

## Eclipse Foundation AISBL

International not-for-profit association  
Rond Point Schuman 11 Brussels 1040 Belgium  
VAT BE 0760.624.114  
RLE Brussels (French-speaking Enterprise Court)  
(THE "ASSOCIATION")

### Minutes of the Meeting of Board of Directors

25 May 2022

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A Meeting of the Board of Directors (the "**Board**") of Eclipse Foundation AISBL was held as a regularly scheduled conference call scheduled to begin at 15:00 CEST.

Present or validly represented at the meeting were the following Directors:

Present	Director	Organization
Y	Bryan Che	Huawei
Y	Ed Merks	Elected Committer Representative
Y	Etienne Juliot	OBEO
Y	Farah Papaioannou	Elected Contributing Representative
Y	Gorkem Erkan	Red Hat
Y	Gunnar Wagenknecht	Elected Contributing Representative
Y	James Eggleston	European Space Agency
Y	Jim Wright	Oracle
Y	Kenji Kazumura	Fujitsu
Y	Matthew KhouSam	Elected Committer Representative
Y	Matthias Sohn	SAP SE
Y	Pradeep Balachandran	IBM
N	Robert Hilbrich	DLR
N	Sebastien Gerard	CEA List
Y	Shelley Lambert	Elected Committer Representative
N	Steffen Evers	Bosch
Y	Stephen Walli	Microsoft
Y	Tom Ritter	Fraunhofer FOKUS
Y	Torkild Ulvøy Resheim	Elected Contributing Representative
Y	Wolfgang Gehring	Mercedes-Benz Tech Innovation GmbH

Present at the invitation of the Board were Mike Milinkovich, Executive Director, Paul White,

Secretary/Treasurer, and Gesine Freund, Corporate Executive Assistant of Eclipse Foundation AISBL. Also present was Konstantin Stumvoll on behalf of DLR.

The following proxies were submitted to the Secretary by the following Board members: None.

## **AGENDA**

The following agenda was proposed for the meeting, the materials for which were posted on the EF Board portal.

1. Roll Call and Approval of Agenda
2. General Business
  - Approval of April 20, 2022 Board meeting minutes
3. Approval of appointment of Gorkem Ercan as Red Hat representative
4. Governance updates
  - a. Approval of creation of office of Chief Membership Officer
  - b. Approval of updates to Internal Rules to formalize the process for selecting representation of the Association on Eclipse.org Foundation, Inc. and to formalize the role of Chief Membership Officer
5. Approval of appointment of Gaël Blondelle to the office of Chief Membership Officer
6. Designation of Pradeep Balachandran as representative of the Association on the Eclipse.org Foundation, Inc. board of directors
7. Approval of appointment of Tom Ritter to the Finance Committee
8. Approval of the updated agenda for General Assembly meeting
9. Update on the Community Code of Conduct
10. Approval of Annual Community Report
11. Discussion of Eclipse participation in OpenJDK Vulnerability Group (OJVG)
12. Discussion of Interest Group Process
13. Approval of special proxy enabling legal counsel to publish notices to Belgian Gazette

Adjournment

## **VALIDITY**

The Secretary established from the attendance list that a quorum of members were present or properly represented, that the meeting had been validly convened, and the meeting could validly deliberate and decide on the matters listed on the agenda.

## **GENERAL BUSINESS**

The meeting was called to order at 15:05 CEST by Mike Milinkovich.

The Board agreed that for all decisions to be taken during the meeting, votes would be held by the Executive Director asking members to voice: a) those voting in favor, b) those voting against, and c) those abstaining.

## 1. Approval of Agenda

Mike Milinkovich reviewed the agenda with the Board.

With all Board members present or validly represented at the meeting voting in favor, the agenda was approved unanimously by the Board.

## 2. General Business

### Minutes

Mike Milinkovich introduced a discussion of the full and abridged minutes of the April 20, 2022 Board Meeting, attached as *Appendix 2*. Wolfgang Gehring pointed out that his name was misspelled in the minutes and Daimler TSS should be replaced with Mercedes-Benz Tech Innovation GmbH.

With all Board members present or validly represented at the meeting voting in favor, the Board unanimously passed the following resolution:

RESOLVED, the Board approves the full and abridged minutes of the April 20, 2022 Board Meeting with the amendments as listed above.

## 3. Approval of appointment of Gorkem Ercan as Red Hat representative

Mike Milinkovich informed the Board that following the resignation of Deborah Bryant from the Board as Red Hat's Strategic Member Director effective April 28, 2022, and in accordance with Article 23.7 of the Bylaws, the Board must formally co-opt a replacement Strategic Member Director; Red Hat has proposed that Gorkem Ercan be such replacement.

The Board unanimously passed the following resolution:

WHEREAS, Deborah Bryant has resigned as Director from the Board; therefore

RESOLVED, the Board approves, in accordance with Article 24.7 of the Bylaws, that Gorkem Ercan is co-opted on behalf of Red Hat as Strategic Member Director, as that term is defined in the Bylaws, as from as the date of this meeting until the next general assembly that will decide on the new Board to be subsequently appointed. In accordance with article 27.1 of the Bylaws, his mandate will not be remunerated.

## 4.a Approval of creation of office of Chief Membership Officer and 4.b Approval of updates to Internal Rules to formalize the process for selecting representation of the Association on Eclipse.org Foundation, Inc's board of directors and to formalize the role of Chief Membership Officer

Paul White introduced a discussion on management's proposal to create the office of Chief Membership Officer, and to update the Association's Internal Rules to capture the roles and responsibilities of this new

office. Also, Paul explained that management was further proposing to update the Internal Rules to explicitly establish the process for selecting representatives of the Association to the Eclipse.org Foundation, Inc. board of directors. The related materials are attached as *Appendix 4a. and 4.b.*

The Board unanimously passed the following resolutions:

RESOLVED, as permitted in Article 22.2 and Article 34.1 of the Bylaws, the Board creates the office of Chief Membership Officer; the Chief Membership Officer shall be assigned the following specific duties and responsibilities:

- to execute Membership Agreements and Working Group Participation Agreements on behalf of the Association;
- to execute documents on behalf of the Association relating to operational-level agreements such as 3<sup>rd</sup> party services agreements, employment agreements, etc.;
- to act as a second signatory for larger banking transactions requiring a second signature; and
- to carry out any additional duties assigned to him or her by the Executive Director in accordance with 36.3 of the Bylaws.

RESOLVED, the Board approves the Internal Rules as presented.

#### 5. Approval of appointment of Gaël Blondelle to the office of Chief Membership Officer

Further to the background details provided on the creation of office of Chief Membership Officer in item 4.a of the agenda, Mike Milinkovich proposed the appointment of Gaël Blondelle to the office of Chief Membership Officer. Mike reminded the Board that Gael is already the Managing Director of Eclipse Foundation Europe GmbH as well as serving on Eclipse Foundation Canada's board of directors, and so having Gael be an officer of the Association would be an excellent choice.

The Board unanimously passed the following resolution:

RESOLVED, the Board appoints Gaël Blondelle as Chief Membership Officer of the Association.

#### 6. Designation of Pradeep Balachandran to represent the Association on the Eclipse.org Foundation, Inc. board of directors

Mike Milinkovich explained that, in conjunction with the resignation of Deborah Bryant from the Association's Board, she is also no longer eligible to represent the Association on the board of directors of Eclipse.org Foundation, Inc., and indeed has resigned from that position. The Mike proposed the Board designate Pradeep Balachandran as a replacement to the Eclipse.org Foundation, Inc. board of directors.

For the information of the Board, this will result in the Eclipse.org Foundation, Inc. board of directors comprising of Pradeep Balachandran (IBM), Jim Wright (Oracle), Matthias Sohn (SAP), Kenji Kazumura (Fujitsu Limited), and Steffen Evers (Bosch).

The Board unanimously passed the following resolution:

RESOLVED, Pradeep Balachandran is designated to represent the Association on the

Eclipse.org Foundation, Inc. board of directors.

#### 7. Approval of the appointment of Tom Ritter to the Finance Committee

The Executive Director proposed that Tom Ritter be appointed to the Finance Committee. For the information of Board members, this will result in the Finance Committee comprising of Tom Ritter (Fraunhofer-Gesellschaft), Bryan Che (Huawei Technologies Co., LTD.), and Donald Smith (representing Jim Wright of Oracle).

The Board unanimously passed the following resolution:

RESOLVED, Tom Ritter is appointed to the Board's Finance Committee.

#### 8. Approval the updated agenda for General Assembly meeting

Paul White reminded the Board they had approved the date, time and agenda for the Annual General Assembly meeting at the April meeting. Paul explained that management is recommending, based on counsel's advice, the Board add to the agenda the topic of: *Approval of waiver for Board and auditor*. As background, Paul explained that, in accordance with Article 17.1, g) of the Bylaws, the General Assembly has the exclusive power to vote on the discharge of the directors and of the auditor. Therefore, at the GA, members will be asked to vote "to grant discharge to the directors of the Board and to the auditor for the exercise of their mandate during the financial year ending on 31 December 2021".

Paul further explained that management just learned that key staff of EY, the Association's auditor, have been unavailable to complete the audit on the agreed-to schedule, and EY will be delayed by two-to-three weeks as a result. The auditor has assured management the delay is due to staffing problems and not related to any issue with the audit itself. As a result, the audited financial statements for the 2021 FY will not be ready in time to enable the general assembly to have sufficient time to review the auditor's report prior to the originally scheduled meeting date of 29 June 2022. Paul therefore proposed to change the meeting date of the 2022 Annual General Assembly from Wednesday, 29 June 2022 to Wednesday, 20 July 2022, and the second meeting date, in case quorum is not met at the first meeting, will be Wednesday, 17 August 2022.

The Board unanimously passed the following resolution:

RESOLVED, the Board convenes an Annual Meeting of Members of the Association to be held on July 20, 2022 beginning at 15:00 CEST, with the following preliminary agenda (subject to further modifications thereto that can be made in accordance with the Bylaws):

1. Executive Director's Welcome
2. Appointment of the directors of the Board
3. Appointment of the observer to the Board
4. Approval of the Association's 2022 budget as submitted by the Board
5. Acknowledgment of the auditor's report for the financial year ending on 31 December 2021 as submitted to the Board
6. Approval of waiver for Board and auditor
7. Approval of special proxy enabling legal counsel to publish notices to the Belgian Gazette

RESOLVED FURTHER, the Board approves the Annual Meeting to be held at the Association's Operating Office located at: 2934 Baseline Road, Suite 202, Ottawa, ON, Canada, and further approves the possibility for the Members and any other participants or guests to participate, and as far as the Voting Members are concerned to vote, remotely through the use of the electronic communication system Zoom made available by the Association, the practicalities of which will be specified in the convening notice. The Secretary and/or the Executive Director composing the bureau of the Annual Meeting will, however, attend the Annual Meeting physically at the Association's Operating Office located at: 2934 Baseline Road, Suite 202, Ottawa, ON, Canada to ensure a smooth organization and running of the meeting as required by law.

RESOLVED FURTHER, to approve, in accordance with the Bylaws, that voting can be validly done (i) by electronic voting in real time or (ii) by electronic voting or voting by correspondence prior to the general assembly meeting.

RESOLVED FURTHER, to approved, that, in the event that at the Annual Meeting of 20 July 2022 at 16:00 CEST the legally required quorum to validly discuss and resolve on the final agenda items is not reached, a second meeting with the same agenda as the first meeting will be convened and held on August 17, 2022 at 15:00 CEST to decide definitively and validly on said agenda, irrespective of the number of Voting Members present, represented or participating remotely in the meeting.

#### 9. Update on the Community Code of Conduct

Mike Milikovich mentioned that there are no further updates regarding the Community Code of Conduct as management has been awaiting further feedback from counsel. Mike stated he expected to have further updates for the Board to consider at its next meeting in June.

#### 10. Approval of Annual Community Report

Paul White introduced a discussion regarding the content of the 2022 annual community report; both a text version and a mock-up of the graphical version are attached as *Appendix 10*. The final report will be made available on the Eclipse website. As a reminder, the Foundation produces on an annual basis a report for the community that describes our key activities and major accomplishments from the previous 12 months.

He also reminded the Board that this is separate from the Annual Community Report that is contemplated in Article 46.3 of the Bylaws. That specific requirement relates to an additional fiduciary obligation of

management and the Board of Eclipse Foundation AISBL to report to the General Assembly that takes effect once the Association reaches certain financial thresholds based on revenues, assets, etc. Currently, the Association does not meet those thresholds, and the advice that has been received by management is that we should not generate that particular report until such time as we do meet those thresholds.

The Board unanimously passed the following resolution:

RESOLVED, the Board approves the content for the 2022 Annual Eclipse Foundation Community Report as presented.

#### 11. Discussion of Eclipse participation in the OpenJDK Vulnerability Group (OJVG)

Mike Milinkovich introduced a discussion regarding Eclipse's participation in the OpenJDK Vulnerability Group (OJVG), materials are attached as *Appendix 11*.

With Jim Wright recusing himself, the Board passed the following resolution:

RESOLVED, that the Executive Director of the Corporation is hereby authorized and empowered, for and on behalf of the Corporation, to retain such advisors, to execute and deliver such documents, papers or instruments and to do or cause to be done any and all such other acts and things as he may deem necessary, appropriate or desirable in connection with entering into both an Oracle Contributor Agreement and an OpenJDK Vulnerability Group Non-Disclosure and License Agreement with Oracle, and the taking of any such action shall be conclusive evidence of the approval thereof by this Board of Directors.

#### 12. Discussion of Interest Group Process

Mike Milinkovich led a discussion of the current draft of the proposed Interest Group Process. Mike stated that an updated version of the draft process would be distributed to the Board, and that the Board would be asked to consider approval of the process at the June 2022 meeting.

#### 13. Approval of special proxy enabling legal counsel to publish notices to Belgian Gazette

The Board unanimously passed the following resolution:

RESOLVED, the Board grants power to Ruth Wirtz, Laurent De Pauw, and Nora Myriam Lazar, attorneys-at-law with office at Bastion Tower, Marsveldplein 5, 1050 Brussels, or any other attorney-at-law from the firm Osborne Clarke, with office at the same address, each acting alone and with power to substitute, to act on behalf of the Eclipse Foundation AISBL in order to comply with the legal requirements resulting from these minutes, and in particular the publication of an extract of these minutes in the Annexes to the Belgian State Gazette and the updating of the Eclipse Foundation AISBL registration information at the register of legal persons of the Belgian Crossroads Bank of Enterprises. The proxies are authorized to sign every document, form, register, notification or letter and to take every necessary step towards the Enterprise Court, the

one-stop business shops and the Belgian Crossroads Bank of Enterprises and more generally, to undertake any action necessary following these minutes.

**Action Item:**

- None

The meeting was adjourned at 15:59 CEST.

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This being a true and accurate record of the proceedings of this Meeting of the Board of Directors held on 25 May 2022, is attested to and signed by me below.

/s/ Paul White  
Secretary of Meeting