

# BYLAWS of THE SQUID SOFTWARE FOUNDATION

A Colorado Nonprofit Corporation

## ARTICLE 1 - DEFINITIONS

**Section 1.1. Definitions.** The following terms used in these Bylaws shall have the meanings set forth below.

- (a) “Act” means the Colorado Revised Nonprofit Corporation Act, as amended from time to time.
- (b) “Board” means the Board of Directors of the Corporation.
- (c) “Corporation” means The Squid Software Foundation.
- (d) “Director” means an individual serving on the Board.

## ARTICLE 2 - OFFICES

**Section 2.1. Offices.** The registered office of the Corporation shall be located in Colorado. The registered office and the principal office of the Corporation may be changed by the Board. The Corporation may have any number of other offices, including a principal office, at such places as the Board may determine or as the affairs of Corporation may require from time to time.

## ARTICLE 3 - SEAL

**Section 3.1. Seal.** The Corporation may use a corporate seal. Any such corporate seal shall bear the name of the Corporation, the year of its incorporation and the words “Corporate Seal, Colorado”.

## ARTICLE 4 - MEMBERS

**Section 4.1. No Members.** The Corporation shall have no members entitled to vote on any matter or for any other reason.

## ARTICLE 5 - BOARD OF DIRECTORS

**Section 5.1. Board of Directors.** The business and affairs of the Corporation shall be managed under the direction of the Board. The powers of the Corporation shall be exercised by, or under the authority of, the Board except as otherwise provided by statute, the Articles of Incorporation, the Bylaws, or a resolution adopted by the Board.

**Section 5.2. Performance of Duties.** Each Director shall discharge the Director's duties as a Director, including the Director's duties as a member of a committee of the Board, in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner the Director reasonably believes to be in the best interests of the

Corporation. In discharging such duties, a Director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

- (a) One or more officers or employees of the Corporation whom the Director reasonably believes to be reliable and competent in the matters presented;
- (b) Legal counsel, a public accountant, or another person as to matters which the Director reasonably believes to be within such person's professional or expert competence; or
- (c) A committee of the Board of which the Director is not a member if the Director reasonably believes the committee merits confidence.

A Director is not acting in good faith if the Director has knowledge concerning the matter in question that makes such reliance unwarranted. A Director is not liable as such to the Corporation or its Members for any action taken or omitted to be taken as a Director if, in connection with such action or omission, the Director performed the Director's duties in compliance with this Section.

**Section 5.3. *Qualifications of Directors.*** Each Director shall be a natural person at least 18 years of age who need not be a resident of Colorado.

**Section 5.4. *Number and Election of Directors.*** The Board shall determine by resolution the total number of Directors to serve at any time. However, the Board shall consist of not less than one (1) Director. The Directors shall be elected by the Board at the annual meeting. New and renewing Directors shall be approved by a majority of those Directors at a Board meeting at which a quorum is present.

**Section 5.5. *Term of Office.*** Each Director shall be elected for a term of three years. Approximately one-third (1/3) of the members of the board of directors shall be elected each year, to the extent possible. Each Director shall hold office until (a) the expiration of the term for which he or she was elected and until his or her successor has been elected and qualified or (b) his or her earlier death, resignation, or removal.

**Section 5.6. *Procedure for Nomination of Candidates for Director.*** The chair of the meeting shall announce at the meeting of the Board the number of Directors to be elected at the meeting and shall declare that the nominations of candidates for election as Director are open and shall call for nominations from the floor. Nominations may be made by any Director who is present at the meeting in person. Nominations need not be seconded. After nominations have been made, the chair of the meeting shall, on motion, declare the nominations closed, and thereafter no further nominations may be made. After the nominations have been closed, the Directors shall cast their votes.

**Section 5.7. *Vacancies.*** Vacancies in the Board, including vacancies resulting from (a) an increase in the number of Directors, or (b) the death, resignation, or removal of a Director, shall be filled by a majority of the remaining Directors though less than a quorum. Each person so elected shall be a Director to serve for the balance of the unexpired term.

**Section 5.8. *Resignations.*** Any Director may resign at any time by giving written notice to the Corporation. The resignation shall be effective upon receipt by the Corporation or at such subsequent time as may be specified in the notice of resignation.

**Section 5.9. *Compensation of Directors.*** Directors shall receive no compensation for their services as Directors or as committee members. However, the Corporation may compensate a Director for providing services to the Corporation in any other capacity, including that of salaried officer,

employee, or agent of the Corporation. Directors who serve as salaried officers, employees, or agents of the Corporation shall not participate in any vote of the Board with respect to their compensation. Directors may be reimbursed for reasonable expenses incurred on behalf of the Corporation as provided by resolution of the Board.

**Section 5.10. Voting Rights.** Each Director shall be entitled to one vote on each matter that comes before the Board.

**Section 5.11. Proxy.** For purposes of determining a quorum with respect to a particular proposal, and for purposes of casting a vote for or against a particular proposal, a Director may be deemed to be present at a meeting and to vote if the Director has granted a signed written proxy to another Director who is present at the meeting, authorizing the other Director to cast the vote that is directed to be cast by the written proxy with respect to the particular proposal that is described with reasonable specificity in the proxy. No such proxy shall be valid after three months from the date of execution, and each such proxy shall be revocable unless expressly stated therein to be irrevocable or unless made irrevocable by law. Except as provided in these Bylaws and as permitted by law, Directors may not vote or otherwise act by proxy.

## ARTICLE 6 - COMMITTEES

**Section 6.1. Establishment and Powers.** The Board may, by resolution adopted by a majority of the Directors, establish one or more committees to consist of one or more Directors of the Corporation. Any such committee, to the extent provided in the resolution of the Board, shall have and may exercise all of the powers and authority of the Board, except that no committee, including the Executive Committee shall:

- (a) Authorize distributions;
- (b) Elect, appoint, or remove any Director;
- (c) Amend the Articles of Incorporation;
- (d) Adopt, amend, or repeal the Bylaws;
- (e) Approve a plan of merger; or
- (f) Approve a sale, lease, exchange, or other disposition of all, or substantially all, of the Corporation's property, with or without goodwill, otherwise than in the usual and regular course of business.

**Section 6.2. Term.** Each member of a committee of the Board shall serve at the pleasure of the Board.

**Section 6.3. Committee Organization.** Except as otherwise provided by the Board, each committee shall be chaired by a Director and shall establish its own operating procedures. Each committee shall keep regular minutes of its proceedings and report the same to the Board at each regular meeting. Each committee shall determine its times and places of meetings.

**Section 6.4. Executive Committee.** If established by the Board, (a) the Executive Committee shall be composed of the officers of the Corporation, (b) shall be authorized to act for the Board between its regular meetings, and (c) except as otherwise provided by these Bylaws or by resolution of the Board shall have and may exercise all of the powers and authority of the Board in the management of the Corporation.

## ARTICLE 7 - MEETINGS OF DIRECTORS

**Section 7.1. *Place of Meetings.*** The Board may hold its meetings at such places as the Board may appoint or as may be designated in the notice of the meeting.

**Section 7.2. *Annual Meeting.*** The annual meeting of the Board, for the election of Directors and the transaction of any other business which may be brought before the meeting, shall be held at such time and place, either within or outside of Colorado, as shall be designated by resolution of the Board. At least ten (10) days' written notice of the annual meeting stating the date, time and place of such meeting shall be given to each Director. Immediately after each annual election of Directors, the newly constituted Board shall meet without prior notice at the place where the election of Directors was held, or at any other place and time designated in a notice given as provided in Section 9.1, for the purposes of organization, election of officers, and the transaction of other business.

**Section 7.3. *Regular Meetings.*** The Board may hold its regular meetings at such place and time as shall be designated by resolution of the Board. If the date fixed for any regular meeting is a legal holiday under the laws of Colorado, the meeting shall be held on the next succeeding business day or at such other time as may be determined by resolution of the Board. The Board shall transact such business as may properly be brought before its meetings. Notice of regular meetings need not be given.

**Section 7.4. *Special Meetings of the Board.*** The President or any two Directors may call special meetings of the Board which shall be held at such time and place as shall be designated in the call for the meeting. Two days' notice of any special meeting shall be given to each Director. Such notice shall state the time, place, and purpose of such special meeting.

**Section 7.5. *Quorum and Manner of Acting.*** A majority of Directors then in office shall constitute a quorum for the transaction of business. The acts of a majority of the Directors present and voting at a meeting at which a quorum is present shall be the acts of the Board.

**Section 7.6. *Participation in Meetings.*** One or more Directors may participate in a meeting of the Board or a committee thereof by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Such participation shall constitute presence in person at the meeting.

**Section 7.7. *Organization.*** Every meeting of the Board shall be presided over by the President, or in the absence of the President, the Vice President, or in the absence of the President and the Vice President, a chair chosen by a majority of the Directors present. The Secretary, or in his or her absence, a person appointed by the chair, shall act as secretary.

**Section 7.8. *Consent of Directors in Lieu of Meeting.*** Any action required or permitted to be taken by the Board or by a committee thereof at a meeting may be taken without a meeting if each and every member of the Board or committee in writing either:

(a) Votes for such action; or

(b)

(i) Votes against such action or abstains from voting; and

(ii) Waives the right to demand that a meeting be held.

Action is taken under this Section only if the affirmative vote for such action equals or exceeds the

minimum number of votes that would be necessary to take such action at a meeting at which all of the Directors then in office were present and voted. No action taken pursuant to this Section shall be effective unless writings describing the action taken, signed by all Directors and not revoked pursuant to this Section, are received by the Corporation.

Any such writing may be received by the Corporation by electronically transmitted facsimile or other form of wire or wireless communication providing the Corporation with a complete copy of the document, including a copy of the signature on the document.

Action taken pursuant to this Section shall be effective when the last writing necessary to effect the action is received by the Corporation unless the writings describing the action taken set forth a different effective date. Any Director who has signed a writing pursuant to this Section may revoke such writing by a writing signed and dated by the Director describing the action and stating that the Director's prior vote with respect thereto is revoked, if such writing is received by the Corporation before the last writing necessary to effect the action is received by the Corporation.

Action taken pursuant to this Section has the same effect as action taken at a meeting of Directors or a committee and may be described as such in any document. All signed written instruments necessary for any action taken pursuant to this Section shall be filed with the minutes of the meetings of the Board or committee.

## ARTICLE 8 - OFFICERS

**Section 8.1. *Number.*** The officers of the Corporation shall include a President, a Vice President, a Secretary, and a Treasurer. The officers may include one or more Assistant Secretaries, one or more Assistant Treasurers, and such other officers as the Board may determine by resolution. Any number of offices may be held by the same person.

**Section 8.2. *Qualifications of Officers.*** The officers shall be natural persons at least 18 years of age, except that the Treasurer may be a corporation. Officers need not be Directors.

**Section 8.3. *Election and Term of Office.*** The officers of the Corporation shall be elected by the Board at the annual meeting. Each officer shall serve for a term of one year and until his or her successor has been elected and qualified, or until his or her earlier death, resignation, or removal. A vacancy may be filled by the Board at any time for the unexpired portion of the term.

**Section 8.4. *Removal of Officers.*** Any officer or agent may be removed by the Board with or without cause. Such removal shall be without prejudice to the contract rights, if any, of any person so removed.

**Section 8.5. *Resignations.*** Any officer may resign at any time by giving written notice to the Corporation. The resignation shall be effective upon receipt by the Corporation or at such subsequent time as may be specified in the notice of resignation.

**Section 8.6. *The President.*** The President shall be the chief executive officer of the Corporation and shall have general supervision over the business and operations of the Corporation, subject to the control of the Board. The President shall chair all meetings of the Board and the Executive Committee. The President shall execute in the name of the Corporation, deeds, mortgages, bonds, contracts, and other instruments authorized by the Board, except in cases where the execution thereof shall be expressly delegated by the Board to some other officer or agent of the Corporation. In general, the President shall perform all duties incident to the office of President and such other duties as may be assigned by the Board.

**Section 8.7. *The Vice President.*** In the absence or disability of the President or when so directed by the President, the Vice President may perform all the duties of the President, and, when so acting, shall have all the powers of, and be subject to all the restrictions upon, the President. The Vice President shall perform such other duties as may be assigned by the Board or the President.

**Section 8.8. *The Secretary.*** The Secretary shall record all votes of the Board and the minutes of the meetings of the Board in a book or books to be kept for that purpose. The Secretary shall see that required notices of meetings of the Board are given and that all records and reports are properly kept and filed by the Corporation. The Secretary shall be the custodian of the seal of the Corporation and shall see that it is affixed to all documents to be executed on behalf of the Corporation under its seal. In general, the Secretary shall perform all duties incident to the office of Secretary and such other duties as may be assigned by the Board or the President.

**Section 8.9. *Assistant Secretaries.*** In the absence or disability of the Secretary or when so directed by the Secretary, any Assistant Secretary may perform all the duties of the Secretary, and, when so acting, shall have all the powers of, and be subject to all the restrictions upon, the Secretary. Each Assistant Secretary shall perform such other duties as may be assigned by the Board, the President, or the Secretary.

**Section 8.10. *The Treasurer.*** The Treasurer shall be responsible for corporate funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation. The Treasurer shall have full authority to receive and give receipts for all money due and payable to the Corporation, and to endorse checks, drafts, and warrants in its name and on its behalf and to give full discharge for the same. The Treasurer shall deposit all funds of the Corporation, except such as may be required for current use, in such banks or other places of deposit as the Board may designate. In general, the Treasurer shall perform all duties incident to the office of Treasurer and such other duties as may be assigned by the Board or the President.

**Section 8.11. *Assistant Treasurers.*** In the absence or disability of the Treasurer or when so directed by the Treasurer, any Assistant Treasurer may perform all the duties of the Treasurer, and, when so acting, shall have all the powers of, and be subject to all the restrictions upon, the Treasurer. Each Assistant Treasurer shall perform such other duties as may be assigned by the Board, the President, or the Treasurer.

**Section 8.12. *Compensation of Officers.*** The compensation of all officers shall be fixed by the Board or any committee or officer authorized by the Board. No officer shall be precluded from receiving such compensation by reason of the fact that he or she is also a Director of the Corporation.

## **ARTICLE 9 - NOTICE**

**Section 9.1. *Written Notice.*** Whenever written notice is required to be given to any person, it may be given to the person, either personally or by sending a copy by first class or express mail, postage prepaid, by telegram (with messenger service specified), by courier service, charges prepaid, by facsimile transmission, or by e-mail, in each case addressed to such person's address, facsimile number or e-mail address appearing on the books of the Corporation or, in the case of Directors, supplied by him or her to the Corporation for the purpose of notice. If the notice is sent by mail, it shall be deemed to have been given two business days after deposit in the United States mail. If notice is given by facsimile or by electronic mail, it shall be deemed given when directed to such person's facsimile number or e-mail address. If notice is given by any other permissible means, it

shall be deemed to have been given when actually received. A notice of meeting shall specify the place, day and hour of the meeting and any other information required by the Act. Except as otherwise provided by the Act or these Bylaws, when a meeting is adjourned, it shall not be necessary to give any notice of the adjourned meeting, or of the business to be transacted at an adjourned meeting, other than by announcement at the meeting at which such adjournment is taken.

**Section 9.2. Waiver by Writing.** Whenever any written notice is required to be given, a waiver in writing, signed by the person or persons entitled to the notice, whether before or after the time stated, shall be deemed equivalent to the giving of the notice. Neither the business to be transacted at, nor the purpose of, a meeting need be specified in the waiver of notice of the meeting.

**Section 9.3. Waiver by Attendance.** Attendance of a person at any meeting shall constitute a waiver of notice of the meeting except where a person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting was not lawfully called or convened.

## ARTICLE 10 - CONFLICTS OF INTEREST

**Section 10.1. Definitions.** For purposes of this Article:

- (a) "Conflicting interest transaction" means a contract, transaction, or other financial relationship between the corporation and a Director, or between the corporation and a party related to a Director, or between the corporation and an entity in which a Director is a director or officer or has a financial interest.
- (b) "A party related to a Director" means a spouse, a descendant, an ancestor, a sibling, the spouse or descendant of a sibling, an estate or trust in which the Director or a party related to a Director has a beneficial interest, or an entity in which a party related to a Director is a director, officer, or has a financial interest.

**Section 10.2. Loans.** No loans shall be made by the Corporation to its Directors or officers. Any Director or officer who assents to or participates in the making of any such loan shall be liable to the Corporation for the amount of such loan until the repayment thereof.

**Section 10.3. Validity.** No conflicting interest transaction shall be void or voidable or be enjoined, set aside, or give rise to an award of damages or other sanctions in a proceeding by or in the right of the Corporation, solely because the conflicting interest transaction involves a Director or a party related to a Director or an entity in which a Director is a director or officer or has a financial interest or solely because the Director is present at or participates in the meeting of the Board or of a committee of the Board that authorizes, approves, or ratifies the conflicting interest transaction or solely because the Director's vote is counted for such purpose if:

- (a) The material facts as to the Director's relationship or interest and as to the conflicting interest transaction are disclosed or are known to the Board or the committee, and the Board or committee in good faith authorizes, approves, or ratifies the conflicting interest transaction by the affirmative vote of a majority of the disinterested Directors, even though the disinterested Directors are less than a quorum; or
- (b) The conflicting interest transaction is fair as to the Corporation. Common or interested Directors may be counted in determining the presence of a quorum at a meeting of the Board or of a committee which authorizes, approves, or ratifies the conflicting interest transaction.

## ARTICLE 11 - INSURANCE

**Section 11.1. Insurance.** The Corporation may purchase and maintain insurance on behalf of any person who is or was a Director or officer of the Corporation or is or was serving at the request of the Corporation as a director or officer of another domestic or foreign corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Corporation would have the power to indemnify him or her against that liability under the Act. The Corporation's payment of premiums with respect to such insurance coverage shall be provided primarily for the benefit of the Corporation. To the extent that such insurance coverage provides a benefit to the insured person, the Corporation's payment of premiums with respect to such insurance shall be provided in exchange for the services rendered by the insured person and in a manner so as not to constitute an excess benefit transaction under section 4958 of the Internal Revenue Code of 1986, as amended.

## ARTICLE 12 - MISCELLANEOUS

**Section 12.1. Amendments.** Except as otherwise provided by the Act, the Bylaws of the Corporation may be amended by a majority vote of the Board at any meeting after notice of such purpose has been given.

**Section 12.2. Fiscal Year.** The fiscal year of the Corporation shall be as established by resolution of the Board.

**Section 12.3. Conflicts.** In the event of an irreconcilable conflict between these Bylaws and either the Article of Incorporation or the Act, the latter should control.

\* \* \* \* \*

These Bylaws of The Squid Software Foundation, a Colorado nonprofit corporation, were adopted by its Board of Directors pursuant to a Unanimous Written Consent in Lieu of an Organizational Meeting dated January 17, 2011.

s/Alex Rousskov/, Secretary