

**NVM EXPRESS, INC.
INTELLECTUAL PROPERTY POLICY**

Approved as of November 21, 2015 (“Effective Date”) by the Board of Directors of NVM Express

1. APPLICABILITY

NVM Express, Inc., a Delaware nonprofit corporation (“NVMe”), has adopted this Intellectual Property Policy (this “Policy” or this “IPR Policy”) as of the Effective Date. This IPR Policy applies to all NVMe Members as of the Effective Date.

2. DEFINITIONS

In addition to any other terms defined in this IPR Policy, the following terms have the following meanings:

2.1 “Adopt”, “Adopted” or “Adoption” means NVMe’s formal adoption of the applicable Final Specification in accordance with the terms and conditions of Section 5.2 of this IPR Policy and NVMe’s Bylaws.

2.2 “Adopter(s)” mean any Member, including its Affiliates, that is at the “Adopter” level of membership pursuant to the Bylaws.

2.3 “Affiliate” shall have the meaning as set forth in the Bylaws.

2.4 “Assigned Specification” means all drafts and final versions (version 1.0) of the document entitled “Non-Volatile Memory Host Controller Interface Specification 1.0” as contributed by Intel Corporation to NVMe pursuant to that certain Promoter’s Assignment and Participation Agreement, dated as of _____, 2015 . The following final version(s) of the Assigned Specification is/are hereby automatically deemed to be a Final Specification of NVMe as of 12:01AM of the Effective Date of this IPR Policy: NVM Express 1.0, NVM Express 1.1, NVM Express 1.1a, NVM Express 1.0e and NVMHCI 1.0 and all of their errata (hereinafter, a “Final Assigned Specification”).

2.5 “Board of Directors” means NVMe’s Board of Directors as set forth in the Bylaws.

2.6 “Bylaws” means the then-current Bylaws of NVMe.

2.7 “Caching Algorithm” means a method for storing data on the Non-Volatile Memory Module that is received from, or addressed to another storage device. For clarification, the algorithm may include determination of which data is placed in the cache, determination of how to evict or remove data from the cache, and mechanisms for ensuring a mutually consistent state between the cache and the device being cached (including during power failure, system crash, or other catastrophic events), and other methods to optimize performance, reliability, and/or consistency of the cache.

2.8 “Contributions” means all submissions proposing an addition to or a modification of a Draft Specification, an existing Final Specification, or any new versions or revisions thereof, submitted by a Member provided that the submission is submitted in writing (including a submission written in an electronic medium) and is approved for submittal by such party.

2.9 “Contributor(s)” means any Member, including its Affiliates, that is at the “Contributor” level of membership pursuant to the Bylaws.

2.10 “Compliant Portion” means only those specific portions of products (hardware, firmware, micro-code, software, or combinations thereof) that: (a) implement and are compliant with all relevant portions of the Final Specification (as defined in 2.13) that are mandatory (or, with regard to an Optional Portion of the Final Specification, all relevant portions of the Optional Portion that are mandatory), or not specifically designated as “not licensed”; and (b) are within the bounds of the Scope.

2.11 “**Director(s)**” means any person(s) selected to serve as a member of the Board of Directors as set forth and pursuant to the Bylaws.

2.12 “**Draft Specification**” means, collectively, all drafts of new versions or revisions of the Assigned Specification, or all drafts of new versions or revisions of any Test Specification Document (as defined herein), and all Contributions thereto that are to be considered for inclusion in the applicable version of a Final Specification of the foregoing, including versions of the Draft Specification described as being “version .x”, prior to NVMe’s Adoption of that version of the Final Specification.

2.13 “**Fabric**” means an interconnect (e.g., Ethernet, InfiniBand™, Fibre Channel, and PCI Express) used to provide a connection between computer devices.

2.14 “**Final Specification**” means, collectively:

(i) the Final Assigned Specification (as defined herein) as it exists as of 12:01AM of the Effective Date of this IPR Policy;

(ii) after 12:01AM of the Effective Date of this IPR Policy, any new revisions or versions of the Assigned Specification as Adopted by NVMe pursuant to the NVMe’s Bylaws; and .

(iii) any Test Specification Document or any other Draft Specification that is Adopted as a Final Specification.

The first version number of a Final Specification, and all subsequent major versions, upon Adoption as a Final Specification, shall be described as being “version 1.0, 2.0, 3.0 etc.” of the applicable Final Specification. Minor revisions to the applicable version (in the nature of clarifications and error correction) shall be described as being “version X.x” of the applicable Final Specification.

2.15 “**Member(s)**” means an individual or entity, including its Affiliates, that is recognized as a NVMe “Member” pursuant to NVMe’s Bylaws, including, without limitation, all Promoters, Contributors, and Adopters.

2.16 “**Necessary Claims**” means, with respect to a particular Final Specification, any claim included in any patent or patent application, where such claim:

now or at any future time, is owned or controlled and licensable by the applicable Member, or any of its Affiliates; and
in the absence of a license, would necessarily be infringed by at least one Compliant Portion because there is no commercially and technically reasonable non-infringing alternative for implementing such Compliant Portion.

Notwithstanding the foregoing sentence, Necessary Claims do not include any claims

other than those set forth above even if contained in the same patent as a Necessary Claim; or that read solely on any implementations of any portion of the Final Specification that are not within the bounds of the Scope; or

that may be infringed by implementing any portion(s) of the Final Specification that are optional (or, with regard to an Optional Portion of the Final Specification (as defined herein), are non-mandatory portions of the applicable Optional Portion) or specifically designated as “not licensed”; or
that, if licensed, would require a payment of royalties by the licensor to non-Affiliated third parties; or

if multiple Final Specifications exist that qualify as Necessary Claims for purposes of one or more other Final Specifications, but not for purposes of the particular Final Specification which the Compliant Portions implement.

For purposes of this definition of Necessary Claims, the Final Specification shall be deemed to include only architectural and interconnection requirements essential for interoperability and shall not include any implementation examples unless such implementation examples are expressly identified as being required for compliance with the Final Specification.

2.17 “**Non-Volatile Memory Module**” means a memory subsystem consisting of a memory controller (e.g., a NAND memory controller), a non-volatile memory storage medium (e.g., NAND memory devices), an interface between the memory controller and memory storage medium, a microcontroller, and software/firmware running on the microcontroller or processor supporting the operation of the memory controller and/or of the storage medium. For clarification, the software/firmware may be formatted in object code, may be embedded in hardware, may reside in proximity to the memory controller and/or the non-volatile memory, or may be stored in a separate memory area. For further clarification, any management algorithms (e.g. wear leveling, error correction, power fail recovery, performance enhancements) that optimize or otherwise support the operation of the controller and/or the non-volatile memory shall be considered part of the Non-Volatile Memory Module.

2.18 “**NVMe Successor**” shall have the meaning as set forth in Section 7.2.

2.19 “**Optional Portion of the Final Specification**” means those portions or criteria of the Final Specification that may be, but are not required to be, selected in an implementation of the Final Specification.

2.20 “**Processor**” means any integrated circuit or combination of integrated circuits capable of processing digital data, such as a microprocessor or coprocessor (including, without limitation, a math coprocessor, graphics coprocessor, or digital signal processor).

2.21 “**Promoters**” means any Member, including its Affiliates, that is at the “Promoter” level of membership pursuant to the Bylaws

2.22 “**Scope**” means any host controller interface disclosed with particularity in the Final Specification and implemented in a computer device (each of the foregoing a “**Scope Unit**”), where the sole purpose of such Scope Unit is to enable interfacing between at least one Processor and at least one Non-Volatile Memory Module, where the Processor(s) and Non-Volatile Memory Module(s) are included in or otherwise directly attached to the same computer device, or coupled through a Fabric. Notwithstanding the foregoing, the Scope shall not include:

- (a) **Enabling Technologies**. Any technologies that may be necessary to make or use any product or portion thereof that complies with a Final Specification but are not themselves expressly set forth in a Final Specification (e.g., semiconductor manufacturing technology, compiler technology, object oriented technology, basic operating system technology or the like);
- (b) **Other Technologies**. The Non-Volatile Memory Module (and each of its constituent components enumerated in the definition of “Non-Volatile Memory Module” set forth herein), Caching Algorithms, connectors and form factors, any Processor, any intra-circuit bus, any data bus (e.g., any X86 data bus implemented by a manufacturer to facilitate communications between the manufacturer’s Processor and other components), or any Fabric;
- (c) **Externally Developed Specification**. The implementation or use of other published specifications not developed for use by the Promoters pursuant to this Agreement but

referred in the body of the Final Specification even if required for compliance with the Final Specification (e.g., the PCI specification, a Fabric specification);

- (d) Non-Normative Portions of Final Specifications. Any portion of any product or any combination of products (or portions of products) that is not required for compliance with the Final Specification; or
- (e) Combinations. Any combinations of or including Compliant Portions the purpose or function of which is not required for compliance with required portions of the Final Specification.

2.23 “**Test Specification Document**” means a document, that has been approved in accordance with the procedures set forth in NVMe’s Bylaws, which contains procedures for evaluating whether specific portions of products (including, without limitation, hardware, firmware, micro-code, software, or combinations thereof) properly implement, or are otherwise compliant with, relevant portions of a Final Specification.

2.24 “**Work Group**” shall have the meaning as set forth in the Bylaws.

2.25 “**Work Group Release**” shall have the meaning as set forth in the Section 5.1 herein.

3. SUBMISSIONS ; RIGHTS IN SPECIFICATIONS

3.1 Copyright License for Draft Specifications and Final Specifications.

3.1.1 Subject to Section 5, each Member hereby grants to NVMe, a non-exclusive, irrevocable, worldwide, royalty-free, license under its copyrights in any and all of its Contribution to reproduce, distribute, publish, display, perform, or create derivative works of the Contribution, for the purposes of developing Draft Specifications (under NVMe’s copyright) and for the purposes of otherwise creating, using, and distributing implementation of the Final Specifications, or (ii) publishing, distributing or otherwise using, in any way, Final Specifications (under NVMe’s copyright).

3.1.2 Subject to Section 5, each Member hereby grants to each of the other Members , a non-exclusive, irrevocable, worldwide, royalty-free license under its copyrights in any and all of its Contribution to create derivative works of the Contribution and to reproduce, distribute, publish, display, and perform the Contribution, or derivative works of the Contribution for the purposes of developing Draft Specifications and/or Final Specifications (all under NVMe’s copyright) and for the purposes of creating, using, and distributing implementations of the Final Specifications.

3.2 Retention of Copyright in Original Contribution. Subject to Section 3.3 below, each Member that submits a copyright-protected Contribution which was proprietary to that party as of the effective date of the Contribution (“**Original Contribution**”) will retain such copyright in its Original Contribution.

3.3 NVMe Owns Copyrights in Draft Specifications and Final Specifications. Notwithstanding a Member’s retention of the copyright in its Original Contribution pursuant to Section 3.2 above, NVMe will automatically be the sole and exclusive owner of the copyright in and to each Draft Specification and each Final Specification. Without limiting, in any way, the generality of the preceding sentence in this Section 3.3, NVME retains the right, as the sole and exclusive owner of the copyright in and to the Draft Specifications and Final Specifications, and without any duty of accountability to, or duty to obtain any consent from, any Member, to use the Draft Specifications or Final Specification in any way as solely determined by NVMe.

3.4 Submission To Approved Standards Development Organization (SDO)

3.4.1 For purposes of this IPR Policy, the term “**Approved SDO**” means any appropriate standards body or consortium as determined by the Board of Directors.

3.4.2 The Board of Directors, upon a two-thirds (2/3) vote of all Directors in office, may authorize that a Final Specification or portions that may include text, design features, tables or any information extracted or compiled from a Final Specification may be contributed or proposed to an Approved SDO (“**SDO Submission**”); provided, however, that the Board will adopt policies and procedures that it deems appropriate, in its discretion, to carry out the SDO Submission (“**Board’s SDO Submission Policies**”).

3.4.3 In the event an SDO Submission has been approved in accordance with the procedures set forth in Section 3.4.2(i) above, each Member agrees that : (i) it will comply with the SDO Submission Policies regarding that SDO Submission to the Approved SDO; (ii) it will comply with the Approved SDO’s disclosure, licensing and other commitments; and (iii) that the patent license commitment set forth in Section 4 of this IPR Policy shall survive with respect to the unmodified portions of the Final Specification that is contributed to and adopted as a standard or specification of such Approved SDO even if such Approved SDO permits its participants or members to make licensing elections different from those in Section 4 of this IPR Policy. For purposes of clarification, if the text of a Final Specification is changed to comply with the Approved SDO format rules or naming or other conventions and no Member’s Necessary Claims licensing obligation(s) are thereby increased in any material respects, such change shall not be deemed to be a modification within the meaning of this Section 3.4.3. Notwithstanding the foregoing, a Final Specification may only be contributed to an Approved SDO with a more onerous licensing obligation than set forth in Section 4 of this IPR Policy upon unanimous consent of all Directors in office. For the purpose of this IPR Policy, “a more onerous licensing obligation” means a standards development organization intellectual property rights policy that obligates its participants or members to terms that are materially different from Section 4.1 of this IPR Policy.

4. LIMITED PATENT LICENSING OBLIGATIONS.

4.1 Licensing Obligation.

Each Member hereby agrees to grant to each of the other Members (each a “**Receiving Entity**”, collectively, the “**Receiving Entities**”) the following (the “**License**”):

Effective upon NVMe’s Adoption of a Final Specification (and subject to the withdrawal provisions under Section 7.1), a non-exclusive, non-transferable, non-sublicensable, world-wide license in, to, and under any of the granting party’s Necessary Claims, to make, have made, use, import, sell, offer to sell, or otherwise distribute or dispose of Compliant Portions; provided that such license need not extend to any part or function of a product in which a Compliant Portion is incorporated that is not itself part of the Compliant Portion.

The License will be granted on a royalty free basis and under otherwise reasonable and non-discriminatory terms, provided, that such License grant to a particular Receiving Party is hereby conditioned upon that Receiving Party’s grant of a reciprocal License back to the granting Member.

4.2 **Transfer of Necessary Claims.** Any transfer of a patent having Necessary Claims by a Member, or their Affiliates, to an unaffiliated third party shall be subject to the terms and conditions of this IPR Policy. A transferring Member (or their Affiliate, if applicable) may choose the manner in which it complies with this Section 4.2.

5. DEVELOPMENT OF DRAFT SPECIFICATIONS, DISTRIBUTION; ADOPTION OF FINAL SPECIFICATION CONFIDENTIALITY

5.1 Development of Draft Specifications. Subject to the Bylaws (including, without limitation, any and all conditions and procedures imposed on Work Groups by the Board of Directors), one or more Work Groups may have the ability to draft and develop one or more Draft Deliverables. When the Chairman of a Work Group has

decided, in coordination with the other members of the Work Group and in accordance with that Work Group's internal procedures, that a Draft Specification is sufficiently substantial and defined so as to be ready for release from that Work Group ("**Work Group Release**"), then the Chairman of that Work Group shall notify the Board of Directors of said Work Group Release and will provide the Board of Directors with a copy of the applicable Draft Specification.

5.2 Consideration of Draft Specification by Board of Directors. The Board of Directors will review each Draft Specification delivered to it by each Chairman of a Work Group. The Board of Directors can either vote to release the Draft Specification, vote to return the Draft Specification to the Work Group for further review and work, or take any other action it deems appropriate with regard to the further development or use of the Draft Specification.

5.3 Distribution of Draft Specifications to Promoters, Contributors and Adopters. NVMe shall provide the Members with not less than forty-five (45) days' prior notice of the adoption of a Draft Specification as a Final Specification ("**Review Period**"). Such notice shall include the Draft Specification as approved by the Board of Directors and state the effective date when the Draft Specification, shall become the Final Specification (with the relevant Necessary Claims becoming applicable thereto) and subject to the licensing provisions of Section 4.1. Upon receipt of the notice and the Draft Specification, the Member, on behalf of itself and its Affiliates, may review the same for any Necessary Claims that may be contained therein. While there is no requirement for a Member to review their patent portfolio for Necessary Claims, Members are put on notice that unless they withdraw from NVMe in accordance with the provisions of Section 7 before the end of the Review Period, the Member is committing to the licensing provisions of Section 4.1.

5.4 Adoption of Final Specifications By Board of Directors. After the expiration of the Review Period, the Board of Directors has the sole authority to vote, in accordance with the Bylaws, to Adopt a Draft Specification as a Final Specification of NVMe. In the event there is no Adoption of a Final Specification by the Board of Directors, the Board of Directors has the sole authority to take any other action it deems appropriate with regard to the further development or use of the Draft Specification, including, without limitation, returning the Draft Specification to the Work Group for further review and work.

5.5 Confidentiality.

5.5.1 For purposes of this Section 5.5, the following additional terms shall have the following meanings:

(a) "**Confidential Material**" means: (i) all Draft Specifications; (ii) drafts of all other Work Group Releases; (iii) Contributions of a Member to such Draft Specifications or Work Group Releases; and (iv) all meeting or working notes or minutes of a Work Group related to such Draft Specifications or Work Group Releases.

(b) "**Public Release of a Final Specification**" means NVMe's Adoption of the Final Specification by the Board of Directors and when NVMe will make the Final Specification publicly available.

5.5.2 Until the Public Release of an applicable Final Specification, each Member will (a) maintain all versions and revisions of each Confidential Material related to that Final Specification in confidence with at least the same degree of care that it uses to protect its own confidential and proprietary information, but no less than a reasonable degree of care under the circumstances; and (b) will not use, disclose or copy the Confidential Material except: (1) as necessary for its employees (on a need to know basis), and authorized contractors (on a need to know basis and who have signed a written non-disclosure agreement with the applicable Member that disclosed that information or, if applicable with NVMe, with terms no less restrictive than those contained herein) in order to assist the Member with its participation as a Member of NVMe; (ii) with the prior written consent of the NVMe; (iii) as otherwise may be required by law or legal process, including to legal and financial advisors in their capacity of advising a party in such matters; (iv) during the course of litigation, so long as the disclosure of such terms and

conditions are restricted in the same manner as is the confidential information of other litigating parties; (v) in confidence to its legal counsel, accountants, banks and financing sources and their advisors solely in connection with complying with financial transactions; or, (vi) in confidence to its legal counsel in connection with providing any other legal advice associated with Member's participation in NVMe.

5.5.3 After the Public Release of an applicable Final Specification, the following shall apply:

(a) to the extent any portion of a Confidential Material is incorporated into a Final Specification (the "**Incorporated Portion**"), then such Incorporated Portion shall no longer be deemed to be, nor governed by Section 5.5.2 as, a Confidential Material as of and after said Public Release.

(b) any Confidential Material that has not been incorporated into the Final Specification will continue to be subject to the provisions of Section 5.5.2 for a period which shall expire three (3) years after the date of the disclosure of the applicable Confidential Material.

5.6 **Residuals**. Notwithstanding anything herein to the contrary, any party may use Residuals for any purpose, including without limitation use in development, manufacture, promotion, sale and maintenance of its products and services; provided that this right to Residuals does not represent a license under any patents, copyrights or mask works of the disclosing party. The term "**Residuals**" means any information retained in the unaided memories of the receiving party's employees who have had access to the disclosing party's Confidential Material pursuant to the terms of this Agreement. An employee's memory is unaided if the employee has not intentionally memorized the Confidential Material for the purpose of retaining and subsequently using or disclosing it.

5.7 **Press Release**.

Following NVMe's Adoption of a Final Specification, a Member may only make a press or other public announcement regarding the Final Specification upon the prior written consent of NVMe; provided, however, such Member may not make any such press or other public announcement which names the identities of any other Member unless prior written consent is received from any such Member named in the press release or public announcement. NVMe may make a press or other public announcement regarding any subject germane to its purposes provided that prior written consent is received from any Member named in the press release or public announcement.

6. TRADEMARKS AND TRADE NAMES

6.1 **Non Assertion**. Each Member hereby agrees not to assert against NVMe or each other any rights in any trademark, service mark, trade name, or any similar rights, it may have now or hereafter in the trademarks, service marks, trade names or logos for Non-Volatile Memory Host Controller Interface or NVMHCI or NVMe or NVME Express (collectively "**Trade Names**"). Each Member agrees that the Trade Names are solely and exclusively owned by NVMe.

6.2 **No Obligation To Use Trade Names or New Marks**. Member shall not be obligated to use any of the Trade Names or any additional trademarks, service marks, trade names or logos of NVMe which may be approved by the Board of Directors (collectively, "**New Marks**") on any product, advertising, or on any other material in any manner.

6.3 **Use of NVMe's Trade Names and New Marks**. Each Member hereby agrees that it shall only use any one or more of the Trade Names or New Marks to label and/or promote products that contain relevant Compliant Portions; provided, further, that use of any such Trade Names and New Marks by a Member will also be governed by such licenses, policies, procedures and/or other guidelines as may be established and approved by the Board of Directors from time to time.

7. SURVIVAL UPON WITHDRAWAL BY MEMBER, TERMINATION OF MEMBERSHIP OR OTHER EVENTS

7.1 Survival of License Grants Upon, and Other Effects of, Member Withdrawal, Membership Termination

The following rights and provisions survive any of the following events: (i) a Member withdraws from NVMe in accordance with NVMe's Bylaws ("**Member Withdrawal**"); or (ii) a Member's membership status is otherwise terminated in accordance with NVMe's Bylaws ("**Membership Termination**").

(i) NVMe's retention of the sole and exclusive ownership of the copyright in all Draft Specifications and Final Specifications pursuant to Section 3.3;

(ii) Member's agreement to grant the License(s) as provided in Section 4.1 (hereinafter collectively referred to as the "**Ongoing Obligations**") shall remain in full force and effect but only for:

(x) any Necessary Claims in such terminating Member's Contributions incorporated in any Final Specification adopted in accordance with Section 5.4 after the effective date of such Member's Member Withdrawal or Member Termination;

(y) any Necessary Claims essential to implementing a part of a Final Specification, where such part was included in a Draft Specification for which a Review Period completed prior to the effective date of such Member's Member Withdrawal or Membership Termination.

Regardless of the date of a Member's Member Withdrawal or Membership Termination, the Member's agreement under Section 4.1 to remain bound to the Ongoing Obligations will extend to all Members (collectively, "**Licensees**") including Licensees that become Licensees, and to any NVMe Successor that comes into existence, after the effective date of the Member's Withdrawal or Membership Termination.

Notwithstanding the foregoing, the withdrawing or terminated Member will only receive the license grants under Section 3.1.2 (Draft Specifications) and Section 4.1 (License) which were available as of thirty (30) days prior to the effective date of a Member's Member Withdrawal or Membership Termination. Withdrawing or terminated Members will not be eligible to receive distributions of Draft Specifications or any other material pursuant to Section 5.1 hereof following the effective date of the Member's Withdrawal or Membership Termination.

7.2 NVMe's Successor. For purposes of this Agreement, "**NVMe Successor**" means any successor-in-interest or assignee of NVMe, including, without limitation: (i) any successor entity that acquires all or substantially all of NVMe's assets; (ii) any successor entity in the event NVMe merges into, or is consolidated with, another entity; (iii) any successor-in-interest to NVMe's assets in the event NVMe is dissolved; or (iv) any NVMe assignee in the event of an assignment as contemplated by Section 11 herein. All rights of NVMe under this Agreement shall be held and otherwise assumed by any NVMe Successor.

8. NO OTHER GRANTS.

Except for the rights expressly provided by this IP Policy, a Member neither grants nor receives, by implication, or estoppel, or otherwise, any rights under any patents or other intellectual property rights.

9. REPRESENTATIONS AND DISCLAIMER OF WARRANTY; LIMITATION OF LIABILITY

9.1 Limited Representations; Disclaimers

9.1.1 Except as otherwise agreed in writing, each Member represents and warrants that at the time of making a Contribution, to the knowledge of the employee making the Contribution, the Contribution is not being made in violation of the copyright of another party.

9.1.2 Except as set forth in 9.1.1, all parties acknowledge that all information provided, including, but not limited to, all Contributions made by a Member, as part of the Final Specification development process, and the Draft Specification and/or Final Specification itself, are all provided “AS IS” WITH NO WARRANTIES WHATSOEVER, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, AND THE PARTIES EXPRESSLY DISCLAIM ANY WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT, FITNESS FOR ANY PARTICULAR PURPOSE, OR ANY WARRANTY OTHERWISE ARISING OUT OF ANY PROPOSAL, SPECIFICATION, OR SAMPLE.

9.2 Limitation of Liability. IN NO EVENT WILL NVME, OR ANY MEMBER BE LIABLE TO ANY OTHER FOR THE COST OF PROCURING SUBSTITUTE GOODS OR SERVICES, LOST PROFITS, LOSS OF USE, LOSS OF DATA OR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, OR SPECIAL DAMAGES, WHETHER UNDER CONTRACT, TORT, WARRANTY OR OTHERWISE, ARISING IN ANY WAY OUT OF, OR IN ANY OTHER WAY RELATED TO, THE USE OF ANY DRAFT SPECIFICATION OR FINAL SPECIFICATION OR ANY OTHER ISSUE UNDER THIS IPR POLICY, WHETHER OR NOT SUCH PARTY HAD ADVANCE NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.

10. GOVERNING LAW; JURISDICTION

10.1 Governing Law. This IP Policy shall be construed and controlled by, and any claims arising under or relating to this IP Policy shall be governed by, the laws of the State of Delaware without reference to conflict of laws principles.

10.2 Jurisdiction. Each Member agrees that all disputes arising in any way out of this IP Policy shall be heard exclusively in, and all parties irrevocably consent to, jurisdiction and venue in the state and federal courts of Delaware.

11. ASSIGNMENT

11.1 By NVMe. Upon action of NVMe’s Board of Directors done in compliance with the Bylaws, all or any part of NVMe’s rights, title and interest in and under this IP Policy, or all or any part of NVMe’s duties under this IP Policy, may be assigned and/or delegated, in whole or in part, to any entity or entities (“**Other Entity**”) as so selected by said action of the Board of Directors. In that case, the Other Entity, as the assignee, will have the full right to assert all of the assigned rights, title and interest formerly held by NVMe prior to the applicable assignment, including, without limitation, enforcing all rights against Members which NVMe had the right to enforce before the date of such assignment.

11.2 By Others. Members may not assign any rights under this IP Policy without the prior written consent of NVMe’s Board of Directors, provided, however, this provision shall not alter a Member’s right to withdraw as a NVMe Member as more fully set forth in the Bylaws.

12. REVISIONS TO THIS IP POLICY

This IP Policy may be amended, in whole or in part, at any time only by a vote of all of the Directors in office, minus one (1) Director, in accordance with Section 5.7.8(ii) of the Bylaws. The Board of Directors will give NVMe Members reasonable notice, and the effective date, of the amendments, such effective date to be no less than forty five (45) days after the date of such notice. All Members will be subject to the terms and conditions of the amendments as of the effective date of the amendment; provided, however, a Member that withdraws from NVMe prior to the effective date of the amendment will only be subject to the IP Policy as in existence prior to the effective date of the amendments.