

Dec 16, 02 15:47

**2002-11-25 amended-by-laws.txt**

Page 1/9

BY-LAWS  
OF  
FREE SOFTWARE FOUNDATION, INC.

ARTICLE I

NAME, PURPOSES, LOCATION, CORPORATE SEAL, AND FISCAL YEAR

Section 1 - Name and Purposes. The name and purposes of the corporation shall be as set forth in the articles of organization.

Section 2 - Location. The principal office of the corporation in the Commonwealth of Massachusetts shall initially be located at the place set forth in the articles of organization of the corporation. The directors may change the location of the principal office in the Commonwealth of Massachusetts effective upon filing a certificate with the Secretary of the Commonwealth.

Section 3 - Corporate Seal. The directors may adopt and alter the seal of the corporation.

Section 4 - Fiscal Year. The Fiscal Year of the corporation shall, unless otherwise decided by the directors, end on September 30th in each year.

ARTICLE II

VOTING MEMBERS

Section 1 - Number, Election and Qualification. The present members of the corporation shall constitute the voting members. Thereafter the voting members annually at their annual meeting shall fix the number of voting members and shall elect the number of voting members so fixed. At any special or regular meeting, the voting members then in office may increase the number of voting members and elect new voting members to complete the number so fixed; or they may decrease the number of voting members, but only to eliminate vacancies caused by the death, resignation, removal or disqualification of one or more voting members. Unless the voting members otherwise designate, there shall be no qualifications for voting members. No such designation shall disqualify a voting member in office when the designation is made. Each director shall automatically be a voting member of the corporation.

Section 2 - Tenure. Each voting member shall hold office until the next annual meeting of voting members and until his or her successor is elected and qualified, or until he or she sooner dies, resigns, is removed or becomes disqualified.

Section 3 - Powers and Rights. In addition to the right to elect directors as provided in Section 1 of Article IV and such other powers and rights as may be vested in them by law, the Articles of Organization or these by-laws, the voting members shall have such other powers and rights as the directors may designate.

Section 4 - Suspension or Removal. A voting member may be suspended or removed with or without cause by vote of a majority of voting members then in office. A voting member may be removed for cause only after reasonable notice and opportunity to be heard.

Section 5 - Resignation. A voting member may resign by delivering his or her written resignation to the president, treasurer, or clerk of the corporation, to a meeting of the voting members or directors or to the corporation at its principal office. Such resignation shall be effective upon receipt (unless specified to be effective at some other time), and acceptance thereof shall not be necessary to make it effective unless it so states.

Section 6 - Vacancies. Any vacancy in the voting membership, except a vacancy resulting from enlargement (which must be filled in accordance with Section 1, Article II) may be filled by the voting members. Each successor shall hold office for the unexpired term or until he or she sooner dies, resigns, is removed or becomes disqualified. The voting members shall have and may exercise all their powers notwithstanding the existence of one or more vacancies in their number.

Section 7 - Annual Meeting. The annual meeting of the voting members shall be held on the Third Tuesday in February in each year or if that date is a legal holiday in the place where the meeting is to be held, then at the same hour of the next succeeding day not a legal holiday. The annual meeting may be held at the principal office of the corporation or at such other place within the United States as the president, voting members or directors shall determine. No change in the date fixed in these By-laws for the annual meeting shall be made within sixty (60) days before the date stated herein. Notice of any change of the date fixed in these by-laws for the annual meeting shall be given to all voting members at least twenty (20) days before the new date fixed for such meeting.

If an annual meeting is not held as herein provided, a special meeting of the voting members may be held in place thereof with the same force and effect as the annual meeting, and in such case all references in these by-laws, except in this Section 7, to the annual meeting of the voting members shall be deemed to refer to such special meeting. Any such special meeting shall be called and notice shall be given as provided in Sections 9 and 10 or Article II.

Section 8 - Regular Meetings. Regular meetings of the voting members may be held at such places within the United States and at such times as the voting members may determine.

Section 9 - Special Meetings. Special meetings of the voting members may be held at any time and at any place within the United States. Special meetings of the voting members may be called by the President, or by the directors, and shall be called by the clerk, or in the case of the death, absence, incapacity or refusal of the clerk, by any other officer, upon written application of three or more voting members.

Section 10 - Call and Notice.

(a) Annual and Regular Meetings. No call or notice shall be required for annual or regular meetings of voting members, provided that reasonable notice (i) of the first regular meeting following the determination by the voting members of the times and places for regular meetings shall be given to absent voting members, (ii) of any annual meeting not held at the principal office of the corporation shall be given to each voting member, (iii) specifying the purpose of an annual or regular meeting shall be given to each voting member if either contracts or transactions of the corporation with interested persons or amendments

Dec 16, 02 15:47

**2002-11-25\_amended-by-laws.txt**

Page 3/9

of these by-laws (as adopted by the directors or otherwise) are to be considered at the meeting and (iv) shall be given as otherwise required by law, the articles of organization or these by-laws (including Section 7, Article II).

- (b) Special Meeting. Reasonable notice of the time and place of special meetings of the voting members shall be given to each voting member. Such notice need not specify the purpose of a meeting, unless otherwise required by law, the articles of organization or these by-laws or unless there is to be considered at the meeting (i) contracts or transactions of the corporation with interested persons, (ii) amendments to these by-laws (as adopted by the directors or otherwise), (iii) an increase or decrease in the number of voting members or directors, or (iv) removal or suspension of a voting member or director.

- (c) Reasonable and Sufficient Notice. Except as otherwise expressly provided, it shall be reasonable and sufficient notice to a voting member to send notice by mail at least forty-eight hours or by telegram at least twenty-four hours before the meeting addressed to him or her at such voting member's last known business or residence address or to give notice to him or her in person or by telephone at least twenty-four hours before the meeting.

- (d) Waiver of Notice. Whenever notice of a meeting is required, such notice need not be given to any voting member if a written waiver of notice, executed by the voting member (or his or her attorney thereunto authorized) before or after the meeting, is filed with the records of the meeting. A waiver of notice need not specify the purposes of the meeting unless such purposes were required to be specified in the notice of such meeting.

Section 11 - Quorum. At any meeting of the voting members a majority of the voting members then in office (whether present in person or duly represented) shall constitute a quorum. Any meeting may be adjourned to such date or dates not more than ninety (90) days after the first session of the meeting by a majority of the votes cast upon the question, whether or not a quorum is present, and the meeting may be held as adjourned without further notice.

Section 12 - Action by Vote. Each voting member shall have one vote. When a quorum is present at any meeting, a majority of the votes properly cast by voting members present in person or duly represented shall decide any question, including election to any office, unless otherwise provided by law, the articles or organization, or these by-laws.

Section 13 - Action by Writing. Any action required or permitted to be taken at any meeting of the voting members may be taken without a meeting if all voting members entitled to vote on the matter consent to the action in writing and the written consents are filed with the records of the meetings of the voting members. Such consents shall be treated for all purposes as a vote at a meeting.

Section 14 - Proxies. Voting members may vote either in person or by written proxy dated not more than six (6) months before the meeting named therein, which proxies shall be filed before being voted with the clerk or other person responsible for recording the proceedings of the meeting. Unless otherwise specifically limited by their terms, such proxies shall entitle the holders thereof to vote at any adjournment of the meeting but

Dec 16, 02 15:47

2002-11-25 amended-by-laws.txt

Page 4/9

the proxy shall terminate after the final adjournment of such meeting.

Section 15 - Compensation. Voting members shall be entitled to receive for their services such amount, if any, as the directors may determine, which may include expenses of attendance at meetings. Voting members shall not be precluded from serving the corporation in any other capacity and receiving compensation for any such services.

#### ARTICLE III

##### ASSOCIATE MEMBERS

Section 1 - Number, Election, and Qualification. From time to time the directors may elect such number of associate members as they shall determine. Unless the directors otherwise designate, there shall be no qualifications for associate members.

Section 2 - Tenure. Each associate member shall continue in such capacity until the one year anniversary of the associate member's election.

Section 3 - Powers and Rights. Associate members shall serve in an honorary capacity to the directors and shall have such rights and privileges as the directors may from time to time designate. Associate members shall have no right to notice of and no right to vote at any meeting of the voting members or the directors or otherwise to participate in the governance of the corporation; they shall not be legally qualified to call or demand a meeting of the voting members or the directors for any purpose, including without limitation for any purpose under Chapter 180 of the Massachusetts General Laws, and they shall not be considered for purposes of establishing a quorum at any duly constituted meeting of the voting members or directors.

Section 4 - Suspension or Removal. Associate members may be suspended or removed with or without cause by vote of a majority of directors or voting members.

Section 5 - Resignation. An associate member may resign by giving his or her notice of intent to resign and acceptance thereof shall not be necessary to make it effective unless it so states.

Section 6 - Associate Member Meeting. The directors may call a meeting of the associate members at the directors' discretion. The meeting of the associate members shall be held on a date, at a place and at a time as designated by the directors and such meeting or meetings may be postponed or canceled at the discretion of the directors. This meeting or meetings shall be held for informational and discussion purposes only and no action of corporate governance shall be taken.

Section 7 - Call and Notice. No call or notice shall be required for associate members' meetings but it may be given at the discretion of and in the form as designated by the directors.

#### ARTICLE IV

SPONSORS, BENEFACTORS, CONTRIBUTORS, ADVISERS, FRIENDS OF THE CORPORATION

The directors may designate certain persons or groups of persons as

Dec 16, 02 15:47

2002-11-25 amended-by-laws.txt

Page 5/9

sponsors, benefactors, contributors, advisers or friends of the corporation or such other title as they deem appropriate. Such persons shall serve in an honorary capacity and, except as the directors shall otherwise designate shall in such capacity have no right to notice of or to vote at any meeting, shall not be considered for purposes of establishing a quorum, and shall have no other rights or responsibilities.

#### ARTICLE IV

##### BOARD OF DIRECTORS

Section 1 - Number and Election. The voting members annually at their annual meeting shall fix the number of directors and shall elect the number of directors so fixed. At any special or regular meeting the voting members or directors then in office may increase the number of directors and elect new directors to complete the number so fixed; or they may decrease the number of directors, but only to eliminate vacancies existing by reason of the death, resignation, removal or disqualification of one or more directors. A director may, but need not be a voting member.

Section 2 - Tenure. Each director shall hold office until the next annual meeting of voting members and until his or her successor is elected and qualified, or until he or she sooner dies, resigns, is removed or becomes disqualified.

Section 3 - Powers. The affairs of the corporation shall be managed by the directors who shall have and may exercise all the powers reserved to the voting members by the fullest extent permitted by law, the articles of organization or these by-laws.

Section 4 - Committees. The directors may elect or appoint one or more committees and may delegate to such committee or committees any or all of their powers. Any committee to which the powers of the directors are delegated shall consist solely of directors. Unless the directors otherwise designate, committees shall conduct their affairs in the same manner as is provided in these by-laws for the directors. The members of any committee shall remain in office at the pleasure of the directors.

Section 5 - Suspension or Removal. A director may be suspended or removed (a) with or without cause by vote of a majority of the voting members then in office or (b) with cause by vote of a majority of the directors then in office. A director may be removed with cause only after reasonable notice and opportunity to be heard.

Section 6 - Resignation. A director may resign by delivering his or her written resignation to the president, treasurer or clerk of the corporation, to a meeting of the voting members or directors of the corporation at its principal office. Such resignation shall be effective upon receipt (unless specified to be effective at some other time) and acceptance thereof shall not be necessary to make it effective unless it so states.

Section 7 - Vacancies. Any vacancy in the board of directors, except a vacancy resulting from enlargement which must be filled in accordance with Section I of Article IV, may be filled by the voting members or directors. Each successor shall hold office for the unexpired term or until he or she sooner dies, resigns, is removed or becomes disqualified. The directors,

Dec 16, 02 15:47

2002-11-25 amended-by-laws.txt

Page 6/9

shall have and may exercise all their powers notwithstanding the existence of one or more vacancies in their number.

Section 8 - Regular Meetings. Regular meetings of the directors may be held at such places and at such times as the directors may determine.

Section 9 - Special Meetings. Special meetings of the directors may be held at any time and at any place when called by the chairman of the board of directors (or if there be no such chairman, the president) or by two or more directors.

Section 10 - Call and Notice.

(a) Regular Meetings. No call or notice shall be required for regular meetings of directors, provided that reasonable notice (i) of the first regular meeting following the determination by the directors of the times and places for regular meetings shall be given to absent voting members, (ii) specifying the purpose of a regular meeting shall be given to each director if either contracts or transactions of the corporation with interested persons or amendments to these bylaws are to be considered at the meeting and (iii) shall be given as otherwise required by law, the articles of organization or these by-laws.

(b) Special Meetings. Reasonable notice of the time and place of special meetings of the directors shall be given to each director. Such notice need not specify the purposes of a meeting, unless otherwise required by law, the articles of organization or these by-laws or unless there is to be considered at the meeting (i) contracts or transactions of the corporation with interested persons, (ii) amendments to these by-laws, (iii) an increase or decrease in the number of directors, or (iv) removal or suspension of a director.

(c) Reasonable and Sufficient Notice. Except as otherwise expressly provided, it shall be reasonable and sufficient notice to a director to send notice by mail at least forty-eight hours or by telegram at least twenty-four hours before the meeting addressed to the director at his or her usual or last known business or residence address or to give notice to him or her in person or by telephone at least twenty-four hours before the meeting.

(d) Waiver of Notice. Whenever notice of a meeting is required, such notice need not be given to any director if a written waiver of notice, executed by the director (or his or her attorney thereunto authorized) before or after the meeting, is filed with the records of the meeting, or to any director who attends the meeting without protesting prior thereto or at its commencement the lack of notice to him or her. A waiver of notice need not specify the purposes of the meeting unless such purposes were required to be specified in the notice of such meeting.

Section 11 - Quorum. At any meeting of the directors a majority of the directors then in office shall constitute a quorum. Any meeting may be adjourned by a majority of the votes cast upon the question whether or not a quorum is present, and the meeting may be held as adjourned without further notice.

Section 12 - Action by Vote. When a quorum is present at any meeting, a majority of the directors present and voting shall decide any question,

Dec 16, 02 15:47

2002-11-25 amended-by-laws.txt

Page 7/9

including election of officers, unless otherwise provided by law, the articles of organization, or these by-laws.

Section 13 - Action by Writing. Any action required or permitted to be taken at any meeting of the directors may be taken without a meeting if all the directors consent to the action in writing and the written consents are filed with the records of the meetings of the directors. Such consents shall be treated for all purposes as a vote at a meeting.

Section 14 - Compensation. Directors shall be entitled to receive for their services such amount, if any, as the directors may from time to time determine, which may include expenses of attendance at meetings. Directors shall not be precluded from serving the corporation in any other capacity and receiving compensation for any such services.

#### ARTICLE VI

##### OFFICERS AND AGENTS

Section 1 - Number and qualification. The officers of the corporation shall be a president, treasurer, clerk and such other officers, if any, as the directors may determine. The corporation may also have such agents, if any, as the directors may appoint. An officer may but need not be a director or voting member. The clerk shall be a resident of Massachusetts unless the corporation has a resident agent duly appointed for the purpose of service of process. A person may hold more than one office at the same time. If required by the directors, any officer shall give the corporation a bond for the faithful performance of his or her duties in such amount and with such surety or sureties as shall be satisfactory to the directors.

Section 2 - Election. The president, treasurer and clerk shall be elected annually by the directors at their first meeting following the annual meeting of the voting members. Other officers, if any, may be elected by the directors at any time.

Section 3 - Tenure. The president, treasurer and clerk shall each hold office until the first meeting of the directors following the next annual meeting of the voting members and until his or her successor is chosen and qualified, and each other officer shall hold office until the first meeting of the directors following the next annual meeting of the voting members unless a shorter period shall have been specified by the terms of his or her election or appointment, or in each case until he or she sooner dies, resigns, is removed or becomes disqualified. Each agent shall retain his or her authority at the pleasure of the directors.

Section 4 - President and Vice Presidents. The president shall be the chief executive officer of the corporation and, subject to the control of the directors, shall have general charge and supervision of the affairs of the corporation. The president shall preside at all meetings of the voting members and, if no chairman of the board of directors is elected, at all meetings of the directors except as the voting members or directors otherwise determine.

The vice president or presidents, if any, shall have such duties and powers as the directors shall determine. The vice president, or first vice president if there are more than one, shall have and may exercise all the powers and duties of the president during the absence of the president

or in the event of his or her inability to act.

Section 5 - Treasurer. The treasurer shall be the chief financial officer and the chief accounting officer of the corporation. The treasurer shall be in charge of its financial affairs, funds, securities and valuable papers and shall keep full and accurate records thereof. He or she shall have such other duties and powers as designated by the directors or the president. The treasurer shall also be in charge of its books of account and accounting records, and of its accounting procedures.

Section 6 - Clerk. The clerk shall record and maintain records of all proceedings of the voting members and directors in a book or series of books kept for that purpose, which book or books shall be kept within the Commonwealth at the principal office of the corporation or at the office of its clerk or of its resident agent and shall be open at all reasonable times to the inspection of any voting member. Such book or books shall also contain records of all meetings of incorporators and the original, or attested copies, of the articles of organization and by-laws and names of all voting members and directors and the address of each. If the clerk is absent for any meeting of voting members or directors, a temporary clerk chosen at the meeting shall exercise the duties of the clerk at the meeting.

Section 7 - Suspension or Removal. An officer may be suspended or removed with or without cause by vote of a majority of directors then in office at any special meeting called for such purpose or any regular meeting. An officer may be removed with cause only after reasonable notice and opportunity to be heard.

Section 8 - Resignation. An officer may resign by delivering his or her written resignation to the president, treasurer or clerk of the corporation, to a meeting of the voting members or directors or to the corporation at its principal office. Such resignation shall be effective upon receipt (unless specified to be effective at some other time), and acceptance thereof shall not make it effective unless it so states.

Section 9 - Vacancies. If the office of any officer becomes vacant, the directors may elect a successor. Each successor shall hold office for the unexpired term, and in the case of the president, treasurer and clerk until his successor is elected and qualified, or in each case until he or she sooner dies, resigns, is removed or becomes disqualified.

#### ARTICLE VII

##### EXECUTION OF PAPERS

Except as the directors may generally or in particular cases authorize the execution thereof in some other manner, all deeds, leases, transfers, contracts, bonds, notes, checks, drafts and other obligations made, accepted or endorsed by the corporation shall be signed by the president or by the treasurer.

Any recordable instrument purporting to affect an interest in real estate, executed in the name of the corporation by two of its officers, of whom one is the president or vice president and the other is the treasurer or an assistant treasurer, shall be binding on the corporation in favor of a purchaser or other person relying in good faith on such instrument notwithstanding any inconsistent provisions of the articles of



Dec 16, 02 15:47

2002-11-25 amended-by-laws.txt

Page 9/9

organization, bylaws, resolutions or votes of the corporation.

#### ARTICLE VIII

##### PERSONAL LIABILITY

The voting members, directors and officers of the corporation shall not be personally liable for any debt, liability or obligation of the corporation. All persons, corporations or other entities extending credit to, contracting with, or having any claim against, the corporation, may look only to the funds and property of the corporation for the payment of any such contract or claim, or for the payment of any debt, damages, judgment or decree, or of any money that may otherwise become due or payable to them from the corporation.

#### ARTICLE VIIIX

##### AMENDMENTS

These by-laws may be altered, amended or repealed in whole or in part by vote of a majority of the directors then in office except with respect to any provision thereof which by law, the articles of organization or these by-laws requires action by the voting members. Not later than the time of giving notice of the meeting of voting members next following the making, amending, or repealing by the directors of any by-laws, notice thereof stating the substance of such change shall be given to all voting members. The voting members may alter, amend or repeal any by-laws adopted by the directors or otherwise or adopt, alter, amend or repeal any provision which by law, the articles of organization or these bylaws requires action by the voting members.