

**BYLAWS  
OF  
THE PLONE FOUNDATION**

Adopted as of August 11, 2004

## TABLE OF CONTENTS

<b>ARTICLE 1 OFFICES AND AGENT .....</b>	<b>1</b>
1.1 Registered Office .....	1
1.2 Other Offices.....	1
<b>ARTICLE 2 MEMBERS' MEETINGS .....</b>	<b>1</b>
2.1 Annual Meeting .....	1
2.2 Special Meetings.....	1
2.3 Time and Place.....	1
2.4 Notice of Meetings.....	1
2.5 Quorum .....	2
2.6 Organization and Conduct of Meetings .....	2
2.7 Voting .....	2
2.8 Action by Written Consent .....	3
<b>ARTICLE 3 MEMBERS.....</b>	<b>3</b>
3.1 Admission of Members.....	3
3.2 Responsibilities of Members.....	4
3.3 Annual Renewal of Membership .....	4
3.4 Emeritus Members .....	4
3.5 Voluntary Conversion of Membership to Emeritus Status .....	4
3.6 Involuntary Conversion of Membership to Emeritus Status.....	5
3.7 Reinstatement of Membership of Emeritus Members .....	5
3.8 Voluntary Withdrawal from Membership .....	5
3.9 Termination from Membership.....	5
3.10 Effect of Withdrawal or Termination of Membership .....	5
<b>ARTICLE 4 BOARD OF DIRECTORS .....</b>	<b>5</b>
4.1 General Powers .....	5
4.2 Number .....	5
4.3 Vacancies, Removal and Newly Created Directorships .....	6
4.4 Place of Meeting, etc.....	6
4.5 Regular Meetings .....	6
4.6 Special Meetings.....	6

4.7	Quorum .....	7
4.8	Compensation of Directors .....	7
4.9	Conduct of Meetings .....	7
4.10	Action Without Meeting .....	7
4.11	Telecommunication Meetings .....	8
4.12	Contracts .....	8
<b>ARTICLE 5 COMMITTEES .....</b>		<b>8</b>
<b>ARTICLE 6 OFFICERS .....</b>		<b>9</b>
6.1	Officers .....	9
6.2	The Chairman of the Board.....	10
6.3	The President .....	10
6.4	The Vice Presidents .....	10
6.5	The Treasurer .....	10
6.6	The Assistant Treasurers.....	11
6.7	The Secretary .....	11
6.8	The Assistant Secretaries .....	11
6.9	Project Management Committees .....	11
6.10	The Membership Committee .....	12
6.11	Giving of Bond by Officers .....	12
6.12	Compensation of Officers.....	12
<b>ARTICLE 7 RECORD DATE – SEAL – FISCAL YEAR .....</b>		<b>12</b>
7.1	Fixing of Record Dates .....	12
7.2	Corporate Seal.....	12
7.3	Fiscal Year .....	13
7.4	Addresses of Members.....	13
<b>ARTICLE 8 MISCELLANEOUS PROVISIONS .....</b>		<b>13</b>
8.1	Checks, Notes, etc.....	13
8.2	Notices .....	13
8.3	Waivers of Notice .....	13

**ARTICLE 9 INDEMNIFICATION .....14**  
**ARTICLE 10 AMENDMENTS .....15**  
**ARTICLE 11 GOVERNING RULES.....15**

## **ARTICLE 1 OFFICES AND AGENT**

### **1.1 Registered Office**

The registered office of the Corporation shall be at Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, County of New Castle. The name of the registered agent of the Corporation at such location is The Corporation Trust Company.

### **1.2 Other Offices**

The Corporation may have any number of additional offices, at such other places as the Board of Directors may from time to time determine, or as the affairs of the Corporation may require.

## **ARTICLE 2 MEMBERS' MEETINGS**

### **2.1 Annual Meeting**

The annual meeting of members for the purpose of electing directors and of transacting such other business as may come before it shall be held at such time as may be specified by resolution of the Board of Directors.

### **2.2 Special Meetings**

Special meetings of the members for any purpose or purposes may be called at any time by the Chairman of the Board, by the President, by resolution of the Board of Directors or by the Secretary. At a special meeting of the members, no business shall be transacted and no corporate action shall be taken other than that stated in the notice of the meeting.

### **2.3 Time and Place**

Meetings of the members shall be held at such time and place either within or without the State of Delaware as shall be designated from time to time by the Board of Directors and stated in the notice of meeting or in a duly executed waiver of notice thereof.

### **2.4 Notice of Meetings**

It shall be the duty of the Secretary to cause a notice of each meeting of the members of the Corporation to be mailed at least one and not sooner than sixty days before the meeting, unless a different period is prescribed by law, to each member entitled to vote at such meeting at his or her address as it appears upon the books of the Corporation, stating the place, date and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is held.

## **2.5 Quorum**

At any meeting of the members, the members present in person or by proxy of a majority of the members entitled to vote shall constitute a quorum of the members for all purposes (unless the representation of a larger number of members shall be required by law or by the Certificate of Incorporation, in which case the representation of the number of members so required shall constitute a quorum).

A majority of the members entitled to vote who are present in person or by proxy at any meeting (whether or not constituting a quorum) may adjourn the meeting from time to time without notice other than by announcement thereat; and at any adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the meeting as originally called, but only those members entitled to vote at the meeting originally noticed shall be entitled to vote at any adjournment or adjournments thereof. However, if the adjournment is for more than thirty days, or if after the adjournment a new record date is fixed, notice of the adjourned meeting shall be given to each member entitled to vote at the meeting.

## **2.6 Organization and Conduct of Meetings**

The President shall call meetings of members to order and shall act as Chairman of such meetings. In the absence of the President at any meeting, the Chairman of the Board shall act as Chairman. In the absence of the President or the Chairman of the Board at any meeting, a majority of the members entitled to vote present in person or by proxy at such meeting shall elect a Chairman.

The Secretary of the Corporation shall act as Secretary of all meetings of the members; but, in the absence of the Secretary, the Chairman may appoint any person to act as Secretary of the meeting.

It shall be the duty of the Secretary to prepare and make, at least ten days before every meeting of the members, a complete list of the members entitled to vote at said meeting, arranged in alphabetical order and showing the address of each member. Such list shall be open to the examination of any member for any purpose germane to the meeting, during ordinary business hours, for the ten days preceding the meeting, either at a place within the city where the meeting is to be held, which place shall be specified in the notice of the meeting, or, if not so specified, at the place where the meeting is to be held. The list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any member who is present.

## **2.7 Voting**

Except as otherwise provided in the Certificate of Incorporation or these Bylaws, every member of the Corporation which is entitled to vote shall be entitled to one vote in person, by proxy or by written consent as provided in Section 2.8 of these Bylaws, but no proxy shall be voted on after three years from its date, unless the proxy provides for a longer period. All questions shall be decided by vote of the majority of the members entitled to

vote on the subject matter who are present in person or by proxy, except as provided in Section 2.8 of these Bylaws or otherwise provided by these Bylaws, the Certificate of Incorporation or the laws of the State of Delaware.

## **2.8 Action by Written Consent**

Any action required to be taken at any annual or special meeting of members or a, or any action which may be taken at any annual or special meeting of such members, may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken, shall be signed by the members having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all members entitled to vote thereon were present and voted. A telegram, cablegram or other electronic transmission consenting to an action to be taken and transmitted by a member or proxyholder, or by a person or persons authorized to act for a member or proxyholder, shall be deemed to be written, signed and dated for the purposes of this section, provided that any such telegram, cablegram or other electronic transmission sets forth or is delivered with information from which the Corporation can determine (A) that the telegram, cablegram or other electronic transmission was transmitted by the member or proxyholder or by a person or persons authorized to act for the member or proxyholder and (B) the date on which such member or proxyholder or authorized person or persons transmitted such telegram, cablegram or electronic transmission. The date on which such telegram, cablegram or electronic transmission is transmitted shall be deemed to be the date on which such consent was signed. No consent given by telegram, cablegram or other electronic transmission shall be deemed to have been delivered until such consent is reproduced in paper form and until such paper form shall be delivered to the Corporation by delivery to its registered office in this State, its principal place of business or an officer or agent of the Corporation having custody of the book in which proceedings of meetings of stockholders or members are recorded. Delivery made to a Corporation's registered office shall be made by hand or by certified or registered mail, return receipt requested. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those members who have not consented in writing.

## **ARTICLE 3 MEMBERS**

### **3.1 Admission of Members**

To be eligible for membership, a person must have made a non-trivial contribution to any aspect of the Corporation's activities and must complete a written membership application in such form as shall be adopted by the Board of Directors from time to time. Membership is said to be based on merit, a term defined in detail by the Board of Directors, which definition is made available publicly on the Plone Foundation website. Membership carries no monetary cost. The initial members of the Corporation

shall be admitted upon the affirmative vote of the Board of Directors of the Corporation at the initial meeting of the Board of Directors. Thereafter, members of the Corporation shall be admitted as members of the Corporation only by a majority vote of the Membership Committee, subject to approval by the Board of Directors, or shall be admitted as members of the Corporation by direct appointment by the Board of Directors.

### **3.2 Responsibilities of Members**

Members agree to support the principles, goals and objectives of the Corporation, and not work against them. Members supervise the activities of the Corporation, its Board of Directors, officers and committees to ensure that their actions support the principles, goals and objectives of the Corporation.

### **3.3 Annual Renewal of Membership**

Membership must be renewed annually by each member in a procedure designed, implemented and announced by the Membership Committee, and approved by the Board of Directors at least 30 days before any implementation. Memberships that are not renewed within 30 days of expiration are converted to Emeritus memberships.

### **3.4 Emeritus Members**

An emeritus member is a former member whose membership has been suspended and converted to emeritus status, either voluntarily, automatically due to failure to renew membership or by action of the members, such that all membership rights of the emeritus member, including the right to vote and be counted for purposes of quorum, are suspended and terminated until the emeritus member's membership is reinstated by subsequent action of the members.

Upon the effective date of conversion of the membership of any member to emeritus status, the membership, including all related voting rights, of such member shall be suspended, except that such emeritus member shall be entitled to attend (but not vote) at meetings of the members, and the officers of the Corporation shall attempt, in good faith, to continue to deliver notices of meetings of the members of the Corporation to such emeritus member. References in these Bylaws to a "member" or to the "members" of the Corporation shall not include any emeritus member unless explicitly provided otherwise.

### **3.5 Voluntary Conversion of Membership to Emeritus Status**

Members may convert their membership to emeritus status at any time upon ten (10) days' written, signed notice delivered to an officer of the Corporation.



### **3.6 Involuntary Conversion of Membership to Emeritus Status**

Upon an affirmative vote of a two-thirds majority of the members of the Corporation or the Board of Directors, the membership of a member shall be converted into an emeritus membership.

### **3.7 Reinstatement of Membership of Emeritus Members**

Upon receipt of a written request and a new membership application from an emeritus member, such emeritus member membership shall be reinstated as a full member of the Corporation, and shall be entitled to exercise all rights as a member of the Corporation, including all related voting rights.

### **3.8 Voluntary Withdrawal from Membership**

Members (including emeritus members) may withdraw from membership in the Corporation at any time upon ten (10) days' written, signed notice delivered to an officer of the Corporation.

### **3.9 Termination from Membership**

No member may have his or her membership terminated except by an affirmative vote of a two-thirds majority of the members of the Corporation or Board of Directors. Membership may only be terminated if the member has acted in ways that contradict the stated principles, goals and objectives of the Corporation.

### **3.10 Effect of Withdrawal or Termination of Membership**

Upon any withdrawal or termination of the membership of any member, the membership, including all related voting rights, of such member shall be terminated. After a withdrawal or termination of the membership of any member, or a conversion of the membership of any member to emeritus status, such member may reapply for membership in accordance with Section 3.1 of these Bylaws.

## **ARTICLE 4 BOARD OF DIRECTORS**

### **4.1 General Powers**

The business of the Corporation shall be managed by or under the direction of the Board of Directors, which may exercise all such powers of the Corporation and do all such lawful acts and things as are not by statute, the Certificate of Incorporation or these bylaws directed or required to be exercised or done by the members.

### **4.2 Number**

The Sole Incorporator of the Corporation shall determine the number of directors to constitute the first Board of Directors of the Corporation. Thereafter, the number of

directors of the Corporation shall be determined from time to time by resolution adopted by the Board of Directors or by the members at the annual meeting of the members. The directors shall be elected at the annual meeting of the members, except for the first Board of Directors, which shall be elected by the Sole Incorporator, and except as provided in Section 3 of this Article, each director shall hold office until his successor is duly elected and qualified or until his earlier death, resignation or removal. All members are eligible to serve as directors, although directors need not be members.

#### **4.3 Vacancies, Removal and Newly Created Directorships**

Vacancies occurring for any reason and newly created directorships resulting from any increase in the authorized number of directors shall be filled by the affirmative vote of a majority of the directors then in office, though less than a quorum, or by a sole remaining director, and each director so chosen shall hold office until the next annual election and until his successor is duly elected and qualified or until his earlier death, resignation or removal. If there are no directors in office, an election of directors may be held in the manner provided by statute. Except as otherwise provided by the Certificate of Incorporation, at any special meeting of the members the notice of which shall state that the removal of a director or directors and the filling of a vacancy or vacancies are among the purposes of the meeting, the members entitled to vote thereon, present in person or by proxy, by vote of a majority of the members, may remove any director for or without cause and may fill any vacancy caused by such removal.

#### **4.4 Place of Meeting, etc.**

The Board of Directors may hold its meetings and may have an office and keep the books of the Corporation (except as may be otherwise provided by law) in such place or places in the State of Delaware or outside the State of Delaware as the Board from time to time shall determine.

#### **4.5 Regular Meetings**

Regular meetings of the Board of Directors shall be held at such times and places as the Board shall determine. No notice shall be required for any regular meeting of the Board of Directors.

#### **4.6 Special Meetings**

Special meetings of the Board of Directors shall be held whenever called by the Chairman of the Board, by the President, or by a majority of the directors in office at the time. Notice of each such meeting shall be either delivered personally or by telephone to each director at least one day prior to the date of each such meeting, or sent by mail, telegram, telex, cable or like transmission to each director at least two days prior to the date of each such meeting. Each such notice shall state the time and place of the meeting but need not state the purposes thereof. Any notice given personally or by telephone shall be

confirmed by mail, telegram, telex, cable or like transmission, which confirmation shall be sent at least one day before the meeting. Notice of any meeting of the Board need not be given to any director, however, if waived by him in writing or by mail, telegram, telex or like transmission, whether before or after such meeting is held, or if he shall be present at such meeting, and any meeting of the Board shall be a legal meeting without any notice thereof having been given, if all the directors then in office shall be present thereat.

#### **4.7 Quorum**

A quorum for the transaction of business shall consist of no fewer than a majority of the total number of directors, and except as otherwise provided in the Certificate of Incorporation or in these bylaws, the act of a majority of the directors present at any meeting of the Board of Directors at which a quorum is present shall be the act of the Board of Directors. If at any meeting of the Board there be less than a quorum present, a majority of those present may adjourn the meeting from time to time, and no notice need be given of any such adjourned session of the meeting.

#### **4.8 Compensation of Directors**

The amount, if any, which each director shall be entitled to receive as compensation for his services as such shall be fixed from time to time by resolution of the Board of Directors. If any director shall serve as a member of any committee of the Board or perform special services at the instance of the Board, such director may be paid such additional compensation as the Board of Directors may from time to time determine. Each director shall be entitled to reimbursement for traveling expenses incurred by him in attending any meeting of the Board of Directors or of a committee of the Board. Such compensation and reimbursement shall be payable even though there be an adjournment because of the absence of a quorum. No such payment shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefor.

#### **4.9 Conduct of Meetings**

At all meetings of the Board of Directors business shall be transacted in such order as the Board may determine.

The Chairman of the Board shall preside at all meetings of the Board of Directors. In the absence of the Chairman of the Board, a Chairman of the meeting shall be elected from the directors present. The Secretary of the Corporation shall act as Secretary of all meetings of the directors, but in the absence of the Secretary, the Chairman of the meeting may appoint any person to act as Secretary of the meeting.

#### **4.10 Action Without Meeting**

Unless otherwise restricted by the Certificate of Incorporation or these bylaws, any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if all members of the Board of Directors

or committee, as the case may be, consent thereto in writing, and the writing or writings are filed with the minutes of proceedings of the Board of Directors or committee.

#### **4.11 Telecommunication Meetings**

Members of the Board of Directors, or any committee designated by the Board, may participate in a meeting of the Board or such committee by means of conference telephone or other telecommunications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at such meeting.

#### **4.12 Contracts**

The Board of Directors of the Corporation in its discretion may submit for approval, ratification or confirmation by the members any contract, transaction or act of the Board of Directors or any committee thereof or of any officer, agent or employee of the Corporation, and any such contract, transaction or act which shall have been so approved, ratified or confirmed by a majority of the members entitled to vote shall be as valid and binding upon the Corporation and upon the members thereof as though it had been approved and ratified by each and every member of the Corporation.

#### **4.13 Advisory Board Members**

The Corporation shall have a class of board member called "Advisory Board Members". These members can be appointed at any time by resolution of the Board without public elections or notice and can be removed by resolution of the board. The number of advisory board members is not fixed. Advisory board members are not voting members of the board, and do not have other powers, such as the ability to appoint members. They are welcome at all Board events, such as Board meetings and Board retreats, except those events designated for voting board members only. As advisory board members do not have any voting capabilities, their presence at a Board meeting has no effect on quorum. An advisory board member can become a voting board member by the same voting procedure as any other member of the Corporation can use to join the board.

### **ARTICLE 5 COMMITTEES**

The Board of Directors may, by resolution passed by a majority of the whole Board, designate one or more committees, each committee to consist of one or more of the directors of the Corporation. If provision be made for any such committee or committees, the members thereof shall be appointed by the Board of Directors and shall serve during the

pleasure of the Board of Directors. The Board may designate one or more directors as alternate members of any such committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the Board, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it; but no such committee shall have the power or authority in reference to the following matters: (i) approving or adopting, or recommending to the members, any action or matter expressly required by the General Corporation Law of Delaware to be submitted to the members for approval or (ii) adopting, amending or repealing any provision of these bylaws. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board of Directors. The Board of Directors may at its pleasure discontinue any such committee or committees. Each committee shall keep regular minutes of its meetings and report the same to the Board of Directors when required.

## **ARTICLE 6 OFFICERS**

### **6.1 Officers**

The officers of the Corporation shall be a President, one or more Vice-Presidents (who may be further classified by such descriptions as executive or senior, as determined by the Board), a Treasurer and a Secretary, each of whom shall be elected by the Board of Directors. The Board of Directors may elect from among its members a Chairman of the Board and a Vice Chairman of the Board. The Board of Directors may also from time to time appoint Assistant Treasurers and Assistant Secretaries and such other officers as the Board may deem advisable, and who shall have such authority and shall perform such duties as from time to time may be prescribed by the Board of Directors. In the event of any office becoming vacant because of removal, resignation or other reason, the Board of Directors may fill the vacancy at such time as it may determine. The officers may, but need not, be directors. Any number of offices may be held by the same person, unless the certificate of incorporation or these bylaws otherwise provide.

All officers, agents and employees shall be subject to removal, with or without cause, at any time by the affirmative vote of a majority of the directors in office at the time. Any agent or employee other than one elected or appointed by the Board of Directors shall also be subject to removal at any time by the officer or by the committee appointing him or her.

In addition to the powers and duties of the officers of the Corporation as set forth in these By-Laws, the officers shall have such authority and shall perform such duties as from time to time may be determined by the Board of Directors.

## **6.2 The Chairman of the Board**

The Chairman of the Board, if any, shall preside at all meetings of the Board of Directors and of the members at which he shall be present. He shall have and may exercise such powers as are, from time to time, assigned to him by the Board of Directors and as may be provided by law. In the absence of the Chairman of the Board, the Vice Chairman of the Board, if any, shall preside at all meetings of the Board of Directors and of the members at which he shall be present. He shall have and may exercise such powers as are, from time to time, assigned to him by the Board of Directors and as may be provided by law.

## **6.3 The President**

In the absence of the Chairman of the Board, the Vice Chairman of the Board, if any, the President shall preside at all meetings of the members. The President shall have such additional powers and shall perform such duties as from time to time may be assigned to him by the Board of Directors. The President shall, subject to the control of the Board of Directors, have general and active management and control of the affairs and business of the Corporation, and shall perform all other duties and exercise all other powers commonly incident to his office, or which are or may at any time be authorized or required by law.

## **6.4 The Vice Presidents**

The Vice Presidents in the order of their seniority, unless otherwise determined by the Board of Directors, shall, in the absence or disability of the President, perform the duties and exercise the powers of the President. They shall perform such other duties and have such other powers as the Board of Directors may from time to time prescribe.

## **6.5 The Treasurer**

The Treasurer shall have the custody of the corporate funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation and shall deposit all moneys and other valuable effects in the name and to the credit of the Corporation in such depositories as may be designated by the Board of Directors or by any officer appointed by the Board of Directors. The Treasurer shall disburse the funds of the Corporation as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, and shall render to the President and the Board of Directors, at its regular meetings, or when the Board of Directors so requires, an account of all his or her transactions as Treasurer and of the financial condition of the Corporation. If required by the Board of Directors, the Treasurer shall give the Corporation a bond for such term in such sum and with such surety or sureties as shall be satisfactory to the Board of Directors for the faithful performance of the duties of his or her office and for the restoration to the Corporation, in case of his or her death, resignation, retirement or removal from office, of all books, papers, vouchers, money and other property of whatever kind in his or her possession or under his or her control belonging to the Corporation.

## **6.6 The Assistant Treasurers**

The Assistant Treasurers in the order of their seniority, unless otherwise determined by the Board of Directors, shall, in the absence or disability of the Treasurer, perform the duties and exercise the powers of the Treasurer. They shall perform such other duties and have such other powers as the Board of Directors may from time to time prescribe.

## **6.7 The Secretary**

The Secretary shall attend all meetings of the Board of Directors and all meetings of the members, record all the proceedings of the meetings of the Corporation and of the Board of Directors in a book to be kept for that purpose, shall perform like duties for the standing committees of the Board when required and shall publish on the Plone Foundation website the minutes and activities of the Board of Directors, its committees and members of the Corporation with access available to only members of the Corporation. The Secretary shall give, or cause to be given, notice of all meetings of the members and special meetings of the Board of Directors, and shall perform such other duties as may be assigned to him or her by the Board of Directors or the President, under whose supervision he or she shall be. The Secretary shall have custody of the corporate seal of the Corporation and he or she shall have authority to affix the same to any instrument requiring it and, when so affixed, it may be attested by his or her signature. The President or the Board of Directors may authorize any other officer to affix the seal of the Corporation and to attest the affixing by his signature.

## **6.8 The Assistant Secretaries**

The Assistant Secretaries in the order of their seniority, unless otherwise determined by the Board of Directors, shall, in the absence or disability of the Secretary, perform the duties and exercise the powers of the Secretary. They shall perform such other duties and have such other powers as the Board of Directors may from time to time prescribe.

## **6.9 Project Management Committees**

In addition to the officers of the corporation, the Board of Directors may, by resolution, establish one or more Project Management Committees consisting of at least one officer of the corporation, who shall be designated chairman of such committee, and may include one or more other members of the corporation. Unless elected or appointed as an officer in accordance with Section 6.1 of these Bylaws, a member of a Project Management Committee shall not be deemed an officer of the corporation.

Each Project Management Committee shall be responsible for the active management of one or more projects identified by resolution of the Board of Directors which may include, without limitation, the creation or maintenance of "open-source" software for distribution to the public at no charge. Subject to the direction of the Board of Directors, the chairman of each Project Management Committee shall be primarily responsible for project(s) managed by such committee, and he or she shall establish rules

and procedures for the day to day management of project(s) for which the committee is responsible.

The Board of Directors of the corporation may, by resolution, terminate a Project Management Committee at any time.

#### **6.10 The Membership Committee**

A Membership Committee is created to formulate and propose membership policies and procedures to the Board of Directors, which body must approve said policies and procedures before they take effect. The Membership Committee implements current approved membership policies and makes recommendations to the Board of Directors on new membership applications and terminations.

#### **6.11 Giving of Bond by Officers**

Any officer of the Corporation, if required to do so by the Board of Directors, shall furnish a bond to the Corporation for the faithful performance of his or her duties, in such penalties and with such conditions and security or surety or sureties as the Board shall require.

#### **6.12 Compensation of Officers**

The officers of the Corporation shall be entitled to receive such compensation for their services as shall from time to time be determined by the Board of Directors.

### **ARTICLE 7 RECORD DATE – SEAL – FISCAL YEAR**

#### **7.1 Fixing of Record Dates**

In order that the Corporation may determine the members entitled to notice of or to vote at any meeting of members or any adjournment thereof, or to express consent to corporate action in writing without a meeting, the Board of Directors may fix, in advance, a record date, which shall not be more than sixty (60) nor less than ten (10) days before the date of such meeting, nor more than sixty (60) days prior to any other action. A determination of members of record entitled to notice of or to vote at a meeting of members shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

#### **7.2 Corporate Seal**

The Board of Directors shall provide a suitable seal, containing the name of the Corporation, which seal shall be in the charge of the Secretary. If and when so directed by the Board of Directors, a duplicate of the seal may be kept and be used by any officer of the Corporation designated by the Board.



### **7.3 Fiscal Year**

The fiscal year of the Corporation shall be determined by resolution of the Board of Directors.

### **7.4 Addresses of Members**

It shall be the responsibility of every member to notify the Corporation of his or her post office address and of any change therein. The latest address furnished by each member shall be entered in the records of the Corporation and the latest address appearing thereon shall be deemed conclusively to be the post office address and the last-known post office address of such member. If any member shall fail to notify the Corporation of his or her post office address, it shall be sufficient to send corporate notices to such member at the address, if any, understood by the Secretary to be such member's post office address.

## **ARTICLE 8 MISCELLANEOUS PROVISIONS**

### **8.1 Checks, Notes, etc.**

Checks and other orders for the payment of money shall be signed by the Treasurer or by such person or persons as the Board of Directors shall from time to time by resolution determine.

### **8.2 Notices**

Whenever any notice is required to be given to any member, director, committee member or officer, whether by statute, the Certificate of Incorporation, these By-laws or committee bylaws or otherwise, such notice, except as otherwise provided by law, may be given personally or, in the case of directors, committee members or officers, by telephone or by telegram, telex, cable or like transmission, addressed to such director, committee member or officer at his or her place of business with the Corporation, if any, or at such address as appears on the books of the Corporation; or the notice may be given in writing by mail, in a sealed wrapper, postage prepaid, addressed to such member at the address as it appears on the books of the Corporation, or to such director, committee member or officer at his or her place of business with the Corporation, if any, or at such address as appears on the books of the Corporation. Any notice given by telegram, telex, cable or like transmission shall be deemed to have been given when it shall have been delivered for transmission and any notice given by mail shall be deemed to have been given when it shall have been deposited in a post office, in a regularly maintained letter box or with a postal carrier.

### **8.3 Waivers of Notice**

Whenever notice is required to be given under any provision of law or of the Certificate of Incorporation or of these bylaws, a written waiver thereof, signed by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting of members or of directors or of a

committee shall constitute waiver of notice of such meeting, except where otherwise provided by law.

## ARTICLE 9 INDEMNIFICATION

The Corporation shall, to the fullest extent authorized under the laws of the State of Delaware, as those laws may be amended and supplemented from time to time, indemnify any director made, or threatened to be made, a party to an action or proceeding, whether criminal, civil, administrative or investigative, by reason of being a director of the Corporation or a predecessor Corporation or, at the Corporation's request, a director or officer of another Corporation; provided, however, that the Corporation shall indemnify any such agent in connection with a proceeding initiated by such agent only if such proceeding was authorized by the Board of Directors of the Corporation. The indemnification provided for in this Article 9 shall: (i) not be deemed exclusive of any other rights to which those indemnified may be entitled under any bylaw, agreement or vote of members or disinterested directors or otherwise, both as to action in their official capacities and as to action in another capacity while holding such office, (ii) continue as to a person who has ceased to be a director, and (iii) inure to the benefit of the heirs, executors and administrators of such a person. The Corporation's obligation to provide indemnification under this Article 9 shall be offset to the extent of any other source of indemnification or any otherwise applicable insurance coverage under a policy maintained by the Corporation or any other person.

Expenses incurred by a director of the Corporation in defending a civil or criminal action, suit or proceeding by reason of the fact that he is or was a director of the Corporation (or was serving at the Corporation's request as a director or officer of another Corporation) shall be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such director to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Corporation as authorized by relevant sections of the General Corporation Law of Delaware. Notwithstanding the foregoing, the Corporation shall not be required to advance such expenses to an agent who is a party to an action, suit or proceeding brought by the Corporation and approved by a majority of the Board of Directors of the Corporation that alleges willful misappropriation of corporate assets by such agent, disclosure of confidential information in violation of such agent's fiduciary or contractual obligations to the Corporation or any other willful and deliberate breach in bad faith of such agent's duty to the Corporation or its members.

The foregoing provisions of this Article 9 shall be deemed to be a contract between the Corporation and each director who serves in such capacity at any time while this bylaw is in effect, and any repeal or modification thereof shall not affect any rights or obligations then existing with respect to any state of facts then or theretofore existing or any action, suit or proceeding theretofore or thereafter brought based in whole or in part upon any such state of facts.

The Board of Directors in its discretion shall have power on behalf of the Corporation to indemnify any person, other than a director, made a party to any action, suit or proceeding by reason of the fact that he, his testator or intestate, is or was an officer or employee of the Corporation.

To assure indemnification under this Article 9 of all directors, officers and employees who are determined by the Corporation or otherwise to be or to have been "fiduciaries" of any employee benefit plan of the Corporation that may exist from time to time, Section 145 of the General Corporation Law of Delaware shall, for the purposes of this Article 9, be interpreted as follows: an "other enterprise" shall be deemed to include such an employee benefit plan, including without limitation, any plan of the Corporation that is governed by the Act of Congress entitled "Employee Retirement Income Security Act of 1974," as amended from time to time; the Corporation shall be deemed to have requested a person to serve an employee benefit plan where the performance by such person of his duties to the Corporation also imposes duties on, or otherwise involves services by, such person to the plan or participants or beneficiaries of the plan; excise taxes assessed on a person with respect to an employee benefit plan pursuant to such Act of Congress shall be deemed "fines."

#### **ARTICLE 10 AMENDMENTS**

These bylaws may be altered, amended or repealed or new bylaws may be adopted by the members or by the Board of Directors, when such power is conferred upon the Board of Directors by the certificate of incorporation at any regular meeting of the members or of the Board of Directors or at any special meeting of the members or of the Board of Directors if notice of such alteration, amendment, repeal or adoption of new bylaws be contained in the notice of such special meeting. If the power to adopt, amend or repeal bylaws is conferred upon the Board of Directors by the certificate of incorporation it shall not divest or limit the power of the members to adopt, amend or repeal bylaws

#### **ARTICLE 11 GOVERNING RULES**

“The Foundation will operate in accordance with these by-laws and Robert’s Rules of Order, Newly Revised, 10th Edition”

**IN WITNESS WHEREOF**, the undersigned has hereunto subscribed his name this 11<sup>th</sup> day of August, 2004.

---

Secretary

