

## By-Laws of the Internet Society Foundation

*Adopted by the Member on 13 December 2017*

*Amended by the Member on 14 May 2019*

*Amended by the Member on \_\_\_\_\_ 2021*

### Article I – Sole Member

#### **Section 1. Sole Member.**

(a) The sole member of the Internet Society Foundation (the "Foundation") shall be the Internet Society (the "Member"). The Member shall have the right to vote and shall act through the Member's board of trustees.

(b) Any action required or permitted to be taken by the Member, except as otherwise required by law or the articles of incorporation, may be taken without a meeting and without notice if the Member consents in writing to such action and the writing or writings are filed with the records of the Foundation.

(c) The Member shall have all rights conferred on a Member under the District of Columbia Nonprofit Corporation Act (the "Act"), the Articles of Incorporation and these Bylaws, including but not limited to the right to approve (i) all fundamental transactions as defined under the Act and (ii) the annual budget of the Foundation pursuant to such procedure as determined by the Board of Directors of the Foundation (the "Board") and approved by the Member.

### Article II – Board of Trustees

#### **Section 1. Number and Appointment of Trustees.**

The affairs of the Foundation shall be directed by the Board. The number of Trustees constituting the entire Board shall be such number as may be fixed from time to time by the Member. The Trustees shall be appointed by the Member annually at the Annual General Meeting ("AGM") of the Member's Board of Trustees.

#### **Section 2. Term of Trustees**

Trustees shall hold office commencing at the start of the Annual Meeting (as defined in Section 5 of this Article) following their appointment and continuing until the start of the following Annual Meeting, or until their earlier resignation, removal or death; provided, however, that when filling a vacancy a Trustee shall serve a term as defined in Section 3 of this Article. Trustees may be elected to unlimited consecutive terms at the discretion of the Member.

#### **Section 3. Resignation, Removal and Vacancies.**

(a) Any Trustee may resign at any time by giving written notice to the Chair of the Board. Any such resignation shall take effect on the later of the date of delivery of the notice or a date specified in the notice.

(b) Trustees may be removed with or without cause by the Member.

(c) Vacancies may be filled by the Member. The term of a Trustee appointed by the Member to fill a vacancy created under Section 3 of this Article will be for the remainder of the term being filled.

#### **Section 4. Compensation of Trustees.**

The Trustees shall not receive any compensation (apart from reimbursement of expenses) for their services as Trustees, but this shall not preclude reasonable compensation for services rendered to the Foundation by a Trustee in some other capacity.

#### **Section 5. Board Meetings.**

(a) The Board shall meet at least annually following the Member's AGM for the purpose of the election of officers and the transaction of such other business as may properly come before the meeting (the "Annual Meeting"). A Chair of the Board shall be elected by the Board from among the members of the Board as the first order of business of the Annual Meeting. The Annual Meeting shall be chaired by the Foundation's President until the Chair of the Board is elected.

(b) Meetings of the Board shall be held in person and/or by any means of electronic communication by which all persons participating in the meeting are able to communicate contemporaneously with one another and hear one another (or are otherwise accommodated). Participation via electronic communication shall constitute presence in person at the meeting.

(c) The Board shall determine the rules for its meetings. Except as otherwise noted in these By-laws, meetings of the Board will be chaired by the Chair of the Board unless the Chair designates another Trustee as chair of the meeting. The President may designate a Trustee to chair a duly called meeting if the Chair is not available and has not designated a Trustee to chair the meeting.

(d) Regular meetings of the Board normally include sessions open to observers where local and remote attendees are invited to listen to the proceedings. The Chair may in his or her discretion invite an observer to address a meeting. Meetings of the Board may also include closed executive sessions of the Trustees and any guests that the Chair invites.

#### **Section 6. Notice of Regular Meetings**

Notice of the place, date, and time of each regular meeting of the Board shall be served on each Trustee by Internet, postal mail, or by other written notice at least 7 days before the date of the meeting; provided, however, that at the beginning of each year a single notice of all regularly scheduled meetings for that year, or for a lesser period, may be provided without having to give additional notice of each individual meeting.

Except as otherwise expressly required under applicable law, the Society's Articles of Incorporation, or these By-Laws, neither the business to be transacted at, nor the purpose of, any regular meeting of the Board need be specified in the notice or waiver of notice of such meeting.

#### **Section 7. Special Board Meetings.**

Special meetings of the Board may be called at any time by the Chair of the Board, by the President, or by a majority of the members of the Board then in office. Special meetings may be held on 2 days' notice of the date, time, and place of the meeting. Except as otherwise expressly required under applicable law, neither the business to be transacted at, nor the purpose of, any special meeting of the Board need be specified in the notice or waiver of notice of such meeting.

## **Section 8. Waiver of Notice.**

Whenever any notice is required to be given for any regular or special meeting of the Board, a waiver of such notice in writing by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Attendance of a Trustee at a meeting shall constitute a waiver of notice of such meeting except where a Trustee attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

## **Section 9. Action of the Board.**

At all meetings of the Board, a majority of the Trustees then in office shall constitute a quorum for the transaction of business. Unless a greater affirmative vote is expressly required for an action under applicable law, the Foundation's Articles of Incorporation, or these By-laws, the affirmative vote of a majority of the Trustees present at any meeting at which a quorum is present shall be an act of the Board. Absentee voting and voting by proxy shall not be permitted. If a quorum shall not be present at any meeting of the Board, the Trustees present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

## **Section 10. Action Without a Meeting.**

Any action required to be taken at a meeting of the Board, or any action that may be taken at a meeting of the Board, may be taken without a meeting by unanimous written consent of all Trustees currently in office pursuant to such procedures as determined by the Board.

## **Section 11. Meeting Minutes.**

Minutes shall be produced for meetings of the Board. Minutes shall normally consist of a record of the decisions taken by the Board, a summary of discussions held, and any comments explicitly requested by Trustees for inclusion. Draft minutes shall be distributed to the Board for comment as soon after a meeting of the Board as possible. The minutes shall be approved by resolution of the Board.

## **Section 12. Committees.**

(a) The Board may form Committees to consider, investigate, or take action on certain matters. Committees delegated authority of the Board ("Board Committees") shall be composed of one or more Trustees and shall be appointed by majority vote of the Trustees then in office. Board Committees may have Board authority to the extent permitted by law and delegated by the Board or in these bylaws. All other committees are advisory and may be composed of members who are not Trustees.

(b) The Board shall determine when Committees are needed and shall have the power at any time to designate a member of a Committee as its chair, fill vacancies, or change the membership of a Committee. Any Committee may be terminated by the affirmative vote of at least two-thirds of the members of the Board then in office. Each established Committee shall serve at the pleasure of the Board, operate according to a charter approved by the Board and report regularly to the Board. The designation of any Committee and the delegation thereto of authority shall not alone relieve the Board, or any individual Trustee, of his or her responsibilities. The President shall serve as a non-voting, ex-officio member of all Committees, except the Audit Committee and the Compensation Committee, if applicable. With the exception of the President (who serves in an ex officio capacity) and, unless otherwise specified by resolution of the Board, members of a Board Committee shall serve until the start of the Annual Meeting following their appointment or until their earlier resignation, removal or death, or until the termination of the Committee if the Committee shall sooner be terminated.

(c) Any Committee member may resign at any time by giving written notice to the Chair of the Committee or to the Chair of the Board. Any such resignation shall take effect at a date specified in the notice or, if such date is not specified, when the notice of resignation is delivered. Any vacancy in a Committee may be filled by the Board, and any Committee member may be removed from a Committee by the Board with or without cause.

(d) The chair of any Committee is authorized, with the support of other members of the Committee, to invite guests to participate in some or all of the Committee's work, but such guests shall not have the right to vote on any matters considered by the Committee.

(e) The Board may establish the following Standing Committees: an Executive Committee, an Audit Committee, a Finance Committee, and a Compensation Committee. The Board may establish such other Committees as it deems appropriate to facilitate the activities of the Foundation, provided that no such Committee shall take actions reserved to the Board or to any Standing Committee.

(f) Committees shall have the duties, responsibilities and authorities designated by the Board, including in charters approved by the Board. A Committee designated by the Board may make, alter and repeal rules for the conduct of its business. Meetings of a Committee may be held at such place as the Committee shall determine, and may be held in person and/or by any means of electronic communication by which all persons participating in the meeting are able to communicate contemporaneously with one another and hear one another (or are otherwise accommodated). Participation via electronic communication shall constitute presence in person at the meeting. In the absence of a contrary provision by the Board or in rules adopted by any such Committee, Sections 6 through 10 of this Article shall apply to such Committees.

### **Section 13. Board Leadership.**

The Board shall have a Chair of the Board (the "Chair") and may have a Treasurer and a Secretary of the Board (the "Board Treasurer" and "Board Secretary"). The Chair, and the Board Treasurer and Board Secretary if any, shall be elected by the Board from among the members of the Board as the first order of business of the AGM. The Chair shall preside at all meetings of the Board and shall have such other duties and responsibilities as determined by the Board. The AGM shall be chaired by the Society's President until the Chair is elected. The Board Treasurer and the Board Secretary shall have such duties and responsibilities as determined by the Board. If the Board elects a Board Secretary, that individual may also serve as the corporate Secretary of the Society as defined in Article VI, Section 3.

The Board Chair, Board Treasurer or Board Secretary may be removed with or without cause by two-thirds of the Trustees then in office whenever in their judgment the best interests of the Society would be served thereby.

## **Article III – Officers**

### **Section 1. Officers.**

The corporate officers of the Foundation shall consist of a President, a Chief Financial Officer, a Secretary, and such other officers as the Board deems necessary or advisable. The Board shall appoint the officers, who shall serve at the pleasure of the Board or until their earlier resignation or death. The officers of the Foundation shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as from time to time may be conferred by the Board. A person shall not hold more than one office at a time.

## **Section 2. President.**

(a) The President, who may also be referred to as the Chief Executive Officer or CEO, shall be responsible for the day-to-day conduct of the Foundation's activities and shall have such other powers and perform such other duties as the Board may prescribe from time to time. The President shall be elected by the Board and shall serve at the pleasure of the Board. The President shall perform his or her duties subject to the direction of the Board. The President may appoint one or more officers as designated by the Board.

(b) The President shall serve as an ex officio, non-voting member of the Board and shall not be included for purposes of determining the presence of a quorum at any meeting of the Board or Board committee or the number of Trustees then in office.

## **Section 3. Secretary.**

The Secretary shall prepare or supervise the preparation of the minutes of the meetings and other actions of the Board, its committees and the Member. The Secretary shall give, or cause to be given, required notice of all meetings of the Member and the Board. The Secretary shall have custody of the books, records, and documents (other than those maintained by the Treasurer), and shall attest deeds, contracts, leases and other legal instruments and formal documents and shall perform such other duties as may be assigned by the Board or the President. The Secretary may, but need not, be a Trustee.

## **Section 4. Chief Financial Officer.**

The Chief Financial Officer shall be responsible for the receipt, custody, and disbursement of all monies of the Society, shall keep proper books of accounts of such receipts and disbursements, shall prepare financial statements in such forms and at such times as may be required by the Board or the President, and shall perform such other duties as may be assigned by the Board or the President.

## **Section 5. Removal of Officers.**

Any officer may be removed with or without cause by majority vote of the Trustees then in office whenever in their judgment the best interests of the Foundation would be served thereby. Such removal shall be without prejudice to such person's contract rights, if any, but the appointment of any person as an officer shall not of itself create contract rights.

## **Section 6. Officer Vacancy.**

Any vacancy in an officer position may be filled by the Board or the President, as applicable.

## **Section 7. Agents and Employees.**

The Board or the President may appoint agents and employees who shall have such authority and perform such duties as may be prescribed by the Board or the President. The Board or the President may remove any agent or employee it appoints at any time with or without cause. Removal shall be without prejudice to such person's contract rights, if any, and the appointment of such person shall not itself create contract rights.

## Article IV – Indemnification

### **Section 1. Right to Indemnification.**

The Foundation shall, to the maximum extent and in the manner permitted by applicable law, indemnify any person who is or was serving as a Trustee or officer of the Foundation against any and all expenses, judgments, fines, settlements, compromise payments and other amounts actually and necessarily incurred by such person in connection with the defense or disposition of any claim, action, suit, or proceeding (whether actual or threatened, pending or completed, civil, criminal, administrative or investigative, including appeals) to which such person may be or is made a party by reason of being or having been a Trustee or officer of the Foundation or, while a Trustee or officer of the Foundation, serves or served at the written request of the Foundation as a trustee, director, officer, employee or agent of another organization; provided, however, that as to any matter disposed of by a settlement or compromise payment by such person, pursuant to a consent decree or otherwise, no indemnification either for said payment or for any other expenses shall be provided unless such Trustee or officer appears to have acted in good faith in the reasonable belief that his or her action was in the best interests of the Foundation and the settlement or compromise payment is approved (i) by a majority vote of the Trustees who are not parties to such claim, action, suit, or proceeding, even though less than a quorum; or (ii) by a majority vote of a committee of the Board consisting of all Trustees who are not parties to such claim, action, suit, or proceeding, even though less than a quorum; or (iii) if there are no such Trustees in office, or if such Trustees so direct, by independent legal counsel in a written opinion to the effect that the party to such claim, action, suit, or proceeding has met the applicable standard of conduct necessary for indemnification set forth in this Section 1 of this Article; or (iv) by a court of competent jurisdiction.

## **Section 2. Indemnification of Employees and Agents.**

The Foundation may, to the extent authorized from time to time by the Board in its sole discretion and subject to applicable law, provide rights to indemnification and to the advancement of expenses to employees and agents (other than officers and Trustees who are addressed in Section 1 of this Article of these By-laws) against any and all expenses, judgments, fines, settlements, compromise payments and other amounts actually and necessarily incurred by such person in connection with the defense or disposition of any claim, action, suit, or proceeding (whether actual or threatened, pending or completed, civil, criminal, administrative or investigative, including appeals) to which such person may be or is made a party by reason of being or having been an employee or agent of the Foundation or serves or served at the written request of the Foundation as a director, officer, employee or agent of another organization.

## **Section 3. Right to Advancement of Expenses.**

The right provided under Section 1 of this Article, or if otherwise approved by the Board, shall include the right to be paid by the Foundation expenses (including attorney's fees) reasonably incurred in defending any claim, action, suit, or proceeding in advance of its final disposition; provided, however, that the payment of such expenses in advance of the final disposition of such claim, action, suit, or proceeding shall be made only upon receipt of (i) an affidavit of such person of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification under law and these By-laws, and (ii) an undertaking by such person to repay the Foundation the amounts so paid if it is ultimately determined that the indemnification for such expenses is not authorized by law or these By-laws. Such an undertaking may be accepted without reference to the financial ability of such recipient to make repayment.

## **Section 4. Non-Exclusivity of Rights.**

The indemnification and advancement of expenses provided by, or granted pursuant to, this Article shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any statute, By-law, agreement, vote of the Board, or otherwise, and shall not restrict the power of the Foundation to make any indemnification or advancement of expenses permitted by law. Further, the provisions of this Article shall not be deemed to preclude the

indemnification of any person who is not specified in this Article but who the Foundation has the power or obligation to indemnify under the provisions of the District of Columbia Nonprofit Corporation Act or otherwise.

#### **Section 5. Insurance.**

The Foundation shall have the power to purchase and maintain insurance on behalf of any person who is or was a Trustee, officer, employee or agent of the Foundation or is or was serving at the request of the Foundation as a Trustee, director, officer, employee or agent of another organization against any liability asserted against or incurred by such person in such capacity or arising out of such person's status as such, whether or not the Foundation would have the power to indemnify that person against such liability under the provisions of this Article or applicable law.

#### **Section 6. Limitation on Indemnification.**

In no case shall the Foundation make any payment that (i) would adversely affect the Foundation's status as an organization described under Section 501(c)(3) of the Internal Revenue Code of 1986, as now in effect or as may hereafter be amended (the "Code") or (ii) would be treated as an excess benefit transaction under Section 4958 of the Code. Further, if at any time the Foundation is deemed to be a private foundation within the meaning of Section 509 of the Code then, during such time, the Foundation shall not make any payment if such payment would constitute an act of self-dealing or a taxable expenditure, as defined in Sections 4941(d) and 4945(d), respectively, of the Code.

#### **Section 7. Survival.**

The provisions of this Article shall be applicable to claims, actions, suits, or proceedings made or commenced after the adoption hereof, whether arising from acts or omissions to act occurring before or after adoption hereof. The rights to indemnity hereunder shall continue as to a person who has ceased to be a Trustee, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such person. The foregoing indemnification provisions shall be deemed to be a contract between the Foundation and each Trustee or officer who serves in any such capacity at any time while these provisions as well as relevant provisions of the District of Columbia Nonprofit Corporation Act are in effect and any repeal or modification thereof shall not affect any right or obligation then existing with respect to any state of facts then or previously existing or any claim, action, suit, or proceeding previously or thereafter brought or threatened based in whole or in part upon any such state of facts. Such a contract right may not be modified retroactively without the consent of such Trustee or officer.

#### **Section 8. Severability.**

If any part of this Article shall be found in any claim, action, suit, or proceeding to be invalid or ineffective, the validity and effectiveness of the remaining parts shall not be affected.

#### **Section 9. Right of Claimant to Bring Suit.**

(a) If a claim under Section 1 of this Article or, to the extent an employee or agent is entitled to indemnification Section 2 of this Article, is not paid in full by the Foundation within thirty days after a written claim therefor has been received by the Foundation, the claimant may any time thereafter bring suit against the Foundation to recover the unpaid amount of the claim and, if successful in whole or in part, the claimant shall be entitled to be paid also the expense of prosecuting such claim. In any such action, the burden of proof shall be on the Foundation to prove the claimant is not entitled to such payment.

(b) Neither the failure of the Foundation to have made a determination prior to the commencement of such action that the claimant is entitled to indemnification or advancement under the circumstances, nor an actual determination by the Foundation that the claimant is not entitled to indemnification or advancement, shall be a defense to the action or create a presumption that the claimant is not entitled to indemnification or advancement.

(c) The right to be indemnified or to the reimbursement or advancement of expenses pursuant hereto (i) is a contract right based upon good and valuable consideration, pursuant to which the person entitled thereto may bring suit as if the provisions hereof were set forth in a separate written contract between the Foundation and the Trustee or officer, (ii) is intended to be retroactive and shall be available with respect to events occurring prior to the adoption hereof, and (iii) shall continue to exist after the rescission or restrictive modification hereof with respect to events occurring prior thereto.

(d) Any Trustee or officer of the Corporation serving in any capacity, and any other person serving as a Trustee or officer of (i) another organization effectively controlled by the Foundation or (ii) any employee benefit plan of the Foundation or of any organization referred to in clause (i), shall be deemed to be doing so at the written request of the Board.

#### Article V – Miscellaneous

##### **Section 1. Dissolution.**

In the event of the dissolution of the Foundation, the assets of the Foundation shall be distributed in accordance with the Articles of Incorporation of the Foundation.

##### **Section 2. Fiscal Year; Monetary Unit.**

The Foundation's fiscal year shall be the calendar year. The Foundation's official monetary unit shall be the United States dollar.

##### **Section 3. Official Language.**

English shall be the official language of the Foundation.

##### **Section 4. Email and Electronic Signatures.**

The terms "written" or "writing" shall include email and other electronic transmission in the form of a record that is stored in an electronic or other medium and is retrievable in perceivable form.

#### Article VI – Amendments

##### **Section 1. By-Laws Amendments.**

These By-Laws may be altered, amended, or repealed, and new bylaws may be adopted, by the Member. The Board shall also have the authority to amend or repeal and adopt new bylaws subject to the approval of the Member and except as provided by applicable law. Notwithstanding the foregoing, no amendment, alteration, change or repeal of these bylaws shall be effected which will result in the denial of tax-exempt status to the Corporation under Section 501(c)(3) of the Internal Revenue Code of 1986, as it may be amended.