

**AMENDED AND RESTATED BYLAWS OF
ANTI-MALWARE TESTING STANDARDS ORGANIZATION, INC.
(a California Nonprofit Mutual Benefit Corporation)**

Adopted as of April 29, 2008, as amended June 17, 2016, March 21, 2019, and May 18, 2020

CHAPTER 1. NAME

1.1 Name. The name of the Corporation is Anti-Malware Testing Standards Organization, Inc. (the “*Corporation*”).

CHAPTER 2. PURPOSES

2.1 Purposes. The purpose of the Corporation is to engage in any lawful act or activity, other than credit union business, for which a corporation may be organized under the California Nonprofit Mutual Benefit Corporation Law, as amended from time to time (the “*Nonprofit Law*”). The specific purposes of the Corporation are to improve business conditions related to the development, use, testing and rating of anti-malware products. As used herein, the term “*malware*” includes, without limitation, software or other electronic data designed to, or otherwise capable of, infiltrating and/or damaging a computer system (such as computer viruses, worms, trojan horses, spyware and similar computer contaminants).

CHAPTER 3. CONSTRUCTION AND CERTAIN DEFINITIONS

3.1 Construction. Unless the context requires otherwise, the general provisions, rules of construction and definitions in the Nonprofit Law and the California Corporations Code (the “*Code*” and collectively with the Nonprofit Law, the “*Laws*”) shall govern the construction of these Bylaws. In the event that any provision of these Bylaws is in violation of or in conflict with, or inconsistent with, the Laws, the Laws shall prevail and govern and such provisions shall be construed and interpreted in a manner that is not in conflict with or inconsistent with the Laws. In the event any provision of these Bylaws is in violation of, or in conflict or inconsistent with, the Articles of Incorporation, as amended (the “*Articles*”), the Articles shall prevail and govern and such provisions shall be construed and interpreted in a manner that is not in conflict with or inconsistent with the Articles. Without limiting the generality of the preceding sentence, the masculine gender included the feminine and neuter, the singular includes the plural, the plural includes both a legal entity and a natural person. The headings and captions in these Bylaws are provided for convenience only and shall not be referred to in construing the meaning of these Bylaws.

3.2 Certain Definitions. As used in these Bylaws, the term:

(a) “*Electronic transmission by the Corporation*” means a communication (a) delivered by (1) facsimile telecommunication or electronic mail when directed to the facsimile number or electronic mail address, respectively, for that recipient on record with the Corporation, (2) posting on an electronic message board or network which the Corporation has designated for those communications, together with a separate notice to the recipient of the posting, which transmission shall be validly delivered upon the later of the posting or delivery of the separate notice thereof, or (3) other means of electronic communication, (b) to a recipient who has provided an unrevoked consent to the use of those means of transmission for communications under or pursuant to the Code, and (c) that creates a record that is capable of retention, retrieval, and review, and that may thereafter be rendered into clearly legible tangible form. However, an electronic transmission by the Corporation to a Member is not authorized unless, in addition to satisfying the requirements of this section, the transmission satisfies the requirements applicable to consumer consent to electronic records as set forth in the Electronic Signatures in Global and National Commerce Act (15 U.S.C. Sec.7001(c)(1)).

(b) “*Electronic transmission to the Corporation*” means a communication (a) delivered by (1) facsimile telecommunication or electronic mail when directed to the facsimile number or electronic mail address, respectively, which the Corporation has provided from time to time to Members and Directors for sending communications to the Corporation, (2) posting on an electronic message board or network which the Corporation has designated for those communications, and which transmission shall be validly delivered upon the posting, or (3) other means of electronic communication, (b) as to which the Corporation has placed in effect reasonable measures to verify

that the sender is the Member (in person or by proxy) or Director purporting to send the transmission, and (c) that creates a record that is capable of retention, retrieval, and review, and that may thereafter be rendered into clearly legible tangible form.

(c) “**Entity**” means any corporation, partnership, limited partnership, limited liability company, institution, unincorporated association or other organization of any kind. For purposes of clarification, an Individual is not an Entity;

- (d) “**Entity Member**” means a Member of the Corporation that is an Entity;
- (e) “**Individual**” means a natural human being and does not include any Entity;
- (f) “**Individual Member**” means a Member of the Corporation that is an Individual; and
- (g) “**Member**” means either an Entity Member or Individual Member, or both.
- (h) “**Non-Tester Member**” means an Entity Member that does not qualify as a Tester Member.
- (i) “**Tester Member**” means an Entity Member that derives more than 50% of its revenue from the performance of anti-malware testing or the sale of anti-malware test reports, as determined by the Board.

CHAPTER 4. OFFICES

4.1 Principal Office of the Corporation. The Board of Directors of the Corporation (the “**Board**”) shall have full power and authority to determine and change the principal office of the Corporation to any location.

4.2 Other Offices. The Board may at any time establish branch or subordinate offices at any place or places where this corporation is qualified to conduct its activities. Such Subordinate offices may be changed or discontinued from time to time by the Board.

CHAPTER 5. MEMBERS

5.1 Qualifications and Rights of Membership.

(a) Classes. The Corporation shall have the following two (2) classes of members: (i) Entity Members and (ii) Individual Members. Entity Members shall be divided into two (2) subclasses: (x) Tester Members and (y) Non-Tester Members. The Board may establish types of Members within each class or subclass of membership as the Board may deem to be in the best interests of the Corporation, including without limitation for the purpose of achieving a balance of interests among the membership.

(b) Qualifications. Any Individual or Entity who is genuinely dedicated to the purposes of the Corporation and who satisfies such additional Membership criteria (if any) as may be approved by the Board (or by a Committee of the Board to whom the Board has delegated the authority to define such Membership criteria) shall be eligible for Membership in the Corporation on approval of his, her or its Membership application by the Board, by an officer of the Corporation or by a Committee of the Board or a committee established by the Members that is granted such authority; provided, that notwithstanding the foregoing, no Individual may be a Member of the Corporation at any time during which such Individual is a full or part-time employee, consultant or contractor of any Entity that is then an Entity Member.

(c) Right of Entity Member to Appoint Representatives. Each Entity Member shall have the right to appoint such number of Individuals, as determined by the Board, each of whom is (i) employed by or otherwise associated with such Entity Member and (ii) not an Individual Member, to be such Entity Member’s “**Representatives**” to the Corporation. Such Representatives shall serve as the agents and representative of the Entity Member who appointed them with respect to matters concerning the Corporation and shall be authorized to submit the vote of the Membership interest of such Entity Member and otherwise act for such Entity Member. An Entity Member may terminate any one or more of its Representatives at any time for any reason and may replace any one or both of its Representatives at any time with a new Representative or Representatives. If an Entity Member chooses to replace any one or more of its Representatives who is then serving on the Board or as a member of an AMTSO Committee or Sub- Committee, the Member will not be

entitled to have its replacement Representative take over or assume any of the positions held by the replaced Representative. No Representative shall have any rights to remain a Representative and a Representative's status as such shall be determined solely by the Entity Member who appointed such Representative. A Representative who is a member of the Board and who is removed from his/her position as a Representative shall have such rights as set forth in Section 6.5(b) herein. Individual Members of the Corporation shall not have any right to appoint any agent or Representative for themselves.

(d) **Voting Rights**. Only Entity Members in good standing shall be "members" pursuant to Section 5056(a) of the Code, and accordingly, only Entity Members shall have the right to vote, as set forth in these Bylaws, on the election of Directors and on any additional matters as determined by the Articles, Bylaws, Board or as required by the Laws. Each Entity Member shall be entitled to one (1) vote on each matter that is submitted to the vote of the Members. Individual Members are "persons" associated with the Corporation as defined in Section 7333(a) of the Code, and not members as defined under Section 5056(a) of the Code, and therefore shall not have the right to vote on any matter.

(e) **Other Rights of Members**. In addition to the above-described voting rights, all Entity Members shall have all other rights afforded Members under the Laws, these Bylaws and the Articles. All Individual Members shall have all other rights other than voting rights afforded to Members, subject to any limitations contained in the Articles, Bylaws or as required by the Laws, or as may be set by the Board from time to time. If the Corporation is dissolved, unless an alternative plan of distribution is approved by both the Board and the voting Members, only Entity Members shall receive a pro rata distribution of all assets, exclusive of those held in charitable trust, remaining after payment or provision for payment of the obligations and debts of the Corporation and provision for any other payment require under applicable law.

(f) **Duties of Members**. It shall be the duty of all Members to support the aims and purposes of the Association, to comply with all policies and responsibilities as stated in the Membership Agreement, and to pay all dues and fees as may be levied from time to time by the Corporation on its Members.

(g) **Dues and Fees**. Each Member must pay, within the time and on the conditions set by the Board, such membership fees and/or dues in an amount to be fixed from time to time by the Board or by any Committee of the Board that is given proper authority to fix and determine such membership fees and/or dues ("Membership Fees"), and which Membership Fees or dues shall be set forth in a Membership Agreement. Such Membership Fees need not be equal for all Members, and the Board (or any such Board Committee described above in this paragraph) in its discretion, may fix different Membership Fees and/or waive the requirement of any such Membership Fees for certain Members.

(h) **Term of Membership**. Membership shall be for such a term as determined by the Board; *provided* that the Board cannot change the term of an outstanding Membership prior to its expiration except as provided in Section 5.12 of these Bylaws.

(i) **Good Standing**. Subject to the provisions of Section 5.12 of these Bylaws, Members who have timely paid the required Membership Fees in accordance with these Bylaws or in accordance with such other rules governing the payment of such Fees as may be established by the Board shall be Members in good standing.

(j) **Termination of Membership**. A Membership shall terminate on occurrence of any of the following events: (i) resignation of the Member; (ii) expiration of the period of Membership, unless the Membership is renewed on the renewal terms fixed by the Board; (iii) failure of the Member to timely pay Membership Dues and Fees; or (iv) termination of Membership under Section 5.12 of these Bylaws.

(k) **No Liability of Members**. A Member shall not, solely because of such Membership, be personally liable for the debts, obligations or liabilities of the Corporation.

5.2 **Meetings of Members**

(a) **Place of Meeting**. Meetings of Members shall be held at any place designated by the Board. The Board may authorize Members who are not present to participate by electronic video communication, subject to compliance with the Laws.

(b) **Annual Meetings**. An annual meeting of Members shall be held on a date determined by the Board. At the annual meeting, Directors shall be elected and other proper business may be transacted; except that, notwithstanding the foregoing, Directors may instead be elected by written ballot in lieu of being elected at an annual

meeting of Members.

(c) Special Meetings of Members. Special meetings of the Members may be called by the Board or by five percent (5%) or more of those Members entitled to vote. A special meeting called by any person or persons (other than the Board) entitled to call a special meeting shall be called by written request, specifying the general nature of the business proposed to be transacted at such special meeting, and submitted to the President or Corporate Secretary. The officer receiving the request for a special Members' meeting shall cause notice of such meeting to be given promptly to the Members entitled to vote, in accordance with these Bylaws, stating that a meeting will be held at a specified time and date fixed by the Board, *provided, however,* that the meeting date shall be at least 35 but no more than 90 days after receipt of the request. If the notice is not given within 20 days after the request is received, then the person or persons requesting the meeting may give the notice. Nothing in this Section shall be construed as limiting, fixing, or affecting the time at which a meeting of Members may be held when the meeting is called by the Board. No business, other than the business the general nature of which was set forth in the notice of the meeting, may be transacted at a special meeting.

(d) Electronic Meeting. A meeting of the Members may be conducted, in whole or in part, by electronic transmission by and to the Corporation or by electronic video screen communication (1) if the Corporation implements reasonable measures to provide Members in person (or, if proxies are allowed, by proxy) a reasonable opportunity to participate in the meeting and to vote on matters submitted to the Members, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with those proceedings, and (2) if any Member votes or takes other action at the meeting by means of electronic transmission to the Corporation or electronic video screen communication, a record of that vote or action is maintained by the Corporation. Any request by a corporation to a Member pursuant to clause (b) of Section 20 of the Code for consent to conduct a meeting of Members by electronic transmission by and to the Corporation, shall include a notice that absent consent of the Member pursuant to clause (b) of Section 20, the meeting shall be held at a physical location in accordance with subdivision (a).

5.3 Notice of Meetings of Members.

(a) Time for Notice; Contents. Written notice of all meetings of Members shall be given not less than 10 nor more than 90 days before the date of the meeting to each Member entitled to vote; provided, however, that if notice is given by mail, and the notice is not mailed by first-class, registered or certified mail, then that notice shall be given not less than 20 days before the meeting. Such notice shall state the place, date and hour of the meeting, the means of electronic transmission by and to the Corporation or electronics video screen communication, if any, by which Members may participate in that meeting, and (i) in the case of a special meeting, the general nature of business to be transacted at such special meeting, and that no other business may be transacted at such special meeting, or (ii) in the case of the annual meeting, those matters which the Board, at the time of the mailing of the notice, intends to present for action by the Members, but, except as provided in Section 5.8(a) of these Bylaws, any proper matter may be presented at the annual meeting. The notice of any meeting at which Directors are to be elected shall include the names of all persons who are nominees when notice is given.

(b) Notice of Certain Agenda Items. Approval by the Members of any of the following proposals, other than by unanimous approval by those entitled to vote, is valid only if the notice or written waiver of notice states the general nature of the proposal or proposals: (i) removing a Director without cause; (ii) filling vacancies on the Board; (iii) approval of contracts or other transactions between the Corporation and one or more of its Directors or between the Corporation and any Entity in which one or more of the Directors has a direct or indirect material financial interest, (iv) amending the Articles; or (v) electing to wind up and dissolve the Corporation or (vii) approving a plan of distribution of the Memberships, obligations or securities of any other corporation, domestic or foreign, or assets other than money which is not in accordance with the liquidation rights of any Members as specified in the Articles or these Bylaws.

(c) Manner of Giving Notice or Soliciting Vote by Written Ballot. Notice of a Members' meeting or report or the solicitation of any written ballot shall be given either personally or by first-class mail or other means of written communication, charges prepaid, or by electronic transmission by the Corporation (when and where permitted under the Code) addressed to each Member entitled to vote at the address of such Member appearing on the books of the Corporation or given by the Member to the Corporation for purposes of notice or, if no such address appears or is given, at the place where the principal office of the Corporation is located or by publication at least once in a newspaper of general circulation in the county in which the principal office is located. The notice, written ballot, or report shall be deemed to have been given at the time when delivered personally or deposited in the mail or sent by other means of written communication. An affidavit of mailing of any notice, written ballot or report in accordance with the provisions of this bylaw, executed by the Corporate Secretary, shall be prima facie evidence of the giving of the notice, written ballot or

report.

(d) No Forwarding Address. If any notice, written ballot or report addressed to a Member at the address of such Member appearing on the books of the Corporation is returned to the Corporation by the United States Postal Service marked to indicate that the United States Postal Service is unable to deliver the notice, written ballot or report to the Member at such address, all future notices, written ballots or reports shall be deemed to have been duly given without further mailing if the same shall be available for the Member upon written demand of the Member at the principal office of the Corporation for a period of one year from the date of the giving of the notice, written ballot or report to all other Members.

(e) Restriction on Notice by Electronic Transmission. Notice given by electronic transmission by the Corporation shall be valid only if it complies with Section 20 of the Code. Notwithstanding the foregoing, notice shall not be given by electronic transmission by the Corporation after either of: (1) the Corporation is unable to deliver two consecutive notices to the Member by that means; or (2) the inability to so deliver the notices to the Member becomes known to the Board or corporate officer.

5.4 Written Ballot of Members.

(a) Voting by Ballot. Whenever the Members are to vote on the election of Directors or on any proposal for action which could be taken at any regular or special meeting of Members, the Members may, in the discretion of the Board, vote by written ballot without a meeting pursuant to this section of these Bylaws; except that election of Directors by written ballot may not be authorized where the Directors are elected by cumulative voting.

(b) Mailing. A written ballot shall be mailed or given to every Member entitled to vote on the matter in accordance with Section 5.3(c) of these Bylaws.

(c) Contents of Ballot. The written ballot shall set forth the time by which the ballot must be received in order to be counted and the minimum number of written ballots which must be returned to meet the quorum requirement. If the vote by ballot is for a matter other than the election of Directors, the written ballot shall: (i) set forth the proposal to be voted on, and for this purpose related proposals may be grouped as a single proposal for the written ballot; (ii) offer the Member a choice between approval and disapproval on each such proposal; and (iii) specify that the proposal must be approved by a majority of written ballots voting on the proposal, provided that sufficient written ballots are returned to meet the quorum requirement. In any election of Members of the Board, any proxy or written ballot in which the candidates are named and which is marked "withhold" or otherwise to indicate that the authority to vote for the election of a candidate or candidates is withheld shall not be voted for or against the election of such candidate or candidates.

(d) Required Votes. Approval by written ballot shall be valid only when the number of votes cast by ballot within the time period specified equals or exceeds the quorum required to be present at a meeting of Members authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the action at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

5.5 Waiver of Notice or Consent by Absent Members. The transactions of any meeting of Members, however called or noticed and wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice, if (i) a quorum is present either in person or by proxy, and (ii) either before or after the meeting, each Member entitled to vote, not present in person or by proxy, signs a written waiver of notice, a consent to the holding of the meeting, or an approval of the minutes of the meeting. The waiver of notice, consent, or approval need not specify either the business to be transacted or the purpose of any meeting of Members, except that if action is taken or proposed to be taken for approval of any of those matters specified in Section 5.3(b) the waiver of notice, consent, or approval shall state the general nature of the proposal. All such waivers, consents, or approvals shall be filed with the corporate records or made a part of the minutes of the meeting. A Member's attendance at a meeting shall also constitute a waiver of notice by such Member of and presence at that meeting by such Member, unless such Member objects at the beginning of the meeting to the transaction of any business because the meeting was not lawfully called or convened. Also, attendance at a meeting is not a waiver of any right to object to the consideration of matters required to be included in the notice of the meeting but not so included, if that objection is expressly made at the meeting.

5.6 Record Date.

(a) Record Date Determined by Board. For purposes of determining the Members entitled to notice of any meeting, entitled to vote at any meeting, entitled to vote by written ballot, or entitled to exercise any rights with respect to any lawful action, the Board may, in advance, fix a record date. The record date so fixed:

- (i) for notice of a meeting shall not be more than 90 nor less than 10 days before the date of the meeting;
- (ii) for voting at a meeting shall not be more than 60 days before the day of the meeting;
- (iii) for voting by written ballot shall not be more than 60 days before the day on which the first written ballot is mailed or solicited; and
- (iv) for the purpose of determining Members entitled to exercise rights in respect of any other action shall not be more than 60 days before that action.

(b) **Record Date Not Determined by Board.** If not otherwise fixed by the Board, the record date for determining Members entitled:

- (i) to receive notice of a meeting of Members shall be the business day preceding the day on which notice is given or, if notice is waived, at the close of business on the business day preceding the day on which the meeting is held, and
- (ii) to vote at the meeting shall be the day on which the meeting is held;
- (iii) to vote by written ballot shall be the day on which the first written ballot is mailed or solicited.

(c) **Members of Record.** For purposes of these Bylaws, an Individual Member or Entity Member in good standing at the close of business on the record date shall be a Member of record as of such date.

5.7 **Proxies.** Subject to action of the Board, every Member entitled to vote may authorize another person or persons to act by proxy to vote for such Member in accordance with the applicable provisions of the Nonprofit Law pertaining to the use of proxies by Members.

5.8 **Quorum for Meetings of Members.**

(a) **Quorum.** For purposes of a vote on any test-related standard, test-related guideline or test-related position of the Corporation, quorum shall be deemed present at a meeting of Members if both one-half (1/2) of the Tester Members and one-half (1/2) of the Non-Tester Members are represented in person or proxy. For purposes of any other business conducted, quorum shall be deemed present at a meeting of Members if one-half (1/2) of the total number of Members entitled to vote are represented in person or by proxy; *provided, however,* that if at any time the quorum is less than one-third (1/3) of the Members entitled to vote or less than one-third (1/3) of the voting power of the Members, then the only matters that may be voted upon at any annual meeting actually attended, in person or by proxy, by less than one-third (1/3) of the voting power of the Members, are those matters of which notice of their general nature was given under the first and second sentences of Section 5.3(a) of these Bylaws.

(b) **Act of the Members.** Except where a greater or different vote is required by the Articles or these Bylaws or by applicable law, if a quorum is present, the affirmative vote of a majority of the Members represented at the meeting, entitled to vote, and voting on any matter shall be the act of the Members; except that:

- (i) the vote required to elect Directors shall be as set forth in Chapter 6 of these Bylaws; and
- (ii) the vote required to approve any test-related standard, test-related guideline or test-related position of the Corporation shall be fifty percent (50%) of Tester Members represented at the meeting, entitled to vote and voting on such matter; and fifty percent (50%) of the Non-Tester Members represented at the meeting, entitled to vote and voting on such matter.

(c) **Action After Withdrawal of Quorum.** The Members present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment notwithstanding the withdrawal of enough Members to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the Members required to constitute a quorum, or, if required by the Code or the Corporation's Articles or these Bylaws, the vote of any such greater number or voting by classes as may be required by the Code, or the Articles or these Bylaws.

(d) Adjournment. In the absence of a quorum, any meeting of Members may be adjourned from time to time by the vote of a majority of the Members present, in person or by proxy, but no other business may be transacted, except as provided in Section 5.8(c).

5.9 Adjourned Meeting of Members. When a Members' meeting is adjourned to another time or place, except as otherwise provided by this bylaw, notice need not be given of the adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting the Corporation may transact any business which might have been transacted at the original meeting. No meeting may be adjourned for more than 45 days.

5.10 Unanimous Written Consent of Members. Any action required or permitted to be taken by the Members which is not an action by written ballot may be taken without a meeting, if all Members entitled to vote shall individually or collectively consent in writing to the action. The written consent or consents shall be filed with the minutes of the proceedings of the Members. The action by written consent shall have the same force and effect as the unanimous vote of the Members.

5.11 Resignation of Member. A Member may resign from Membership at any time. Unless otherwise authorized by the Board, resignation shall not relieve the resigning Member from any obligation for charges incurred, services or benefits actually rendered, dues or fees, or arising from contract or otherwise, and shall not diminish any right of the Corporation to enforce any such obligation or obtain damages for its breach.

5.12 Expulsion and Suspension.

(a) Grounds. A Member may be expelled from Membership, or a Membership may be suspended, for willful nonpayment of the Member's financial obligations to the Corporation, for any material breach of or material violation of the Membership Agreement, these Bylaws, or any other rules, regulations, or policies of the Corporation; or for engaging in conduct which is seriously detrimental to the best interests of the Corporation, its purposes or interests or to other Members.

(b) Authority to Expel or Suspend. Expulsion or suspension must be by action of the Board and the Board may not delegate this authority to a committee, officer or other body. The Board shall make any determination to expel or suspend a member based on the good faith determination by the Board as to whether the grounds for expulsion or suspension set forth in Section 5.12 (a) above have been met.

(c) Procedure. Written notice of the proposed expulsion or suspension, together with a statement of the reasons therefore and a copy of this Section of the Bylaws shall be sent by first-class mail to the Member's last address on the records of the Corporation. Within 15 days after the mailing of this notice, the Member may in writing request a hearing on the expulsion or suspension. If a hearing is requested, the Board shall appoint a hearing committee composed of three (3) Members of the Board. The Member may appear before the hearing committee which shall thereupon either confirm or reject the expulsion or suspension. The decision of the hearing committee is final. If no hearing is requested, the expulsion or suspension is effective fifteen (15) days after the mailing of the notice. If a hearing is requested, the expulsion or suspension is effective ten (10) days after a confirmation by the hearing committee.

CHAPTER 6. BOARD

6.1 General Powers and Designation. Subject to the applicable provisions and limitations of the Nonprofit Law and any other applicable laws, and subject to any limitations of the Articles or Bylaws of the Corporation regarding actions that require approval of the Members, the activities and affairs of the Corporation shall be managed, and all corporate powers shall be exercised, by or under the direction of the Board. The Board shall have authority to appoint a President, Treasurer and Corporate Secretary of the Corporation and other officers of the Corporation as provided in Article VII hereof. Each Member of the Board shall be a "**Director**" of the Corporation within the meaning of the Nonprofit Law. Except for the initial Directors of the Corporation, in order to be a Director, an individual elected to the Board must meet the qualifications set forth in Section 6.3, at the time of his or her election to the Board.

6.2 Number of Directors.

(a) Authorized Number; Directors. The authorized number of Directors of the Corporation shall be not less than seven (7) nor more than eleven (11). The exact number of authorized Directors within the range stated in the previous sentence shall be fixed and may from time to time be changed by a resolution adopted by the Board. The initial authorized number of Directors of the Corporation shall be nine (9) Directors. As of Amendment and Restatement of these Bylaws dated May 18, 2020 the authorized number of Directors of the Corporation shall be eight (8) Directors.

(b) Change of Variable Range. The minimum and maximum number of Directors in the range of authorized Directors as stated in paragraph (a) may be changed only by an amendment of paragraph (a) of approved by the vote of a majority of the Members represented and voting at a duly held regular or special meeting of the Members at which a quorum is present or by the written ballot of Members pursuant to these Bylaws or by the unanimous written consent of Members.

6.3 Qualification, Term and Election of Directors.

(a) Qualifications of Directors. Except as otherwise provided in this paragraph (a), no person shall be eligible to serve as a Director of the Corporation unless such person is either (i) an Individual Member in good standing immediately prior to his/her election to the Board or (ii) a Representative of an Entity Member in good standing immediately prior to his/her election to the Board. Notwithstanding anything herein to the contrary, at no time may more than one (1) individual who is a Representative of an Entity Member be a Director and if any election or other action would result in two (2) or more individuals who are Representatives of the same Entity Member being elected to the Board, then one (1) of such individuals shall refuse or resign from such Directorship, with the choice of which individual resigns being left to such individuals or to the Entity Member with which they are affiliated.

(b) Election and Term of Office of Directors; Staggered Directorships.

(i) Classes of Directors. Except for the initial members of the Board and any structures previously set forth in these Bylaws, the Directors shall be divided into two classes of Directors designated as Class 1 and Class 2, respectively. Each Class will be comprised of four (4) Directors, with Tester Members electing two (2) Directors to each Class, and Non-Tester Members electing two (2) Directors to each Class.

(ii) Annual Election. As used in this Section 6.3(b), references to an “**annual Board election**” shall mean and include any annual meeting of Members with the purpose of electing Directors or any other regular annual election of Directors by the Members, whether conducted by written ballot without a meeting or by any other means permitted by the Nonprofit Law.

(iii) Terms; Staggered Elections of Directors by Class. At each annual Board election, one Class of Directors will be elected and thereafter each year at each successive annual Board election the other Class of Directors shall be elected, with each Class of Directors to be elected at every second (2nd) successive annual Board election, with each Director in such Class of Directors to be elected for a term of two (2) years. The Corporation shall form the Classes of Directors as follows: there shall be four (4) Class 1 Directors and four (4) Class 2 Directors, with the Tester Members and Non-Tester Members electing two (2) Directors each in Classes 1 and 2, respectively. The initial Class 1 Directors will be four (4) Directors selected from among, when possible, the then-current incumbent Directors, with the Tester Members and Non-Tester Members accepting two (2) each of such Class 1 Directors, respectively, serving until the next election of Class 1 Directors; the Corporation will hold elections to determine, or otherwise appoint, the initial Class 2 Directors, selected from among, when possible, the then-current incumbent Directors, with the Tester Members and Non-Tester Members electing, or accepting two (2) each of such Class 2 Directors, respectively, serving until the next election of Class 2 Directors. The order of election of Directors in annual sequence will be as follows: (1) the Class 1 Directors (and only the Class 1 Directors) will be elected at the 2020 annual Board election; (2) the Class 2 Directors (and only the Class 2 Directors) will be elected at the 2021 annual Board election; and (3) and so on in the same alternating order and sequence at each successive annual Board election held thereafter. Unless earlier removed from office, each Director shall hold office until the expiration of the term for which elected and until a successor has been elected and qualified.

(c) Vacancies. Except for a vacancy created by the removal of a Director, a vacancy or vacancies occurring in the Board may be filled by the Board for the balance of the unexpired term as permitted by the Nonprofit

Law for the filling of vacancies in the Board. The Members may fill any such vacancy or vacancies not filled by the Board. Vacancies in the Board occurring by reason of removal shall be filled by the Members.

6.4 Nomination Procedure; Election of Directors.

(a) Nominating Procedures. Each Entity Member shall be entitled to nominate for election as either a Tester Member Director or Non-Tester Member Director of the Board one (1) Individual who is qualified for election as a Director under Section 6.3(a), which nomination must be submitted to the Corporate Secretary by no later than ten (10) business days prior to the record date for any vote taken for any election of Directors. A list of proposed candidates for election to the Board nominated by Members as either Tester Member or Non-Tester Member candidates shall be submitted to the Board by the Corporate Secretary no later than five (5) business days prior to the record date for any vote of Directors. The list of proposed candidates shall be reviewed by the Board, and said list shall be final, unless the Board shall, by the vote of at least two-thirds (2/3) of the then authorized number of Directors, direct that the name of any Individual who is qualified to be elected as a Director be added or deleted from the list.

(b) Nominations by Members. After receiving approval by the Board, the Corporate Secretary shall forward to each Member, together with the written ballot or proxy to be sent to all Members, a list of all Tester Member and Non-Tester Member candidates nominated as a Director, including any candidates nominated by the Board as provided in the last sentence of Section 6.4(a) above.

(c) Solicitation of Votes. The Board shall formulate election procedures that allow a reasonable opportunity for each nominee for election as a Director to communicate to Members the nominee's qualifications and the reasons for the nominee's candidacy, a reasonable opportunity for a nominee to solicit votes and a reasonable opportunity for all Members to choose among the nominees.

(d) Vote Required to Elect Directors. Those eligible candidates for positions as either Tester Member or Non-Tester Member Directors who receive the highest number of votes, up to the number of Tester Member and Non-Tester Member Directors to be elected, shall be elected.

6.5 Resignation and Removal of Directors.

(a) Resignation. Any Director may resign effective upon written notice to the Secretary or the Board, unless the notice specifies a later time for the effectiveness of such resignation. If the resignation is effective at a future time, a successor may be elected to take office when the resignation becomes effective. The Board may declare vacant the office of a Director who has been declared of unsound mind by a final order of a court, or convicted of a felony, or has willfully failed to attend two (2) consecutive properly scheduled (and, if applicable, noticed) meetings of the Board.

(b) Removal. Any or all of the Directors may be removed from office in accordance with the provisions of the Nonprofit Law. In addition, if any Director is removed from such Director's position as a Representative of an Entity Member (such a Director being referred to herein as a "**Contingent Director**"), then such Contingent Director shall automatically cease to be a Director on the sixtieth (60th) day after such Contingent Director ceased to be a Representative of an Entity Member unless, within such sixty (60) day period, such Individual becomes a Representative of an Entity Member, or becomes an Individual Member, in which case such Individual shall continue to be a Director and cease to be a Contingent Director. A Contingent Director shall not be entitled to vote on any matter or take any official action on behalf of the Corporation during the time period during which such Individual is a Contingent Director.

(c) Reduction of Authorized Number. Any reduction of the authorized number of Directors will not remove any then incumbent Director from office prior to the expiration of such Directors' term of office, with the exception of the modification of the Board structure, and any changes to existing Directors' terms of office, to require the Tester Members and Non-Tester Members election and establishment of two (2) Directors each in Classes 1 and 2, respectively, as set forth in Section 6.3 above.

6.6 Meetings of the Board.

(a) Place of Meetings. Meetings of the Board shall be held at any place that has been designated by resolution of the Board or in the notice of the meeting, or, if not so designated, at the principal office of the Corporation.

(b) Meetings by Telephone. Any meeting of the Board may be held by conference telephone or similar communications equipment, as long as all Directors participating in the meeting can hear one another. All such participating Directors shall be deemed to be present in person at such meeting.

(c) Regular Meetings. Regular meetings of the Board may be held without notice if the time and place of such meetings are fixed in advance by resolution of the Board.

(d) Special Meetings. A special meeting of the Board for any purpose may be called at any time by the President, the Secretary or any two Directors.

(e) Notice of Special Meetings. Notice of the time and place of special meetings of the Board shall be given to each Directors in one of the following methods: (i) by personal delivery of written notice; (ii) by first -class mail, postage prepaid; (iii) by telephone (including a voice messaging system), either directly to the Directors or to a person at the Director's office who would reasonably be expected to communicate such notice promptly to the Directors; or (iv) by electronic transmission by the Corporation if permitted by the Code. All such notices shall be given or sent to the Director's address or telephone number as shown on the records of the Corporation. Notices sent by first-class mail shall be deposited in the U. S. mails at least four (4) days before the time set for the meeting. Notices given by personal delivery, telephone, or electronic transmission (if permitted) shall be delivered, telephoned or given at least forty-eight (48) hours before the time set for the meeting. The notice shall state the time of the meeting, and the place if the place is other than the principal office of the Corporation. The notice of a meeting need not specify the purpose of the meeting.

(f) Waiver of Notice. Notice of a meeting need not be given to any Director who signs or provides a waiver of notice or a consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such Director. All such waivers, consent and approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

(g) Quorum; Required Vote. A majority of the authorized number of Directors (including any Contingent Director) shall constitute a quorum for the transaction of business, except to adjourn. Every action taken or decision made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be the act of the Board, subject to any higher vote required by the Nonprofit Law, including without limitation, those provisions relating to: (i) creation of and appointments to committeees of the Board, (ii) approval of contracts or other transactions involving the Corporation in which a Directors has a direct or indirect material financial interest, (iii) approval of certain transactions with any other corporation having common Directors or Directors with the Corporation, or (iv) indemnification of Directors. A meeting at which a quorum of the Board is initially present may continue to transact business, despite the withdrawal of Directors, if any action taken or decision made is approved by at least a majority of the required quorum for that meeting (or any greater number required by the Code, the Corporation's Articles or these Bylaws). A majority of the Directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than 24 hours, notice of any adjournment to another time or place shall be given, prior to the time of the adjourned meeting, to the Directors who were not present at the time of adjournment.

6.7 Written Consent of Board. Any action required or permitted to be taken by the Board may be taken without a meeting, if all Members of the Board shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board and shall have the same force and effect as a unanimous vote of such Directors.

6.8 Appointment of Board Committees and Member Committees and Sub-Committees.

(a) Board Committees. The Board, by resolution adopted by a majority of the Directors then in office, provided a quorum is present, may create one or more committees, each consisting of at least two or more Directors, to serve at the pleasure of the Board (each such committee, a "**Board Committee**"). The Board may appoint one or more directors as alternate members of any Board Committee, who may replace any absent member at any meeting of the Board Committee. Any such Board Committee, to the extent provided in the resolution of the Board or in the Bylaws, shall have all the authority of the board, except with respect to:

(i) the approval of any action which also requires Member approval under the Laws;

(ii) the filling of vacancies in the Board or in any committee which has the authority of

the Board;

- (iii) the fixing of compensation of the Directors for serving on the Board or on any committee;
- (iv) the amendment or repeal of Bylaws or the adoption of new Bylaws;
- (v) the amendment or repeal of any resolution of the Board which by its express terms is not so amendable or repealable;
- (vi) the appointment of other committees of the Board or the Members thereof;
- (vii) the expenditure of corporate funds to support a nominee for Directors after there are more people nominated for Directors than can be elected;
- (viii) the approval of any self-dealing transaction not permitted by Section 5233(d)(3) of the Corporations Code to be approved by a committee.

Meetings and actions of Board Committees shall be governed by, held, and taken in accordance with the provisions of these Bylaws, except that the time for regular meetings of such Committees and the calling of special meetings of such Committees may be determined either by Board resolution or, if there is none, by determination of such Committee. The Board may adopt rules for the governance of any Board Committee, *provided* they are consistent with these Bylaws or, in the absence of rules adopted by the Board, such Board Committee may adopt such rules.

(b) **Member Committees.** The Board, by resolution adopted by a majority of the Directors then in office, provided a quorum is present, may create one or more Committees or Subcommittees consisting of Individual Members and/or Representatives of Entity Members (“***Other Committees***”) who may take such actions or activities as are designated by the Board consistent with the Nonprofit Law, the Articles and these Bylaws (other than any power to which a Board Committee may be empowered). Appointment of the Chair of any such Other Committee shall be by majority vote of the Directors then in office. The Chair of any such Other Committee shall be empowered to appoint or designate any additional members of such Other Committee, so long as such member is a then current Individual Member in good standing or a Representative of an Entity Member in good standing. Meetings and actions of Other Committees shall be governed by, held, and taken in accordance with the provisions for meetings of the Board set forth in these Bylaws, except that the time for regular meetings of such Other Committees and the calling of special meetings of such Other Committees may be determined either by Board resolution or, if there is none, by determination of such Other Committee. The Board may adopt rules for the governance of any Other Committee, *provided* they are consistent with these Bylaws or, in the absence of rules adopted by the Board, such Other Committee may adopt such rules.

6.9 **Inspection Rights of Directors.** Every Director shall have the absolute right at any reasonable time to inspect and copy all books, records and documents of every kind. Such inspection by a Director must be made in person or by agent and the right of inspection includes the right to copy and make extracts.

CHAPTER 7. OFFICERS

7.1 Officers and Duties.

(a) **Officers.** The officers of the Corporation shall be a President, a Corporate Secretary and a Treasurer, and shall be appointed by the Board. The Corporation may also have, at the Board’s discretion, one or more Vice Presidents, one or more Assistant Secretaries, and such other officers as may be appointed by the Board. Subject to the provisions of Section 7.2(b), in order to be an officer of the Corporation, an individual must be either an Individual Member in good standing or a Representative of an Entity Member in good standing.

(b) **President.** The President shall be appointed by the Board. The President shall be the chief executive officer and general manager of the Corporation. The President shall, subject to the control of the Board, have general supervision, direction and control of the business and affairs of the Corporation and of its officers, employees and agents, including the right to employ, discharge and prescribe the duties and compensation of all officers, employees and agents of the Corporation, except where such matters are prescribed in the Bylaws or by the Board. The President shall preside at all meetings of the Members and the Board. The President shall have such other powers and duties as the Board or the Bylaws may require.

(c) **Corporate Secretary.** The Corporate Secretary shall be appointed by the Board. The Corporate Secretary shall keep or cause to be kept the minute book of the Corporation. The Corporate Secretary shall sign in the name of the Corporation, either alone or with one or more other officers, all documents authorized or required to be signed by the Corporate Secretary. If the Corporation has a corporate seal, the Corporate Secretary shall keep the seal and shall affix the seal to Membership certificates, if issued, and to other documents as appropriate or desired. The Corporate Secretary may at his or her discretion appoint an Assistant Secretaries to perform, under the direction of the Corporate Secretary, some or all the duties of the Corporate Secretary, subject to ratification of the Board.

(d) **Treasurer.** The Treasurer shall be appointed by the Board to serve as the chief financial officer of the Corporation, and, where appropriate, may be designated by the alternate title “Chief Financial Officer”. The Treasurer is responsible for the receipt, maintenance and disbursement of all funds of the Corporation and for the safekeeping of all securities of the Corporation. The Treasurer shall keep or cause to be kept books and records of account and records of all properties of the Corporation. The Treasurer shall prepare or cause to be prepared annually or more often if so directed by the Board or President, financial statements of the Corporation.

7.2 Appointment and Removal of Officers.

(a) **Generally.** The officers provided for in paragraph Section 7.1 of the Bylaws shall be appointed by the Board or otherwise as set forth below.

(b) **Removal.** Any officer may be removed from office at any time by the Board, with or without cause or prior notice. In addition, if any officer is removed from such individual’s position as a Representative of an Entity Member or as an Individual Member, then such individual may nevertheless remain in his or her position as an officer, subject to approval of the Board, an contingent on such individual becoming a Representative of an Entity Member, or becoming an Individual Member, within sixty (60) days of such removal, and unless and until such officer again becomes a Representative of an Entity Member or an Individual Member within such sixty (60) day period, such officer shall not be entitled to vote on any matter or take any official action on behalf of the Corporation as an officer.

(c) **Employment Agreements.** When authorized by the Board, any officer may be appointed for a specific term under a contract of employment. Notwithstanding that such officer is appointed for a specified term or under a contract of employment, any such officer may be removed from office at any time pursuant to paragraph (b) and shall have no claim against the Corporation on account of such removal other than for such monetary compensation as the officer may be entitled to under the terms of such contract of employment.

(d) **Resignation.** Any officer may resign at any time upon written notice to the Corporation without prejudice to the rights, if any, of the Corporation under any contract to which the officer is a party. Such resignation is effective upon receipt of the written notice by the Corporation unless the notice prescribes a later effective date or unless the notice prescribes a condition to the effectiveness of the resignation.

(e) **Vacancies.** A vacancy in any office because of death, resignation, removal, disqualification, or any cause shall be filled with the manner prescribed in these Bylaws for regular appointments to that office.

7.3 Execution of Instruments.

(a) **Authorized.** Any and all instruments executed in the name of the Corporation, including, but not limited to, contracts, agreements, purchase orders, notes, deeds, deeds of trust, mortgages, leases, security agreements, checks and drafts issued, endorsements of checks and drafts received, certificates, applications and reports, shall be executed by any one or more officers, employees or agents of the Corporation as authorized from time to time by the Board. Such authorization may be general or confined to specific instances.

(b) **Incident to Office.** The respective offices and duties thereof as established and defined in these Bylaws and by resolution of the Board include, except as otherwise provided, the authority to execute instruments in the name of the Corporation when the execution of the instrument is incident to carrying out the duties of the office.

CHAPTER 8. ANNUAL REPORTS

8.1 **Annual Report.** Upon valid written request of any Member in good standing, and subject to any exceptions set forth in this Section, the Board shall cause an annual report to be sent to the Members and all Directors

within 120 days after the end of the Corporation's fiscal year. That report shall contain the following information, in appropriate detail, for the fiscal year:

- (a) the assets and liabilities, including the trust funds, if any, of the Corporation as of the end of the fiscal year;
- (b) the principal changes in assets and liabilities, including trust funds, if any, during the fiscal year;
- (c) the revenue or receipts of the Corporation, both unrestricted and restricted to particular purposes, for the fiscal year;
- (d) the expenses or disbursements of the Corporation for both general and restricted purposes, for the fiscal year; and
- (e) any other information required by these Bylaws.

The annual report shall be accompanied by any report on it of independent accountants or, if there is no such report, by the certificate of an authorized officer of the Corporation that such statement were prepared without audit from the Corporation's books and records. This requirement of an annual report shall not apply if the Corporation receives less than \$10,000 in gross receipts during the fiscal year, provided, however, that the information specified above for inclusion in an annual report must be furnished annually to all Directors and to any Member who requests it in writing.

8.2 Annual Statement of Certain Transactions. As part of any such annual report to all Members, on request of any Member in good standing, the Corporation shall annually prepare and mail or deliver to each Member and furnish to each Directors a statement of any transaction or indemnification of the following kind within 120 days after the end of the Corporation's fiscal year:

- (a) Any transaction: (a) in which the Corporation, its parent, or its subsidiary was a party, (b) in which an "interested person" had a direct or indirect material financial interest, and (c) which involved more than \$50,000, or was one of a number of transactions with the same interested person involving, in the aggregate, more than \$50,000. For this purpose, an "interested person" is either of the following: (a) any Director or officer of the Corporation, its parent, or subsidiary (but mere common Directorship shall not be considered such an interest), or (b) any holder of more than ten percent (10%) of the voting power of the Corporation, its parent, or its subsidiary. The statement shall include a brief description of the transaction, the names of interested persons involved, their relationship to the Corporation, the nature of their interest in the transaction and, if practicable, the amount of that interest, provided that if the transaction was with a partnership in which the interested person is a partner, only the interest of the partnership need be stated.
- (b) Any indemnifications or advances aggregating more than \$10,000 paid during the fiscal year to any officer or Directors of the Corporation under Section 7 of these Bylaws, unless that indemnification has already been approved by the Members under Section 7237(e) of the California Corporations Code.

CHAPTER 9. AMENDMENT OF BYLAWS

9.1 Amendments by Board. Subject to the rights and limitations of Members herein, the Board may adopt, amend, or repeal Bylaws unless the action would: (i) materially and adversely affect the Members' rights as to voting, dissolution, redemption or transfer, (ii) increase or decrease the number of Members authorized in total, (iii) effect an exchange, reclassification or cancellation of all or part of the Memberships or (iv) be in violation of the Nonprofit Law or the Code. Once Members have been admitted to the Corporation, the Board may not, without the approval of the Members entitled to vote, specify or change any bylaw provision that would: (i) fix or change the minimum or maximum number of a variable range of authorized number of Directors; or (ii) change from a fixed number of Directors to a variable number of Directors or vice versa.

9.2 Members' Approval Required. Without the approval of the Members entitled to vote, the Board may not adopt, amend, or repeal any Bylaws that would: (i) increase or extend the terms of Directors; (ii) allow any Director to hold office by designation or selection rather than by election by the Members; (iii) allow the Board to fill a vacancy in the Board occurring by reason of removal of a Director; (iv) increase the quorum for Members' meetings; (v) repeal,

restrict, create, expand, or otherwise change proxy rights; (vi) authorize cumulative voting for the election of Directors; (vii) materially and adversely affect the Members' rights as to voting, dissolution, redemption or transfer, (viii) increase or decrease the number of Members authorized in total or for any class (if any); (ix) effect an exchange, reclassification or cancellation of all or part of the Memberships or (x) authorize a new class of Membership.

CHAPTER 10. INDEMNIFICATION

10.1 Indemnification of Agents. To the fullest extent permitted or required by law, the Corporation may in its discretion indemnify its Directors, officers, employees, and other persons described as "agents" in Section 7237(a) of the California Corporations Code, including persons formerly occupying any such position, against all expenses, judgments, fines, settlements and other amounts actually and reasonably incurred by them in connection with any "proceeding," as that term is used in that Section, and including without limitation an action by or in the right of the Corporation, by reason of the fact that the person is or was a person described in that Section. "Expenses," including without limitation the expenses described in Section 7237(a) of the California Corporations Code.

10.2 Approval of Indemnity. On written request to the Board by any person seeking indemnification under Section 7237(b) or Section 7237(c) of the California Corporations Code, the Board may determine under Section 7237(e) of the California Corporations Code whether the applicable standard of conduct set forth in Section 7237(b) or Section 7237(c) has been met and, if so, the Board may (but is not required to) authorize indemnification. If the Board cannot authorize indemnification because the number of Directors who are parties to the proceeding with respect to which indemnification is sought prevents the formation of a quorum of Directors who are not parties to that proceeding, the Board may promptly call a meeting of Members, or distribute written ballots to Members. At that meeting, or by such written ballots, the Members shall determine under Section 7237(e) of the California Corporations Code whether the applicable standard of conduct set forth in Section 7237(b) or Section 7237(c) has been met and, if so, the Members may authorize such indemnification.

10.3 Advancement of Expenses. To the fullest extent permitted by law, expenses incurred by a person seeking indemnification under Section 7 of these bylaws in defending any proceeding covered by this Sections may, in the discretion of the Board, be advanced by the Corporation before final disposition of the proceeding, on receipt by the Corporation of an undertaking by or on behalf of that person that the advance will be repaid unless it is ultimately determined that the person is entitled to be indemnified by the Corporation for those expenses.

10.4 Insurance. The Corporation shall have the right (but not the obligation) to purchase and maintain insurance to the fullest extent permitted by law on behalf of its officers, Directors, employees, and other agents, against any liability asserted against or incurred by any officer, Director, employee, or agent in such capability or arising out of the officer's, Director's, employee's, or agent's status as such.

Officer's Certificate

The undersigned Executive Director and Corporate Secretary of the Anti-Malware Testing Standards Organization, Inc., a California Nonprofit Mutual Benefit Corporation, hereby certifies that the foregoing Bylaws are the true and correct, duly adopted Bylaws of the Corporation, that such Bylaws were originally adopted by the Board of Directors of the Corporation on April 29, 2008; amended by the Board on April 25, 2016, which amendment was approved by the Membership of the Corporation on June 17, 2016; further amended by the Board on March 21, 2019, which amendment was approved by the Members of the Corporation on May 22, 2019, and further amended by the Board on April 22, 2020, which amendment was approved by the Members of the Corporation on May 18, 2020, and that such Bylaws include all amendments, if any, to the date of this certificate.

Dated: May 18, 2020

/s/ John Hawes _____
John Hawes, Corporate Secretary