

# Bylaws of the BSD Certification Group Inc.

Statement of the Constitution of the BSD Certification Group Inc.

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## **Preamble**

### **Identification**

The BSD Certification Group Inc. (BSDCG) has filed Articles of Incorporation with the the State of New Jersey, United States of America, and has further filed application as a non-profit corporation under US IRS 501(c)(3).

### **Statement of Purpose**

The BSDCG is committed to creating and maintaining a global certification standard for system administration on BSD based Unix operating systems. The BSDCG shall ensure that the certification standard:

- Uses test questions and testing methodologies that adhere to established psychometric methods
- Provides testing candidates with detailed exam objectives and an appeals process
- Provides a verification database accessible to employers
- Where feasible meets the standards required by accreditation organizations
- Provides a secure testing delivery mechanism
- Endeavors to provide testing globally, based on local interest, and where feasible, in the primary language of that geographic region
- Solicits the needs, input, and contributions of the BSD community and other interested parties, including employers who hire BSD professionals and companies who use BSD products
- Operates according to Open Source methods, and where feasible uses Open Source products
- Provides the criteria for becoming a testing center as well as verification and disciplinarian guidelines

### **Definitions**

Any defined terms in this section which are referenced in any following section or in the Bylaws shall be referenced as a capitalized word or phrase.

\* ACTIVE

An ACTIVE Member of the BSDCG is an individual who has signed the BSDCG agreement as described in Article III, Section 1.

The term "ACTIVE" shall refer to those BSDCG Members which have voting rights. In addition, ACTIVE Members have access to private communication channels and may be privy to information not yet released to the general public.

\* GOOD FAITH / FAIR

These terms retain their usual and customary meanings according to the Laws of the State of New Jersey except that these are additionally measured as being in accordance with this Constitution and the Bylaws.

## **Structure of the Constitution**

This Constitution shall be structured so as to maintain the goals of the BSDCG throughout the lifetime of the BSDCG. To that effect, this Constitution is provided as a two-part document. The first part is the Preamble, which is directed at establishing and maintaining the goals of the BSDCG. The second part is the Articles of the Bylaws, which constitute the traditional set of articles by which the organization shall be run.

This Constitution, together with any other documents which may define the roles, rights and responsibilities of any Member of the BSDCG, shall as a whole be of such limited size and complexity that the member to which these documents pertain could reasonably be expected to comprehend any and all of the contents of these documents with a reasonable effort within a period of three months.

This Constitution and any subordinate documents shall be made readily available to the public in the most widely accessible media possible.

## **Amendments**

Amendments to this Constitution are to be recommended by a process which is determined by the Board of Directors. Such process shall be circulated in writing within one year of the ratification of these Bylaws. Such amendments shall be put forth to the ACTIVE Members for a vote at such times as the Board of Directors shall from time to time designate. Before any such vote takes place, the BSDCG shall attempt in GOOD FAITH to give notice to the Members of the BSDCG of any alteration, amendment or repeal at least thirty (30) days prior to the vote, which notice and vote may take place by electronic means.

Amendments to the Preamble shall be considered as separate from amendments to the Bylaws, and ratification of each of these shall require a separate vote. Ratification of amendments to the Preamble shall require an affirmative vote of seventy five per cent (75%) of the ACTIVE Members. Ratification of amendments to the Bylaws shall require an affirmative vote of fifty per cent (50%) plus one (+1) of the ACTIVE Members.

The Bylaws may contain the details of the process by which amendments are proposed, and the way in which the notification and votes take place.

# ***Articles of the Bylaws***

## **Article I: Business Offices**

### ***Section 1: Offices***

The BSDCG shall have such offices either within or outside the State of New Jersey and within or outside the United States, as the Board of Directors may from time to time determine or as the business of the BSDCG may require.

## **Article II: Registered Offices and Registered Agents**

### ***Section 1: Registration in New Jersey, USA***

The address of the initial registered office in the State of New Jersey and the name of the initial registered agent of the BSDCG at such address are set forth in the Certificate of Incorporation. The BSDCG may, from time to time, designate a different address as its registered office or a different person as its registered agent, or both; provided, however, that such designation shall become effective upon the filing of a statement of such change with the Secretary of State of the State of New Jersey as is required by law.

### ***Section 2: Other States***

In the event the BSDCG desires to qualify to do business in one or more states other than New Jersey, the BSDCG shall designate the location of the registered office in each such state and designate the registered agent for service of process at such address in the manner provided by the law of the state in which the BSDCG elects to be qualified.

## **Article III: Membership and Voting**

### ***Section 1: Eligibility for ACTIVE membership***

Membership in the BSDCG shall be open to any individual who is either recommended by or who has expressed interest by approaching a current ACTIVE BSDCG Member. The prospective Member shall provide, by electronic means, a summary of his experience as it relates to the BSDCG, the amount of time available for contributing to the BSDCG and, if applicable, the tasks of particular interest to the prospective Member.

The electronic communication is to be forwarded to the BSDCG for review and comment. Within a period of 2 weeks, the current ACTIVE Members shall determine if the prospective Member's application meets the goals and needs of the BSDCG, and if so, if the prospective Member is best suited as a voting or non-voting Member.

The status of the prospective Member will be determined by a vote requiring 75% affirmation of the votes cast to be considered elected as a new Member.

The prospective Member is to be advised of the status of his application via email communication within 15 days.

New ACTIVE members are required to return an electronic copy of the signed BSDCG Agreement within 7 days of receiving notification of ACTIVE status, as well as a one paragraph bio to appear on the BSD Certification website. Once the signed agreement is received, the new ACTIVE Member will have access to the private communication channels.

## ***Section 2: Voting Members***

Ability to cast votes for BSDCG business rests solely with the Board of Directors, Officers, and ACTIVE Members of the BSDCG. New ACTIVE Members may participate in a vote after an initial probationary period of one (1) month.

## ***Section 3: Advisory Board Members***

The ACTIVE Members may nominate "Advisory Board Members". These are senior members of the Unix computing community who may offer advice from time to time on a specific individual matter of interest to the BSDCG. Advisory Board Members do not have voting rights or access to the private BSDCG communication channels. An individual cannot be an ACTIVE Member of the BSDCG and the BSDCG Advisory Board at the same time.

## ***Section 4: Voluntary Withdrawal from Membership***

All Members (including Advisory Board Members) may withdraw from membership in the BSDCG at any time upon written or electronic notice delivered to an Officer of the BSDCG.

ACTIVE Members who withdraw their voting rights will lose access to the BSDCG private communication channels.

## ***Section 5: Involuntary Removal from Membership***

The Board of Directors may, at its discretion, appoint a committee to determine the specific criteria for ascertaining which individuals are suited for the purposes of participation in the official affairs of the BSDCG.

A Member may have his or her membership terminated if he or she is deemed inactive pursuant to the criteria. Such termination may only take place after written notice is furnished to the Member (by mail or electronic mail) and a period of 15 days has been allotted for response.

## ***Section 6: 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, such former Member may reapply for membership in accordance with these Bylaws.

## **Article IV: Meetings**

### ***Section 1: Place of Meetings***

Meetings of the Members shall be held at the place (within or outside the State of New Jersey and within or outside the United States) designated in the Notice of the meeting.

### ***Section 2: Annual Meeting***

A meeting of the Members shall be held annually at such time as the Board of Directors may determine (which shall be, in the case of the first Annual Meeting, not more than thirteen (13) months after the ratification of these Bylaws; and, in the case of all other meetings, not more than thirteen (13) months after the date of the last Annual Meeting), at which Annual Meeting the Members shall transact all business relevant to the affairs of the BSDCG.

### ***Section 3: Special Meeting***

Special meetings of the Members shall be held when directed by the Chairman, President or the Board of Directors, or when requested in writing by not less than ten percent (10%) of all ACTIVE Members. The call for the meeting shall be issued by the Secretary, unless the Chairman, President, Board of Directors or Members requesting the meeting shall designate another person to do so. A Special Meeting shall be held within six months of the ratification of these Bylaws for the purpose of electing the Board of Directors.

### ***Section 4: Notice for Annual and Special Meetings***

Notice 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 called, shall be delivered not less than thirty (30) days before the date of the meeting by electronic mail to each ACTIVE Member of record on the Record Date.

### ***Section 5: Notice of Adjourned Meetings***

When a meeting is adjourned to another time or place, the BSDCG shall not be required to give any notice of the adjourned meeting if the time and place to

which the meeting is adjourned are announced at the meeting at which the adjournment is taken. At the adjourned meeting, any business may be transacted that might have been transacted at the original meeting. If, however, the adjournment is for more than thirty (30) days, or if after the adjournment the Board of Directors fixes a new Record Date for the adjourned meeting, a notice of the adjourned meeting shall be given as provided in Section 4 above, to each ACTIVE Member of record on the new Record Date.

### ***Section 6: Waiver of Notice***

Whenever notice is required to be given to any Member, a waiver thereof in writing, signed by the Member entitled to such notice, whether before or after the time stated therein, shall be the equivalent to the giving of such notice. Attendance by a Member at a meeting shall constitute a waiver of notice of such meeting, except when such Member attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of any regular or Special Meeting of the Members need be specified in the written waiver of notice.

### ***Section 7: Record Date***

(a) For the purpose of determining Members entitled to notice of or to vote at any meeting of Members or any adjournment thereof, the Board of Directors may fix a "Record Date", which Record Date shall not precede the date upon which the resolution fixing the Record Date is adopted by the Board of Directors, and which Record Date shall not be more than sixty (60) nor less than twenty (20) days before the date of such meeting. If no Record Date is fixed by the Board of Directors, the Record Date for determining Members entitled to notice of or to vote at a meeting of Members shall be at the close of business on the day after the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. 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.

(b) For purposes of determining the Members entitled to consent to corporate action in writing without a meeting, the Board of Directors may fix a "Record Date", which Record Date shall not precede the date upon which the resolution fixing the Record Date is adopted by the Board of Directors, and which date shall not be more than twenty (20) days after the date upon which the resolution fixing the Record Date is adopted by the Board of Directors. If no Record Date has been fixed by the Board of Directors, the Record Date for determining Members entitled to consent to corporate action in writing without a meeting, when no prior action by the Board of Directors is required by the General Corporation Laws of the State of New Jersey, shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the BSDCG by delivery to its registered office in the State of New Jersey, its principal place of business or an officer or agent of the BSDCG having custody of the books in which proceedings of meetings of Members are recorded. Delivery made to a BSDCG's registered office shall be by hand or by certified or registered mail, return receipt requested. If no Record Date has been fixed by the Board of Directors and prior action by the Board of Directors is required by the General Corporation Law of the State of New Jersey, the Record Date for determining Members entitled to

consent to corporate action in writing without a meeting shall be at the close of business on the day on which the Board of Directors adopts the resolution taking such prior action.

(c) For purposes of determining the Members entitled to exercise any rights, or for the purpose of any other lawful action, the Board of Directors may fix a "Record Date", which Record Date shall not precede the date upon which the resolution fixing the Record Date is adopted, and which Record Date shall be not more than 60 days prior to such action. If no Record Date is fixed, the Record Date for determining Members for any such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

### ***Section 8: Member List***

The officer or agent having charge of the membership records of the BSDCG shall maintain a complete list of the ACTIVE Members arranged in alphabetical order, and showing the Member's name, electronic mail address, and, if the Member desires, address and telephone number. The list of ACTIVE Members is to be archived on the private BSDCG mailing list and updated as new ACTIVE Members are elected or as ACTIVE Members withdraw their membership.

### ***Section 9: Quorum***

Except as otherwise required by law, by the Certificate of Incorporation or by these Bylaws, one-quarter (1/4) of the ACTIVE Members entitled to vote, represented in person, electronically, or represented by proxy, shall constitute a "Quorum" at a meeting of Members. If a Quorum is present, the affirmative vote of a majority of the ACTIVE Members represented at the meeting and entitled to vote on the subject matter shall be the act of the Members, unless the vote of a greater number or voting by class is required by the General Corporation Law of the State of New Jersey or by the Certificate of Incorporation or by these Bylaws.

After a Quorum has been established at a Members' meeting, the subsequent withdrawal of Members, so as to reduce the number of Members in person or represented by proxy entitled to vote at the meeting below the number required for a Quorum, shall not affect the validity of any action taken at the meeting or any adjournment thereof.

After a Quorum has been established at a Members' meeting, the subsequent admission of new Members, so as to increase the number of Members required for a Quorum above the number of Members present in person or represented by proxy entitled to vote at the meeting, shall not affect the validity of any action taken at the meeting or any adjournment thereof.

If a Quorum is not established, the meeting will be adjourned for three (3) weeks and the new date and time will be announced electronically to all Members. The second meeting does not need one-quarter (1/4) of the ACTIVE Members to establish a Quorum.

### ***Section 10: Voting***

Each ACTIVE Member shall be entitled to one vote on each matter submitted to a vote, except as may otherwise be provided in the General Corporation Law of the

State of New Jersey. A Voting Member may vote either in person, electronically, or by proxy executed in writing by the Member or his or her duly authorized attorney-in-fact. Appropriate procedures for electronic voting shall be approved by the Board of Directors.

### ***Section 11: Proxies***

Every Voting Member entitled to vote at a meeting of Members or to express consent or dissent to corporate action in writing without a meeting, or a Member's duly authorized attorney-in-fact, may authorize another person or persons to act for him or her by proxy. Digitally signed documents may also be accepted.

Every proxy must be signed by the Member or his or her attorney-in-fact. No proxy shall be valid after three (3) years from its date, unless otherwise provided in the proxy. All proxies shall be revocable.

### ***Section 12: Action by Members Without a Meeting***

Any action required to be taken or which may be taken at any Annual or Special Meeting of Members of the BSDCG, may be taken without a meeting, without prior notice and without a vote, if a written consent setting forth the action so taken shall be signed by 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; provided, however, that no written consent shall be effective unless such consent (i) bears the date of signature by each Member signing such consent and (ii) is delivered to the BSDCG within sixty (60) days of the date on which the earliest consent was delivered to the BSDCG. 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, and such notice shall be in accordance with the general procedures for giving notice contained in this Article.

## **Article V: Directors**

### ***Section 1: Board of Directors***

The business and affairs of the BSDCG shall be managed by or be under the direction of the set of Directors known as the "Board of Directors", which may exercise all such powers of the BSDCG and do all such lawful acts and things as are not specifically reserved to the Members by statute or by the Certificate of Incorporation or by these Bylaws.

The Board shall designate, at its option, a Chairman of the Board and a Vice Chairman.

#### **A. Chairman of the Board**

The Chairman of the Board, if one is elected, shall preside at all meetings of the Board of Directors and Members and shall have such other duties and authority as may be conferred by the Board of Directors.

## **B. Vice Chairman**

The Vice Chairman, if one is elected, shall, in the absence or disability of the Chairman of the Board, perform the duties and exercise the powers of the Chairman of the Board. The Vice Chairman shall also perform whatever duties and have whatever powers the Board of Directors may from time to time assign him/her. If more than one Vice Chairman is elected and the Chairman is absent or becomes disabled, the Board of Directors shall choose one Vice Chairman to perform the duties and exercise the powers of the Chairman.

## **Section 2: Qualification**

Directors need not be residents of New Jersey or of the United States. Directors must be ACTIVE Members at the time of their election. Members must be ACTIVE for not less than one year before they are eligible to be nominated as a Director.

## **Section 3: Number**

The BSDCG shall initially have three Directors. Thereafter, the number of Directors shall be fixed by the Members at each annual meeting of Members, which number shall be odd, shall not be less than three (3), and shall not exceed seven (7).

## **Section 4: Terms**

Each Director shall serve for two (2) years. The terms shall be staggered so that no fewer than two new Directors shall be chosen each year, unless the number of Directors is three (3) in which case two (2) Directors will be chosen one year and one (1) Director will be chosen the next year. Terms will end and commence on the day after the Annual Meeting.

## **Section 5: Election**

Directors shall be chosen by a Nominating Committee according to the procedures described in Article VII of these Bylaws.

## **Section 6: Resignation and Removal**

A Director may resign at any time upon written request to the BSDCG. Furthermore, any Director or the entire Board of Directors may be removed, with an explanation provided for their removal, by a vote of seventy five per cent (75%) of the ACTIVE Members entitled to vote or as otherwise provided in the General Corporation Law of the State of New Jersey.

## ***Section 7: Midterm Vacancies***

Should a vacancy on the Board of Directors appear in the middle of a term, including any vacancy created by reason of an increase in the authorized number of Directors, the most recent Nominating Committee to have met shall reconvene, solicit nominations for the Director, select a candidate, and present the candidate for confirmation by the ACTIVE Members. Such confirmed Director shall serve the remainder of the term allotted to the vacated seat.

Should a vacancy occur three months or fewer prior to the end of the term, the Nominating Committee may fill the vacancy at the same time as its ordinary procedures. Positions filled in that way will be valid until the end of the term.

## ***Section 8. Quorum and Voting***

A majority of the number of Directors fixed in accordance with these Bylaws shall constitute a Quorum for the transaction of business. The vote of a majority of the Directors present at a meeting at which a Quorum is present shall be the act of the Board of Directors.

## ***Section 9. Executive and Committees***

The Board of Directors, by resolution adopted by a majority of the full Board of Directors, may designate an "Executive Committee" from among the members of the BSDCG consisting of at least one Director as determined by the Board of Directors from time to time. Each committee, to the extent provided in such authorizing resolution, shall have and may exercise all the power and authority of the Board of Directors in the management of the business and affairs of the BSDCG, as limited by the laws of the State of New Jersey.

Such Executive Committees may include a committee to oversee membership, as contemplated in Article III, Section 1, and a committee to manage operations of the BSDCG. The BSDCG will serve both of these functions until such time as the Board of Directors appoints a new committee.

The Board of Directors, by resolution adopted in accordance with this Article, may designate one or more Directors as alternate members of any such committee, who may act in the place and stead of any absent or disqualified member or members at any meeting of such committee. In the absence or disqualification of any member of any such committee or committees, the member or members thereof present at any meeting and not disqualified from voting, whether or not 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.

A complete list of Executive Committees, along with their authorizing resolutions, shall be made available to the Members online at a known web address within ten (10) business days of any addition, deletion or change to any such committee.

## ***Section 10: Place of Meetings***

Regular and special meetings of the Board of Directors may be held within or outside the State of New Jersey and within or outside the United States. By agreement of all the Directors, meetings may be held online according to an appropriate means for attendance and electronic voting to be decided by the Directors.

### ***Section 11: Time, Notice and Call of Meetings***

Regular meetings of the Board of Directors shall be held immediately following the Annual Meeting of Members each year and at such times thereafter as the Board of Directors may fix. No notice of regular Directors' meetings shall be required.

Special meetings of the Board of Directors shall be held at such times as called by the Chairman of the Board, the President, or any two (2) Directors. Electronic notice of the time and place of special meetings of the Board of Directors shall be given to each Director at least five (5) business days before the meeting.

Notice of a meeting of the Board of Directors need not be given to any Director who signs a waiver of notice, either before or after the meeting. Attendance of a Director at a meeting shall constitute a waiver of notice of such meeting and waiver of any and all objections to the place of the meeting, the time of the meeting, or the manner in which it has been called or conveyed, except when a Director states, at the beginning of the meeting, any objection to the transaction of business because the meeting is not lawfully called or convened.

Members of the Board of Directors may participate in a meeting of such Board or of any committee designated by such Board by conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time. Participating by such means shall constitute presence in person at a meeting.

### ***Section 12: Action Without a Meeting***

Any action required or permitted to be taken at a meeting of the Board of Directors or of any committee thereof may be taken without a meeting if all the members of the Board or committee, as the case may be, consent thereto in writing, and such writing is filed with the minutes of the proceedings of the Board or committee. Such consent shall have the same effect as a unanimous vote.

### ***Section 13: Unilateral Actions by a Director***

No individual Director shall act on behalf of the BSDCG, or make strategic decisions for the BSDCG, without the consent of the Board of Directors. No Director shall make representations on behalf of the BSDCG without the consent of the Board of Directors. Such consent need not be in writing, but must be obtained in advance of such actions by an individual Director.

Consent shall be deemed granted by the vote of the majority of a Quorum at a meeting of the Board of Directors, or otherwise by a majority of the Board of Directors. Notice of such consent will be made known to all Directors by the same means as in Article V, Section 11.

## **Section 14: Director Conflicts of Interest**

No contract or other transaction between the BSDCG and one or more of its Directors or between the BSDCG and any other corporation, partnership, association or other organization in which one or more of the Directors of the BSDCG are directors or officers or are personally or financially interested, shall be void or voidable solely because of such relationship or interest or solely because such Director(s) are present at the meeting of the Board of Directors or a committee thereof which authorizes, approves or ratifies such contract or transaction, or solely because his or her or their votes are counted for such purpose, if:

\* A. The material facts as to the Director's relationship or interest as to the contract or transaction are disclosed or are known to the Board of Directors or committee, and the Board of Directors or committee in GOOD FAITH authorizes, approves or ratifies the contract or transaction by the affirmative votes of a majority of the disinterested Directors, even though the disinterested Directors be less than a Quorum; or

\* B. The material facts as to their relationship or interest and as to the contract or transaction are disclosed or known to the Members entitled to vote thereon, and the contract or transaction is specifically approved in GOOD FAITH by vote of such Members; or

\* C. The contract or transaction is FAIR as to the BSDCG at the time it is authorized, approved or ratified by the Board of Directors, a committee of the Board of Directors or the Members of the BSDCG.

Common or interested Directors may be counted in determining the presence of a Quorum at a meeting of the Board of Directors or a committee thereof which authorizes, approves or ratifies such contract or transaction.

Interested Directors should refrain from campaigning for or otherwise leading the effort of any business of the BSDCG in which that Director has a personal or financial interest.

## **Article VI: Officers**

### **Section 1: Officers**

The officers of the BSDCG shall be appointed by the Board of Directors. The officers shall consist of a President, a Secretary and a Treasurer. In addition, a Chairman of the Board, one or more Vice Chairmen, one or more Vice Presidents, and such other officers and assistant officers and agents as may be deemed necessary may be elected or appointed by the Board of Directors from time to time. Any two (2) or more offices may be held by the same person, except the offices of President and Secretary.

### **Section 2: Duties**

All officers of the BSDCG have the duty to deal in GOOD FAITH with the Members and are subject to the direction of the Board of Directors. The officers of the BSDCG shall have the following specific duties:

## **A. President**

The President shall be the chief executive officer of the BSDCG and shall have general and active management of the business and affairs of the BSDCG (other than the management of projects managed by a Project Management Committee), subject to the direction and approval of the Board of Directors. If a Chairman of the Board is not elected, the President shall preside at all meetings of the Board of Directors and Members.

## **B. Vice President**

The Vice President, if one is elected, shall, in the absence or disability of the President, perform the duties and exercise the powers of the President. He or she also shall perform whatever duties and have whatever powers the Board of Directors may from time to time assign him or her. If more than one Vice President is elected, one thereof shall be designated as Executive Vice President and shall, in the absence or disability of the President, perform the duties and exercise the powers of the President and each other Vice President shall only perform whatever duties and have whatever powers the Board of Directors may from time to time assign him or her.

## **C. Secretary and Assistant Secretary**

The Secretary shall keep accurate records of the acts and proceedings of all meetings of the Members and Directors. The Secretary shall give all notices required by law and by these Bylaws. In addition, the Secretary shall have general charge of the corporate books and records and of the corporate seal, and he or she shall affix, or attest the affixing of, the corporate seal to any lawfully executed instrument requiring it. The Secretary shall have general charge of the membership records of the BSDCG and shall keep, at the registered or principal office of the BSDCG, a record of the Members of the BSDCG showing the name, address, telephone number, and electronic mail address of each Member. The Secretary shall sign such instruments as may require his or her signature and, in general, shall perform all duties as may be assigned to him or her from time to time by the Chairman, the President or the Board of Directors. The Assistant Secretary, if one is appointed, shall render assistance to the Secretary in all the responsibilities described above. Until the first Board of Directors of the BSDCG is elected, Jonathan Drews will be acting Secretary of the BSDCG.

## **D. Treasurer and Assistant Treasurer**

The Treasurer shall have custody of all corporate funds and financial records, shall keep full and accurate accounts of receipts and disbursements and render accounts thereof at the Annual Meetings of Members, and shall perform such other duties as may be prescribed by the Chairman, the President or the Board of Directors. The Assistant Treasurer, if one is appointed, shall render assistance to the Treasurer in all of the responsibilities described above.

## **Section 3: Project Management Committees**

In addition to the Officers of the BSDCG, the Board of Directors may, by resolution, establish one or more Project Management Committees consisting of at least one Officer of the BSDCG, who shall be designated chairman of such committee, and may include one or more other Members of the BSDCG. Unless elected or appointed as an Officer in accordance with Article VI of these Bylaws, a member of a Project Management Committee shall not be deemed an Officer of the BSDCG.

Each Project Management Committee shall be responsible for the active management of one or more projects identified by resolution of the Board of Directors. 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 BSDCG may, by resolution, terminate a Project Management Committee at any time.

A complete list of all Project Management Committees, along with their authorizing resolutions and Project Descriptions, shall be made available to the Members at a known web address within ten (10) business days of any addition, deletion or change to such committee.

#### ***Section 4: Election and Term***

The Officers of the BSDCG and the members of each existing Project Management Committee shall be appointed by the Board of Directors or appointed by an Officer empowered by the Board to make such appointment. Such appointment by the Board of Directors may be made at any regular or special meeting of the Board. Each Officer shall hold office and each member of a Project Management Committee shall serve on such committee until the Project has reached completion, or until his or her successor is elected and qualified, or until his or her earlier resignation or removal.

#### ***Section 5: Removal of Officers***

Any Officer or agent and any member of a Project Management Committee elected or appointed by the Board of Directors may be removed by the Board whenever, in its judgment, the best interests of the BSDCG will be served thereby.

#### ***Section 6: Vacancies***

Any vacancy, however occurring, in any office or any Project Management Committee may be filled by the Board of Directors.

#### ***Section 7: Compensation***

The compensation, if any, of all officers of the BSDCG and of all members of each existing Project Management Committee shall be fixed by the Board of Directors and may be changed from time to time by a majority vote of the Board of Directors. The fact that an Officer is also a Director shall not preclude such person from receiving compensation as either a Director or Officer, nor shall it affect the validity of any resolution by the Board of Directors fixing such compensation. The President shall have authority to fix the salaries, if any, of all employees of the BSDCG, other than Officers elected or appointed by the Board of Directors and members of Project Management Committees.

## **Article VII: Elections and Nominating Committee**

### **Section 1: Nominating Committee**

Directors shall be chosen by a "Nominating Committee". The principal functions of the "Nominating Committee" are to review the open Director positions and to either nominate its incumbent or recruit a superior candidate. The "Nominating Committee" shall consist of three (3) voting volunteers and one non-voting chair. The non-voting chair will be appointed by the Board of Directors.

### **Section 2: "Nominating Committee" Member Selection**

All ACTIVE Members of the BSDCG, as defined in Article 3 of these Bylaws, except Directors, may submit their names for membership in the "Nominating Committee". The non-voting chair randomly selects the 3 voting volunteers from the pool of names of volunteers using a method that can be independently verified to be unbiased and FAIR. A method is FAIR in this case if each eligible volunteer is equally likely to be selected. A method is unbiased if no one can influence its outcome. The method must include an announcement of an enumerated list of the pool of names together with the specific algorithm for how names will be chosen from the list. The output of the selection algorithm must depend on random data whose value is not known at the time the list and algorithm are announced.

All announcements, including that of the 3 voting volunteers selected, must be made public via electronic mail or other appropriate method as supervised by the Board of Directors. The list of members of the "Nominating Committee" must be made available to the Members online at a known address within ten (10) business days of the selection.

### **Section 3: Nomination of Directors**

Once the "Nominating Committee" is selected, it shall publish to the Members of the BSDCG via e-mail (1) the number of Board of Directors seats to be filled, and (2) an e-mail address to which nominations may be sent. The number of the Board of Director seats to be filled is specified by the sitting Board in accordance with the Bylaws. Nominations shall be accepted for thirty days. Incumbents must notify the nominating committee if they do not wish to be nominated, and any other nominees may freely decline the nomination. No member of "Nominating Committee" is eligible for election to the Board of Directors; this includes members who resign from "Nominating Committee" within three months of the selection of candidates.

The Board of Directors may designate a minimum number of nominations needed for each candidate for Director. In lieu of such a designation, only one Nomination shall be needed.

### **Section 4: Selection of Candidates**

At the close of the nomination period, the "Nominating Committee" shall publish the list of nominees along with the number of nominations received by each. The "Nominating Committee" will then conduct appropriate deliberations and vote internally to select their candidates to be Directors, by simple majority. In case of a tie, the non-voting chair shall break the tie.

## ***Section 5: Confirmation of Candidates***

The "Nominating Committee" shall present its slate of Directors to the ACTIVE Members of the BSDCG, who shall approve or disapprove the slate in its entirety. Voting may take place electronically, according to procedures established by the Board of Directors. A majority of fifty per cent (50%) plus one (+1) of those voting is needed to confirm a slate. If the slate is voted down, the "Nominating Committee" shall meet again and nominate a new slate and present it to the Members of the BSDCG. If the second slate is voted down, a new "Nominating Committee" will be selected according to the provisions of this Article.

If the first slate of the second "Nominating Committee" is voted down, then the second slate of the second "Nominating Committee" will be confirmed without requiring the vote of the Members. Members should bear this in mind when casting their votes.

## ***Section 6: Length of Process***

The entirety of this process, from solicitation of volunteers for the "Nominating Committee" to the submission of candidates to the membership, is expected to take less than three months.

## ***Section 7: First Nominating Committee***

The first non-voting chair shall be chosen by Jonathan Drews, acting Secretary of the BSDCG, within fifteen (15) days of the initial ratification of these bylaws. The non-voting chair will immediately commence the solicitation of volunteers for the "Nominating Committee". It is expected that a new slate of Directors, which may include existing Directors, will be presented to the membership within three months of the ratification of these Bylaws. The first "Nominating Committee" shall decide prior to selection which Directors shall expire in one year and which shall serve the full two years, and this selection shall be published along with the selection of the slate.

## **Article VIII: Books and Records**

### ***Section 1: Books and Records***

The BSDCG shall keep correct and complete books and records of accounts and shall keep minutes of the proceedings of its Members, Board of Directors and committees of Directors.

The BSDCG shall keep at its registered office or principal place of business, or at the office of its transfer agent or registrar, a record of the name, address, telephone number, and electronic mail address of each Member, together with the status of that Member and the date of any withdrawal or termination of such Member's membership, or any conversion of such Member's membership to Advisory Board Member status.

Each Member shall be responsible for notifying the BSDCG of changes to such Member's address, telephone number, facsimile number or electronic mail address.

Any books, records and minutes may be in written form or in any other form capable of being converted into clearly legible written form within a reasonable period of time.

## ***Section 2: Members' Inspection Rights***

Any person who is a Member, upon written demand under oath or affirmation stating the purpose thereof, shall have the right to examine, in person or by agent or attorney, at any time during the BSDCG's usual hours for business, for any proper purpose as determined under the General Corporation Law of the State of New Jersey, the BSDCG's membership records and other books and records of the BSDCG, and to make copies or extracts therefrom.

## **Article IX: Non-profit Status**

The BSDCG is organized and shall be operated as a not-for-profit corporation organized under New Jersey law. If the Board of Directors of the BSDCG obtains an exemption for the BSDCG from federal taxation pursuant to Section 501(a) of the Internal Revenue Code, as amended (the "IRC"), and until such time, if ever, that such exemption is denied or lost, the BSDCG shall not be empowered to engage directly or indirectly in any activity which the BSDCG believes would be likely to invalidate its status as an organization exempt from federal taxation under Section 501(a) of the IRC as an organization described in Section 501(c) of the IRC.

## **Article X: Corporate Seal**

The Board of Directors shall provide a corporate seal which shall have the name of the BSDCG inscribed thereon, and may be a facsimile, engraved, printed, or an impression seal.

## **Article XI: Limits on Liability of Directors**

To the fullest extent permitted by the General Corporation Law of the State of New Jersey, as the same exists or may hereafter be amended, a Director of the BSDCG shall not be personally liable to the BSDCG or its Members for monetary damages for breach of fiduciary duty as a Director.

## **Article XII: Indemnification of Officers and Directors**

### ***Section 1: Right to Indemnification***

Each person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the

right of the BSDCG), by reason of the fact that he or she is or was a Director, Officer or Member of the BSDCG, or is or was serving at the request of the BSDCG as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, shall be entitled to indemnification against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement to the fullest extent now or hereafter permitted by applicable law as long as such person acted in GOOD FAITH and in a manner that such person reasonably believed to be in or not be opposed to the best interests of the BSDCG; provided, however, that the BSDCG shall indemnify any such person seeking indemnity in connection with an action, suit or proceeding (or part thereof) initiated by such person only if such action, suit or proceeding (or part thereof) was authorized by the Board of Directors.

## ***Section 2: Advance Payment of Expenses***

Expenses (including reasonable attorneys' fees) incurred by any person who is or was an Officer, Director or Member of the BSDCG, or who is or was serving at the request of the BSDCG as an officer or director of another corporation, partnership, joint venture, trust or other enterprise, in defending any civil, criminal, administrative or investigative action, suit or proceeding, shall be paid by the BSDCG in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such person to repay such amount if it is ultimately determined that he or she is not entitled under applicable law to be indemnified by the BSDCG.

## ***Section 3: Right of Claimant to Bring Suit***

If a claim under this Article is not paid in full by the BSDCG within ninety (90) days after a written claim has been received by the BSDCG, the claimant may at any time thereafter bring suit against the BSDCG 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. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any action or proceeding in advance of its final disposition where the required undertaking has been tendered to the BSDCG unless such action is based on the claimant having committed an act involving moral turpitude) that the claimant has not met the standards of conduct which make indemnification permissible under the General Corporation Law of the State of New Jersey, but the burden of proving such defense shall be on the BSDCG. Neither the failure of the BSDCG (including its Board of Directors, its Members, or independent legal counsel) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the General Corporation Law of the State of New Jersey, nor an actual determination by the BSDCG (including its Board of Directors, independent legal counsel, or its members) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.

## ***Section 4: Contract Rights***

The provisions of this Article shall be a contract between the BSDCG and each Director, Officer or Member to which this Article applies. No repeal or

modification of these Bylaws shall invalidate or detract from any right or obligation with respect to any state of facts existing prior to the time of such repeal or modification.

### ***Section 5: Rights Non-exclusive***

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 bylaw, agreement, vote of Members or disinterested Directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office.

### ***Section 6: Insurance***

The BSDCG may purchase and maintain insurance on behalf of any person who is or was a Director, Officer, Member, employee or agent of the BSDCG, or is or was serving at the request of the BSDCG as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the BSDCG would have the power to indemnify him or her against such liability under the provisions of this Article or of applicable law.

### ***Section 7: Definitions***

For purposes of this Article, references to the "BSDCG" or "the BSDCG" shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, and employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under this Article with respect to the resulting or surviving corporation as he or she would have with respect to such constituent corporation if its separate existence had continued. References to "other enterprises" shall include employee benefit plans. References to "fines" shall include any excise taxes assessed on a person with respect to any employee benefit plan. References to "serving at the request of the corporation" shall include any service as a director, officer, employee or agent of the corporation which imposes duties on, or involves services by, such director, officer, employee, or agent with respect to an employee benefit plan, its participants, or beneficiaries. A person who acted in GOOD FAITH and in a manner he or she reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interests of the corporation" as referred to in this Article.

### ***Section 8: Continued Coverage***

The indemnification and advancement of expenses provided by, or granted pursuant to this Article shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a Director, Officer or Member and shall inure to the benefit of the heirs, executors and administrators of such person.

## **Article XIII: General Provisions**

### ***Section 1: Checks***

All checks or demands for money and notes of the BSDCG shall be signed by such Officer or officers or such other person or persons as the Board of Directors may from time to time designate.

### ***Section 2: Fiscal Year***

The fiscal year of the BSDCG shall be fixed by resolution of the Board of Directors.

### ***Section 3: Loans***

No loans shall be contracted on behalf of the BSDCG and no evidence of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances.

### ***Section 4: Deposits***

All funds of the BSDCG not otherwise employed shall be deposited from time to time to the credit of the BSDCG in such depositories as the Board of Directors, or a suitable designee of that Board such as the Treasurer, shall direct.

### ***Section 5: Contracts***

The Board of Directors may authorize any Officer or Officers, agent or agents, to enter into any contract or execute and deliver any instrument on behalf of the BSDCG, and such authority may be general or confined to specific instances.

### ***Section 6: Counterpart Execution / Facsimile Execution***

Any document requiring the signature of the Directors and/or Members may be executed in any number of counterparts with the same effect as if all of the required signatories had signed the same document. Such executions may be transmitted to the BSDCG and/or the other Directors and/or Members by facsimile and such facsimile execution shall have the full force and effect of an original signature. All fully executed counterparts, whether original executions or facsimile executions or a combination, shall be construed together and shall

constitute one and the same agreement.

## **Article XIV: Intellectual Property**

### ***Section 1: SIRs and Copyrights***

The BSDCG may hold intellectual property in the form of Statutory Invention Registrations (SIRs) and Copyrights. Licenses to these SIRs and Copyrights may be freely assigned in accordance with the Spirit of this Constitution by the Board of Directors. The Board of Directors shall seek to establish a standard license agreement.

### ***Section 2: Perpetual License***

The term "Perpetual License" shall be taken to mean a world-wide, irrevocable, non-exclusive, paid-up and royalty free license to freely copy and use in any manner whatsoever the property covered by any and all of the SIRs and copyrights assigned to the BSDCG prior to and during the period of enforcement of these Bylaws. This license shall contain any and all of the rights of any standard license that the Board of Directors may designate.

A Perpetual License shall be assigned to each of the Members of the initial Board of Directors and to any Member that achieves the status of Advisory Board Member. Such Perpetual Licenses will become valid only if the BSDCG dissolves.

### ***Section 3: Trademark***

The BSDCG shall initiate trademark applications, as required, and maintain any granted trademark(s) that are as strong as possible and which shall be licensable by the Board of Directors to other parties.