.1.3. Procedures**

Before each Plugfest, the Organizer sends a call inviting all Members having an implementation which meets the rules for participation described herein. Additionally, the Organizer may invite non-Members identified by the Organizer as satisfying the rules for participation described herein. Each Plugfest must have a minimum of three Participants.

Once Participant registration is complete, the Organizer will produce a schedule intended to allow Participants to test as far as possible with any other Participants that support complementary implementations.

Testing occurs in face-to-face testing events between paired Participants in accordance with a scheduled test plan (including time, location and room) (“Closed Sessions”). Closed Sessions generally focus on final products or prototypes, but improvements and/or bug-fixes may be incorporated and rechecked as well. Participants may hide (cover with a sheet or by other means) their implementations to avoid disclosure of implementation details, and may enter into their own nondisclosure or other agreements with other Participants.

Once a scheduled time slot for a given Closed Session has ended, whether or not testing is complete, each Participant must move to its next test location and paired Participant.

Open testing sessions (i.e. outside the scope of the Closed Sessions) may be conducted, but are not governed by this Plugfest Participation Policy, and will be scheduled (if at all) only if time remains after scheduling all Closed Sessions. Information disclosed during such open testing sessions and other informal meetings among Participants is not governed by this Plugfest Participation Policy.

### **12.2. Rules for Participation**

Each Plugfest Participant must meet all of the following criteria:

- a) Each Participant must be either (i) a Member or (ii) a non-Member that has (A) been invited by the Organizer to the applicable Plugfest and (B) executed the then-current version of the Consortium’s Non-Member Plugfest Participation Non-Disclosure Agreement for the Plugfest in question (each a “Non-Member Plugfest NDA”).
- b) Each Participant must be a developer of either a device, tag, component, firmware, software, test equipment or other implementation related to a Specification.
- c) Each Participant must have an implementation capable of communicating with others to a minimum level (the minimum level is defined as the implementation of at least one of the Consortium protocol stack layers or part of it together with as many lower layers as needed to communicate with other devices).
- d) Each Participant’s representatives at the Plugfest must be engineers or other technically skilled people working in the development of the implementations who are able to identify bugs and problems in the portion of the unit that is undergoing testing.

- e) Each Participants' subcontractors that meet the requirements set forth above are regarded as employees of the applicable Participants for all purposes of this Plugfest Participation Policy, and may participate at Plugfests, provided that the applicable Participant shall be solely responsible for the conduct of its subcontractors at each Plugfest and for ensuring that its subcontractors comply with the terms of this Plugfest Participation Policy as it applies to such Participant.

### **12.3. Publicity**

The Consortium may issue press releases regarding Plugfests, disclosing that such Plugfests have occurred, the corresponding dates and locations, the number of Participants and any major milestones that were achieved.

Participants may issue press releases indicating: (a) their participation in Plugfests, (b) the location and date of Plugfests in which they participated and (c) the number of test partners they tested against.

Organizers may disclose that they have organized a Plugfest but must not disclose (a) Participant names, (b) details of implementations sent for testing or (c) testing results.

### **12.4. Participant Nondisclosure Agreement**

It is understood that at each Plugfest, Participants may elect to conduct testing of their products with other Participants and that in connection therewith, each Participant may receive Confidential Information (as defined below) from other Participants.

#### **12.4.1. Confidentiality Among Member Participants**

Subject to Sections 12.4.9 and 12.4.10 below, each Participant that is a Member (a "Member Participant") agrees to comply with the terms of the Plugfest Participation Policy in connection with each Plugfest and its use and disclosure of Confidential Information of other Member Participants in connection therewith.

For purposes hereof, each Member Participant that receives Confidential Information during or with respect to any Plugfest is referred to herein as a "Receiving Participant" with respect to such Confidential Information, and each Member that discloses Confidential Information during or with respect to any Plugfest is referred to herein as a "Disclosing Participant" with respect to such Confidential Information.

Each Receiving Participant agrees to treat all information or materials of a confidential or proprietary nature that it receives during or with respect to any Plugfest (collectively, "Confidential Information") as confidential and proprietary information and that, without express written permission from the applicable Disclosing Participant, the Receiving Participant (i) shall not use or disclose any of the Disclosing Participant's Confidential Information for any purpose other than for the purpose of testing its products together with products of other Participants while at a Plugfest, reviewing and/or evaluating the results obtained from such testing, and, subject to Section 12.4.2, developing and implementing modifications for its products (the "Permitted Purpose") and (ii) shall refrain from disseminating or disclosing such Confidential Information to others, except for employees of such Receiving Participant having a need to know such Confidential Information.

For the purposes hereof, without limiting the generality of the foregoing, the term “Confidential Information” shall include, without limitation, all (i) overall discussions occurring during each Plugfest, (ii) written or other tangible or electronic materials distributed, viewed or otherwise disclosed during any Plugfest and (iii) Plugfest results, activities, and information, including without limitation, information regarding degrees of interoperability and all Plugfest test activities, test results, pre-release product information, names of other Participants, results or details of features tested, test case details and aggregated test results or global statistics. Results of a given Plugfest testing session between Member Participants are deemed the Confidential Information of such Member Participants, jointly, and each such Member Participant is deemed a Disclosing Participant thereof.

Each Member Participant recognizes that any other Member Participant may be a part of an organization of multiple legal entities in several jurisdictions and that it may be necessary for such other Member Participant to provide Confidential Information to the Related Parties of such other Member Participants. For this purpose, it is agreed that:

- a) each Member Participant may disclose Confidential Information to its Related Parties but only to the extent that such Related Party has a need to know for carrying out the Permitted Purpose; and
- b) disclosure by or to any Related Party of a Member Participant shall be deemed to be a disclosure by or to that Member Participant, as applicable; and
- c) each Member Participant shall be responsible for the observance and proper performance by all of its Related Parties of the terms and conditions of this Plugfest Participation Policy, as they apply to such Member Participant.

Non-disclosure obligations to Member Participants and the Consortium arising under this Plugfest Participation Policy with respect to Confidential Information disclosed at or in connection with a Plugfest shall terminate one (1) year after receipt of such Confidential Information; provided, however, that such non-disclosure obligations with respect to the results of product testing at a given Plugfest event shall only terminate five (5) years after the date of the applicable Plugfest; and provided further, that except as otherwise expressly provided in this Plugfest Participation Policy, in the event of the resignation, termination or expiration of Membership of a Member (including dissolution of the Consortium), all non-disclosure obligations incurred by such Member relating to Confidential Information under this Plugfest Participation Policy and/or any amendment hereto prior to the date of such resignation, termination or expiration shall continue in full force and effect in accordance with the terms hereof. Except as otherwise provided in Sections 12.1.2 or 12.3 above, the Consortium likewise shall refrain from disseminating or disclosing Confidential Information of Member Participants to third parties (excluding the Participants disclosing or directly involved in the generation of such Confidential Information) for a period of one (1) year after receipt of such Confidential Information, except that the obligation not to disclose the results of product testing at a given Plugfest will terminate five (5) years after the date of the applicable Plugfest. Non-disclosure obligations arising under this Plugfest Participation Policy will survive any termination of Membership of a Member Participant.

Notwithstanding the foregoing, non-disclosure obligations arising under this Plugfest Participation Policy with respect to specific elements of Confidential Information will terminate, with respect to the Receiving Participant or the Consortium, as applicable, when such

Confidential Information is (i) rightfully in the public domain other than by a breach of a duty to the Disclosing Participant (including a breach of the terms of this Plugfest Participation Policy), (ii) rightfully received from a third party without any obligation of confidentiality, (iii) rightfully known to the Receiving Participant or the Consortium, as applicable, without any limitation on use or disclosure prior to receipt, (iv) independently developed by the Receiving Participant's or the Consortium's employees, as applicable, without reference to such Confidential Information, or (v) generally made available to the Receiving Participant or the Consortium, as applicable, without restriction on disclosure by the Disclosing Party. Upon written request of a Disclosing Participant, each Receiving Participant or the Consortium, as applicable, will return all applicable tangible Confidential Information provided by such Disclosing Participant or destroy it and certify such destruction in writing.

#### **12.4.2. No Licenses Granted**

Unless otherwise agreed in writing, neither the Consortium nor any Receiving Participant shall obtain or be construed to obtain any right or license (by implication, estoppel or otherwise) to any intellectual property, including without limitation, licenses to trademarks, copyrights, patents, mask works and trade secrets, as a result of this Plugfest Participation Policy, participation in a Plugfest or exposure to products or Confidential Information (including test results) at a Plugfest. Notwithstanding the foregoing, however, the Consortium may prepare and disclose Plugfest Reports in accordance with Section 12.1.2 above.

#### **12.4.3. No Endorsement or Guarantee**

Participation in Plugfests in no way indicates sponsorship, endorsement, or certification of any product displayed or tested by any Participant at a Plugfest by the Consortium, or by any Participant. Each Member Participant agrees not to promote any of its products by reference to the Plugfest event and/or any testing or other activities conducted at Plugfests except for making a reference to the fact of participation at such an event. Each Member Participant also agrees not to make any commercial use of the attendee lists or any other Participant information without prior written permission from the Consortium.

#### **12.4.4. Risk and Indemnity**

Each Member Participant accepts all risk and responsibility for, and shall indemnify, defend and hold harmless each other Member Participant and the Consortium from and against any personal injury to any other Participant, the Consortium, or the employees, agents, contractors, assigns or invitees of any of the foregoing, to the extent caused by such Member Participant or its employees' negligence, except to the extent any such claims may be directly and solely attributable to the gross negligence and/or willful or criminal fault of any other Participant.

#### **12.4.5. Disclaimer**

Each Member Participant hereby disclaims, and acknowledges and agrees that all other Member Participants disclaim, all warranties, whether express or implied, with respect to any information, test results or other confidential information disclosed at any Plugfest. Each Member Participant expressly disclaims, and acknowledges and agrees that all other Member Participants expressly disclaim, the implied warranties of merchantability and fitness for a particular purpose and any warranty against infringement of any intellectual property right of any

third party. Any such information, test results or other confidential information is provided as is, without warranty of any kind.

#### **12.4.6. Limitation of Liability**

Except with respect to Section 12.4.4, each Member Participant acknowledges and agrees that in no event shall any Member Participant have any liability to any other Member Participant or any other third party for any lost profits or costs of procurement of substitute goods or services, or for any indirect, incidental, consequential, special, punitive or exemplary damages arising out of this Plugfest Participation Policy or participation in any Plugfest, under any cause of action or theory of liability, and whether or not such Member Participant has been advised of the possibility of such damage. These limitations shall apply notwithstanding the failure of the essential purpose of any limited remedy.

#### **12.4.7. Governing Law**

The terms and conditions of this Plugfest Participation Policy are governed by the laws of the State of Delaware, without reference to its conflict of law principles. Any disputes relating to or arising in connection with this Plugfest Participation Policy shall be finally settled in arbitration under the Rules of Arbitration of the International Chamber of Commerce (“ICC”) by one or more arbitrators appointed in accordance with the said rules. The award shall be final and binding on the parties hereto and enforceable in any court of competent jurisdiction. The arbitration shall be held in Delaware, United States, in English language. The parties undertake and agree that all arbitral proceedings conducted with reference to this Article shall be kept strictly confidential and all information disclosed in the course of such arbitral proceeding shall be used solely for the purpose of those proceedings. Notwithstanding the foregoing, nothing in this Plugfest Participation Policy shall be deemed to limit any Participant’s rights to seek interim injunctive relief or to enforce an arbitration award in any court of law. The award shall be final and binding and enforceable in any court of competent jurisdiction.

#### **12.4.8. Successors and Assigns; Survival**

The terms of this Plugfest Participation Policy shall bind and inure to the benefit of each Member, its Related Parties, and their respective successors and assigns.

#### **12.4.9 Co-Hosting of Plugfests**

Notwithstanding anything to the contrary in this Section 12.4, in the event a Plugfest is co-hosted by the Consortium and a third party (each a “Co-Hosted Plugfest”), the policies and rules regarding participation in, and confidentiality of information disclosed in connection with the Co-Hosted Plugfest in question (the “Alternate Plugfest Participation Policy”) shall be determined by mutual agreement of the Consortium and such third party; provided, however, that in the absence of such mutual agreement, the Plugfest Participation Policy described above shall apply; and provided, further, that in the event of any such Alternate Plugfest Participation Policy, Participants in the corresponding Co-Hosted Plugfest may be required to agree to the terms of a nondisclosure agreement consistent with such Alternate Plugfest Participation Policy.

#### **12.4.10 Non-Member Participation in Consortium Plugfests**

Each Non-Member Participant shall be required, as a condition of its participation in a given Plugfest, to execute a corresponding Non-Member Participant NDA with the Consortium in

connection with that Plugfest. Notwithstanding anything to the contrary in this Section 12.4, by participating in a given Plugfest, each Member hereby acknowledges and agrees that, as a part of such Member's obligations pursuant to the Plugfest Participation Policy, solely for purposes of establishing the respective rights and obligations of such Member and each Non-Member Participant participating in such Plugfest as against one another:

(a) such Member is and shall be bound by the terms and conditions of the Non-Member Participant NDA executed by the Consortium in connection with such Plugfest (the "Applicable Non-Member Participant NDA") as a "Participant" party thereto, and as a "Receiving Participant" and/or "Disclosing Participant" party thereto (as applicable under the circumstances); and

(b) accordingly, as between such Member and each such Non-Member Participant, the terms of the Applicable Non-Member Plugfest NDA shall establish the rights and obligations thereof regarding participation in, and the confidentiality and use of information disclosed during or in connection with such Plugfest, in lieu of the terms and conditions of this Section 12.4.

### **13. Certification Policy**

The Compliance Committee shall develop and the Board of Directors shall adopt a certification policy.

Refer to the *NFC Forum Certification Policy* for details on the rules and procedures for the Certification Program.

### **14. Confidentiality of Liaison Materials**

In pursuit of its mission, NFC Forum maintains liaison relationships with a variety of other standards developers and other organizations. In some cases, an agreement entered into by NFC Forum with a liaison partner will include terms requiring that certain information and/or documents must be kept confidential, including by members and their representatives. Where this is the case, the following rules will apply:

- All materials that must be kept confidential will be appropriately marked.
- The terms of the liaison or other agreement relating to confidentiality will be distributed to member representatives.
- All members, and their member representatives, must strictly comply with the terms distributed.

If any member or its representative is not willing to observe the terms distributed, then it should notify NFC Forum that it has decided not to participate in the work related to that Liaison.

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## Appendix 1: Request for Comments and Call for Participation (Template)

### Request for Comments and Call for Participation in <name of working group>

From: ....

To: All Members of NFC Forum, Inc.

Date: ...

The Board of Directors has received the request from following members <name of initiator 1>, <name of initiator 2> and <name of initiator 3> to form a new working group [or member committee or sub-group]. In its meeting on <date>, the Board has voted in favor of considering its formation.

In the paragraph below [or: In the attached document] you will find the Preliminary Statement of Work to be covered by this Working Group.

In accordance with Section 5.4 of the By-laws, I notify you of the proposed Statement of Work of this Committee/Working Group, and request, that all Members of NFC Forum, Inc. identify any Intellectual Property owned by them or any of their Related Parties which might necessarily infringe the Specifications or Other Solutions to be created by this Committee/Working Group, and which the Member is not willing to license under the terms as set forth in the IPR Policy.

In order to be considered by the Board when defining the final scope of the Committee or Working Group, comments must be returned by the Final Comment Date using the form below. This Final Comment Date is in <number of weeks> weeks from today, which is <date>.

*[this paragraph only if applicable]* The Board has defined the following requisites and limitations for the participation in this working group:

I also request that all Members notify the Board of their interest in participating in the Working Group/Committee, identifying the technical expertise and qualifications that the participants from the member would be able to contribute to the success of the Working Group/Committee.

Please send your full responses to this Request for Comments and Call for Participation by e-mail to <xxx@nfc-forum.org> before the Final Comment Date.

Please see also the IPR Policy available on the NFC Forum website at <http://nfc-forum.org/wp-content/uploads/2013/11/NFC-Forum-IPR-Policy.pdf>. Comments submissions and all other forms of participation in the Committee/Working Group are subject to the IPR Policy.

**NFC FORUM, INC.**

**Request for Comments Response Form**

|   |  |
|---|--|
| <b>Name of Member:</b>  |  |
| <b>Name of Representative<br/>Completing this Form on Behalf of<br/>Member:</b>         |  |
| <b>Mailing Address of Representative:</b>   |  |
| <b>Email Address of Representative:</b>   |  |
| <b>Proposed Committee or Working<br/>Group to which this Response Form<br/>relates:</b> |  |

The Representative hereby represents the following on behalf of him/herself and the Member and each of its Related Parties, as the context requires:

1. The Representative is authorized to complete and submit this Election Form on behalf of the Member and each of its Related Parties, and to make the following representations and warranties.
2. The Representative and the Member have each reviewed the Policies and Procedures, and agree that this Election Form is being returned in full compliance with and subject to the Policies and Procedures.
3. The Member has the following comments about the proposed scope of the Member Committee / Working Group (please be specific and give reasons, e.g. overlaps/gaps with other groups, proposal for addition or removal of certain elements, please add additional pages if you require):

.....  
.....  
.....  
.....

4. The Member hereby identifies the below listed Intellectual Property owned by it and/or its Related Party(ies) which might Necessarily Infringe (as defined in IPR Policy) the Specifications and Other Solutions to be created by such Member Committee or Sub-Group and which such Member is not willing to license on such terms as set forth in the IPR Policy. In case of Controlled Necessary Claims under non-public patent applications, the disclosure of such Controlled Necessary Claims need not be in such detail as would disclose any trade secrets.

| Patent (Application) Number | Controlled Necessary Claim | Affected Portion of the Scope of the Committee / Working Group |
|-----------------------------|----------------------------|--|
|                             |                            |  |
|                             |                            |  |
|                             |                            |  |

This Response Form has been submitted on \_\_\_\_\_, 200\_.

By: \_\_\_\_\_  
Signature of Representative

Name: \_\_\_\_\_

## **Appendix 2: Summary of the NFC Forum IPR Policy**

This is a summary of the Intellectual Property Rights Policy of NFC Forum, Inc., covering the main ideas of the IPR Policy but not going into specific terms and details. The IPR Policy is available on the NFC Forum website at

<http://nfc-forum.org/wp-content/uploads/2013/11/NFC-Forum-IPR-Policy.pdf>.

“The main objective of the IPR Policy is to reduce the possibility of adopting a Specification that, if implemented and in the absence of an appropriate license, would infringe any Member’s patents. Therefore, the IPR Policy provides for procedures giving all members (regardless of membership level, or if participating in a specific working group or not) the opportunity to choose to license Necessary Claims on RAND conditions or to refuse to license specific Necessary Claims.

All members may choose whether or not to license their IP; there is no obligation to license. However, a member who is submitting technology for inclusion in a Specification must confirm that all controlled necessary claims included in this submission will be licensed on RAND conditions.”

## **Appendix 3: Statement of Work**

### **Preliminary / Final Statement of Work**

**Name of the Working Group:** \_\_\_\_\_

**Description of Scope and Objectives of the Working Group:**

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**Description of Deliverables**

Include (if applicable) the protocol layers, interfaces to other Specifications or End Products, interfaces to other Working Groups, etc.

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