

**jQUERY FOUNDATION, INC.**  
**EXECUTIVE DIRECTOR CONTRACT**

This Executive Director Contract (the “**Agreement**”) is effective this 17th day of December, 2015, by and between jQuery Foundation, Inc., a Delaware not-for-profit corporation with offices at 340 S. Lemon Avenue, #8665, Walnut, CA 91789 (the “**Foundation**”), and Kris Borchers, an individual with a principal residence at:

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(the “**Executive**”).

For mutual consideration, the receipt and sufficiency of which is acknowledged, the parties hereto agree as follows:

**Section 1. Appointment and Term.** Executive is engaged by the Board of Directors of the Foundation to serve as Executive Director of the Foundation for an initial term from January 1, 2016 to December 31, 2016 (subject to the terms of section 6 below) which term shall become effective only after an executed Agreement is submitted to and approved by the Board under proper Foundation voting procedures. Any extension to this Agreement will only be by approval of the Board of the Foundation.

**Section 2. Duties.**

- A. Executive shall devote his full time, energy and skill to the faithful performance of his duties herein, and shall perform the duties and carry out the responsibilities assigned to him to the best of his ability and in a diligent, businesslike and efficient manner. His duties and responsibilities as Executive Director are as customarily performed by a person in such position and as specified in bylaws of the Foundation, any position description for Executive Director, the rules, policies and other governing documents of the Foundation, by the Foundation’s Board of Directors, and by this Agreement. Executive is the chief employed officer who shall act at all times with a fiduciary duty to the Foundation. Executive reports to the Board of Directors and on a day-to-day basis he reports to the President of the Foundation.
- B. Executive shall be responsible for developing and recommending to the Board of Directors the annual budget and staffing plans. Executive shall have the authority to hire, supervise, evaluate and terminate all Foundation employees based on the approved staffing plan.

**Section 3. Performance Evaluation.** Evaluation and assessment of the performance of Executive shall be conducted on an ongoing basis by the Foundation President and officers, resulting in a formal written evaluation at least annually, prior to the anniversary date of this Agreement. The evaluation shall be based on an annual performance plan to be mutually developed by the Foundation’s President and officers. The annual performance plan shall provide for and assess performance of the general management of the Foundation and measurable goals and

objectives for the Foundation and the Executive Director, taking into account the financial and staff resources made available. The annual performance plan shall be completed no later than the quarterly Board Meeting prior to expiration of the contract. In the event that Executive's performance is found to be unsatisfactory, the Foundation President shall describe in writing, in reasonable detail, specific examples of unsatisfactory performance. Upon the conclusion of the annual evaluation, the Board of Directors, in its sole discretion, shall determine the change in salary and/or benefits of Executive to be made for the upcoming contract year.

**Section 4. Salary and Benefits.** The base salary of Executive is payable at the annual rate of One Hundred Forty-Five Thousand (\$145,000) Dollars, paid in accordance with the Foundation's regular payroll schedule and shall include all customary deductions as may be required by State and Federal law.

In addition to the base salary, the Executive shall be entitled to Paid Time Off (PTO) as follows: ten (10) sick days, fifteen (15) vacation days, and the following legal holidays:

- New Year's Day
- Memorial Day
- Independence Day (4th of July)
- Labor Day
- Thanksgiving Day
- Friday after Thanksgiving
- Christmas Day

As an inducement to employment under this Agreement, the Foundation shall further pay on behalf of the Executive the premiums for life, long/short term disability, and health insurances in accordance with the Foundation's then existing benefits plan.

**Section 5. Business Expenses.** The Foundation will pay or reimburse Executive for reasonable and necessary business expenses as specified in the approved Annual Budget which are directly related to the performance of his duties of employment, including without limitation, internet, phone, postage, office supplies, travel, professional memberships and professional development, subject to documentation by Executive and approval by the Foundation.

**Section 6. Cancellation.**

- A. The Foundation may cancel this Agreement immediately in the event of the death of Executive or the dissolution of the Foundation.
- B. The Foundation may cancel this Agreement twelve (12) work weeks plus one day after the onset of physical or mental disability that prevents the effective performance of his duties for twelve (12) work weeks plus one day or more.
- C. The Foundation may cancel this Agreement immediately if Executive engages in an act or omission of dishonesty, fraud, misrepresentation, conflict of interest, breach of fiduciary duty, or any act of misfeasance, malfeasance or moral turpitude. Upon cancellation, the Foundation must disclose to Executive the act or omission upon which the cancellation of this Agreement is based.
- D. The Foundation may cancel this Agreement for other reasons not specified in Sections

6(A)-(C), with or without cause, which need not be disclosed to Executive, by giving Executive thirty (30) days notice in writing, and then paying to Executive severance consisting of one (1) months salary plus one additional month salary for each year of completed service to the Foundation. Payments shall be made in accordance with the Foundation's regular payroll schedule.

- E. Executive may cancel this Agreement by giving the Foundation at least three (3) months advance notice in writing.
- F. The Parties may agree to cancel this Agreement at any time without prior notice.
- G. The content and procedures set forth in this Agreement (and not those set forth in any Foundation handbook or manual relating to employees generally) govern this Agreement in general and its cancellation in particular.

**Section 7. Successors.** This Agreement is non-assignable and binding upon the Foundation and Executive, their heirs, executors, administrators, successors, and assigns. In the event of any merger, consolidation or reorganization involving the Foundation, this Agreement becomes an obligation of any legal successor or successors to the Foundation.

**Section 8. Indemnification.** The Foundation shall indemnify, hold harmless, and defend Executive against all claims arising against Executive, his heirs, administrators and/or executors in connection with his employment by the Foundation and as permitted by law. Executive shall immediately notify the President and legal counsel of the Foundation orally and in writing upon learning of any actual or threatened dispute or legal process and shall cooperate fully in any defense or action.

**Section 9. No disparagement.** Upon the termination or cancellation of this Agreement, each of the parties agrees to refrain from making negative or disparaging comments, directly or indirectly, pertaining to the other in any context reasonably likely to become publicly known. Any severance to be paid to Executive under this Agreement is expressly conditioned upon compliance with the terms of this **Section 9** which shall survive termination of the Agreement.

**Section 10. Confidentiality & Return of Property.** At all times Executive shall maintain the confidentiality of the Foundation confidential information including without limitation the contact information for donors. Upon termination of this Agreement the Executive will return all property owned by the Foundation. Any severance to be paid to Executive under this Agreement is expressly conditioned upon compliance with the terms of this **Section 10** which shall survive termination of the Agreement.

**Section 11. Entire Agreement.** This Agreement contains the entire Agreement between the Foundation and Executive. It may not be changed or renewed orally but only by an Agreement in writing signed by the President upon prior Board of Directors resolution and by Executive. This Agreement supersedes and cancels all previous agreements between the Foundation and Executive.

**Section 12. Headings not controlling.** The headings of sections of this Agreement are not controlling.

**Section 13. Governing Law; Choice of Forum.** The rights, duties and obligations of the parties

shall be construed and governed by the laws of The Commonwealth of Massachusetts, and each party agrees to submit any disputes arising hereunder to adjudication by state or federal courts sitting in Massachusetts.

**Section 14. Severability.** If one or more of the provisions of this Agreement should be declared invalid by a court of competent jurisdiction, the validity of the remaining provisions of this Agreement shall not be affected thereby.

**IN WITNESS WHEREOF**, the parties hereto set their hand and seal as of the date first given above.

jQuery Foundation, Inc.

Executive

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By: Dave Methvin

By: Kris Borchers

Title: President