

**FIRST AMENDED AND RESTATED BYLAWS OF  
INDIAN VALLEY. SWIM CLUB, INCORPORATED  
a California Nonprofit Mutual. Benefit Corporation**

**ARTICLE I**

**NAME**

The name of this corporation shall be INDIAN VALLEY SWIM CLUB, INCORPORATED.

**ARTICLE II**

**PRINCIPAL OFFICE**

The principal office, for the transaction of the business of the Corporation ("principal executive office") is located at 404 Marshall Drive in the City of Walnut Creek, Contra Costa County, California.

**ARTICLE III**

**OBJECTIVES AND PURPOSES**

The corporation is a nonprofit corporation subject to the Nonprofit Mutual Benefit Corporation Law. The objectives and purposes of the Corporation are:

(1) The primary purpose, of the Corporation is to purchase real property in the vicinity of Walnut Creek, California and to construct and maintain thereon recreational facilities for the use and enjoyment of members and guests including a swimming pool or pools, accessory building and structures and such other recreational facilities as the membership may decide and funds allow.

(2) The secondary purposes of the Corporation are:

(a) To obtain funds by means of initiation fees and dues of members to accomplish the purposes enumerated herein;

(b) To perform the normal and usual business functions of a recreational club including accounting, purchasing, selling and holding of personal property in order to accomplish the purposes enumerated herein;

(c) To purchase, acquire, own, hold, lease either as lessor or lessee, sell, exchange, mortgage, deed in trust, improve, develop, construct, maintain, equip and operate any and all property, real, personal and mixed, wheresoever situated incidental to these purposes;

- (d) To exercise any and all rights and powers which a non-profit corporation may now or hereafter exercise;
- (e) To act as principal, agent joint venturer, partner or in any other capacity which may be authorized or approved by the Board of Directors of this corporation to accomplish the purposes herein enumerated and within the provisions of the laws of the State of California applicable to nonprofit corporations;
- (f) To transact business in the State of California and elsewhere to accomplish the purposes herein enumerated.

**ARTICLE IV  
MEMBERSHIP**

**SECTION 1. QUALIFICATIONS**

There shall be three classes of membership in the Corporation:  
(1) active members, meaning those members current in their financial and other obligations to the Corporation who are entitled to full use of all the Corporation's facilities; (2) inactive members, meaning those former active members who are in good standing, are no longer using the Corporation's facilities and have informed the Board that they will be temporarily out of the area (for a period of less than two years) and (3) senior members, meaning those members who have been Active members for at least seven (7) years, do not have any children under the age of 19 living in their home and are current in their financial and other obligations to the Corporation and are entitled to full use of all the Corporation's facilities. Each membership shall be a family membership entitling all persons in a member's family residing together in a single household to the full benefits of the membership. A person shall be eligible for active membership upon acceptance of his or her application by the Board and payment of such fees and dues as the Board may determine from time to time. A person shall be eligible for inactive membership upon approval by the Board of that person's written request for conversion of his or her active membership to inactive membership and payment of such fees and dues as the Board may determine from time to time. A person shall be eligible for Senior Membership upon approval by the Board of that person's written request for conversion of his or her active membership to senior membership and payment of such fees and dues as the Board may determine from time to time.

**SECTION 2. NUMBER OF MEMBERS**

The Corporation shall be composed of a total membership (active, inactive and senior combined) not to exceed one hundred seventy five(175) families. This number may be changed from time to time by a vote of a majority of the active members making up a quorum (see Article V, Section 2) at a duly called membership meeting.

### **SECTION 3. FEES, DUES AND ASSESSMENTS**

(a) Payment. To be considered in good standing, each member must pay within the time and on the conditions set by the Board, the dues, fees and assessments determined by the Board from time to time.

(b) Liability. Each member shall be liable for the member's share of dues, fees and assessments, unless such member is granted a specific exemption therefrom by the Board or by the active members.

(c) Annual Dues. Annual dues for active inactive, and senior members in amounts determined by the Board shall be due and payable at the beginning of the calendar year, but may be paid in installments of such amounts as the Board may determine to be reasonable. Annual dues for inactive members shall be an amount equal to 10% of the annual dues and assessments charged active members in the current year. Annual dues for Senior Members shall be an amount equal to 50% of the annual dues and assessments charged active members in the current year.

(d) Delinquency. Members delinquent in their financial obligations to the Corporation for a period of thirty (30) days shall be notified in writing by the Treasurer of the Corporation of said delinquency, and said delinquent member's privileges and use of the facilities of the Corporation shall thereafter be denied to such delinquent member until such delinquent obligations shall be paid in full. Failure to pay dues and/or assessments or other indebtedness to the Corporation within such thirty (30) day period shall result in a late charge consisting of such percentage of the delinquent sums as shall be predetermined and announced by the Board of Directors at the beginning of each fiscal year. Delinquency in excess of One Hundred Dollars (\$100.00) in dues, or other indebtedness, or delinquency in excess of twelve (12) months shall be grounds for the expulsion of such delinquent member by a vote of 5/7 of the Board of Directors in the manner set forth in Subsection 8(b) of this Article IV of these Bylaws; provided, however, that any sums paid to

such expelled member by the Corporation for his or her membership shall have deducted therefrom all delinquent monies then due the Corporation.

(e) Apportionment of Dues. Annual dues shall consist of and be apportioned between sustaining expenses and operating expenses. Sustaining expenses are defined as those necessary expenses which must be paid to sustain the investment of the Corporation. These shall, include, but not necessarily be limited to, property taxes, payments of principal and interest on corporate debts, preventative maintenance, and capital improvements made to corporate property and facilities. Operating expenses are those expenses over and above the sustaining expenses which are required to operate a successful swim season and shall include, but not necessarily be limited to, expenses for water and chemicals, salaries for lifeguards and assistants, and social events.

(f) Assessments. Assessments not exceeding a total of \$25.00 per active member in any fiscal year, may be assessed and levied for good cause upon the vote of a 5/7 majority of the Board. Assessments in excess of said figure may be assessed and levied on the membership only upon the majority vote of the active members in good standing at a special meeting of the membership duly called and noticed under the provisions of Article V, Section 3 of these Bylaws.

#### **SECTION 4. MEMBERSHIP RESTRICTIONS.**

A membership shall not be subject to attachment, execution or other process of law, and shall not be deemed an asset of a member/debtor in the event of bankruptcy or a general assignment for the benefit of creditor, nor shall it be transferable by will to any party other than to a person in the deceased member's immediate family residing in the deceased member's household at time of death. In the event of a member's bankruptcy, his or her membership shall automatically revert to the Corporation.

#### **SECTION 5. MEMBERSHIP TRANSFERABILITY**

Active memberships may be sold, rented or otherwise transferred at such price and such terms as the Board may determine from time to time, and any person so acquiring or renting a membership shall be subject to approval by a 5/7 majority of the Board in accordance with procedures adopted by the Board. Such approval shall not be arbitrarily withheld, but each member agrees to

abide by the decision of the Board. Inactive memberships are not transferable.

#### **SECTION 6. MEMBERSHIP' VALUE**

Immediately after the installation of each Board, the Board shall meet and establish monetary values for active and inactive memberships in the Corporation for the forthcoming year. Said values shall determine the price for which the Corporation will sell active memberships to new members, and the price to be paid by the Corporation in the event of expulsions, as hereinafter set forth, and each member agrees to and shall abide by such yearly determinations; provided, however, that such determined values shall not be binding on a private sale of an active membership arranged by a member, but all such sales shall be subject to approval by the Board as provided in Section 5 above.

#### **SECTION 7. ADMISSION; WAITING LIST**

An applicant for active membership shall be admitted only upon the approval by the Board of the applicant's application. In the event no memberships are available at the time application is made, an applicant shall be placed on a waiting list in the order of the date application was made. When a membership or memberships become available, applicants shall be considered therefore in the order they appear on the waiting list. If an applicant on the waiting list is offered a membership, the applicant may decline such offer once and retain his or her position on the list. If such an offer is declined a second time, the applicant shall be dropped from the list or, at the applicant's request, have his or her name placed at the bottom of the list.

#### **SECTION 8. TERMINATION OF MEMBERSHIP**

(a) Causes of Termination. The membership of any member shall terminate upon occurrence of any of the following events:

(i) The voluntary termination of membership by a member giving written notice to the Corporation and turning said membership over to the Corporation.

(ii) Expiration of the period of membership, unless the member sooner renews for a subsequent period, on the renewal terms set by the Board.

(iii) The occurrence of any event which renders such member ineligible for membership, provided that termination for such cause shall take effect only upon expiration of the period (not to exceed one year) for which such member's current membership runs.

(iv) The determination by the Board that the member has failed in a material and serious degree to observe the rules of conduct of the Corporation, or has engaged in conduct materially and seriously prejudicial to the interests of the Corporation.

(b) Procedure for Expulsion. Following the determination that a member should be expelled under subparagraph (iv) above, the following procedure shall be implemented:

(i) A notice shall be sent by prepaid, first-class, or registered mail to the most recent address of the member as shown on the corporation's records setting forth the expulsion and the reasons therefore. Such notice shall be sent at least 15 days before the proposed effective date of the expulsion.

(ii) The member being expelled shall be given an opportunity to be heard, either orally or in writing, at a hearing of the Board to be held not fewer than 5 days before the effective date of the proposed expulsion. The notice to the member of his or her proposed expulsion shall state the date, time and place of the hearing on his or her proposed expulsion.

(iii) Following the hearing, the Board shall decide whether or not the member should in fact be expelled, suspended, or sanctioned in some other way, including, but not limited to, the imposition of a fine. Expulsion shall require a vote of a 5/7 majority of the Board. Such decisions shall be final.

(iv) Any person expelled from the Corporation shall receive a refund of dues or assessments already paid. The refund shall be prorated to return only the unaccrued balance remaining for the period of the dues payment.

## **ARTICLE V**

### **MEETINGS OF MEMBERS**

#### **SECTION 1. PLACE OF MEETING**

Meetings of the membership shall be held at any place within or outside the State of California designated by the Board. In the absence of any such designation, members' meetings shall be held at the principal executive office of the Corporation.

#### **SECTION 2. ANNUAL MEETING**

A general meeting of members shall be held in the month of September each year, on a date to be fixed by the Board, at

which meeting the directors and officers for the following year shall be elected. A regular meeting of the members shall also be called during April of each year, pursuant to notice of date and time given by the Board, at which the annual fiscal report and proposed budget for the current fiscal year is to be presented by the Board for approval by the active members.

### **SECTION 3. SPECIAL MEETING**

(a) Authorized Persons Who May Call. Special meetings of the members may be called by the Board of Directors or by the president, and the President shall call such meetings upon the written request to the President of at least five percent (5%) of the members in good standing. A special meeting of the membership must be called by the President within three (3) weeks after he shall have received proper written request, which shall set forth the purpose of said special meeting. Only such matters as referred to in the request shall be considered at the special meeting.

### **SECTION 4. NOTICE OF MEMBERS' MEETINGS**

(a) General Notice Content. Except as provided in Subsection 3(b) above, all notices of meetings of members shall be sent or otherwise given in accordance with Subsection (c) of this Article V not less than 14 nor more than 90 days before the date of the meeting. The notice shall specify the place, date, and hour of the meeting and (i) in the case of a special meeting, the general nature of the business to be transacted, and no other business may in that case be transacted; or (ii) in the case of the annual meeting, those matters which the Board, at the time of giving the notice, intends to present for action by the members.

(b) Notice of Certain Agenda Items. If action is proposed to be taken at any meeting for approval of any of the following proposals, the notice shall also state the general nature of the proposal. Member action on such items is invalid unless the notice or written waiver of notice states the general nature of the proposal(s):

- (i) Removing a director without cause;
- (ii) Filling vacancies on the Board by the members;
- (iii) Amending the Articles of Incorporation;
- (iv) Approving a contract or transaction in which a director has a material financial interest and

(v) Approving a plan of distribution of assets, other than cash, in liquidation when the Corporation has more than one class of memberships outstanding.

(c) Manner of Giving Notice. Notice of any meeting of members shall be given either personally or by first class mail, telegraphic or other written communication, charges prepaid, addressed to each member either at the address of that member appearing on the books of the Corporation or the address given by the member to the Corporation for the purpose of notice. If no address appears on the Corporation's books and no address has been so given, notice shall be deemed to have been given if either (i) notice is sent to that member by first class mail or telegraphic or other written communication to the Corporation's principal executive office; or (ii) notice is published at least once in a newspaper of general circulation in the county where that office is located. Notice shall be deemed to have been given at the time when delivered personally or deposited in the mail or sent by telegram or other means of written communication.

(d) Affidavit of Mailing Notice. An affidavit of the mailing or other means of giving any notice of any members' meeting may be executed by the Secretary, Assistant Secretary, or any transfer agent of the Corporation giving the notice, and if so executed, shall be filed and maintained in the minute book of the Corporation.

## **SECTION 5. QUORUM**

(a) Percentage Required. Ten percent (10%) of the active membership in good standing, represented in person or by proxy, shall constitute a quorum for the transaction of business at a meeting of the members. At any meeting actually attended, in person or by proxy, by less than one-third of the active membership, the only matters which may be voted upon those of which notice of the general nature was given pursuant to Section 4 above.

(b) Loss of Quorum. Subject to Subsection 5(a) above, the members present at a duly called or duly held meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the members required to constitute a quorum.



## **SECTION 6. ADJOURNED MEETING**

Any members' meeting, annual or special, whether or not a quorum is present, may be adjourned from time to time by the vote of the majority of the active members represented at the meeting, either in person or by proxy; but in the absence of a quorum, no other business may be transacted at that meeting, except as provided in this Article.

## **SECTION 7. VOTING**

(a) Eligibility to Vote. Persons entitled to vote at any meeting of members shall be active members in good standing as of the date determined in accordance with Section 10 of this Article V, subject to the provisions of the California Nonprofit Corporation Law.

(b) Manner of Casting Votes. Voting may be by voice or ballot, provided that any election of directors must be by ballot if demanded by any member before the voting begins

(c) Only a Majority of Members Represented at Meeting Required, Unless Otherwise Specified. If a quorum is present, the affirmative vote of the majority of the voting power represented at the meeting entitled to vote and voting on any matter (other than the election of directors) shall be the act of the members, unless the vote of a greater number is required by California Nonprofit Corporation Law.

## **SECTION 8. WAIVER OF NOTICE OR CONSENT BY ABSENT MEMBERS**

(a) Written Waiver or Consent. The transactions of any meeting of members, either annual or special, however called or noticed, and wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice, if a quorum be present either in person or by proxy, and if, either before or after the meeting, each person entitled to vote, who was not present in person or by proxy, signs a written waiver of notice or a consent to a holding of the meeting, or an approval of the minutes. The waiver of notice or consent need not specify either the business to be transacted or the purpose of any annual or special meeting of members, except that if action is taken or proposed to be taken for approval of any of those matters specified in Subsection 4(b) of Article V, the waiver of notice or consent shall state the general nature of the proposal. All such waivers, consents, or approvals shall be filed with the

Corporate records or made a part of the minutes of the meeting.

(b) Waiver by Attendance. Attendance by a person at a meeting- shall also constitute a waiver of notice of that meeting, except when the person objects at the beginning of the meeting to the transaction of any business due to the inadequacy or illegality of the notice. Also, attendance at a meeting is not a waiver of any right to object to the consideration of matters not included in the notice of the meeting, if that objection is expressly made at the meeting.

#### **SECTION 9. ACTION BY WRITTEN CONSENT WITHOUT A MEETING**

(a) General. Any action that may be taken at any annual or special meeting of members may be taken without a meeting and without prior notice upon compliance with the provisions of this Section.

(b) Solicitation of Written Ballots. The Corporation shall distribute one written ballot to each member entitled to vote; such ballots shall be mailed or delivered in the manner required by Section 4 of this Article V for giving notice of special meetings. All solicitations of votes by ballot shall: (1) indicate the number of responses needed to meet the quorum requirement; (2) state the percentage of approvals necessary to pass the measure(s); and (3) specify the time by which the ballot must be received in order to be counted.

(c) Quorum; Majority. Approval by written ballot pursuant to this Section shall be valid only when the number of votes cast by ballot within the time specified equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

(d) Revocation. NO written ballot may be revoked after delivery to the Corporation or deposit in the mails, whichever first occurs.

(e) Filing. All such written ballots shall be filed with the Secretary of the Corporation and maintained in the corporate records.

#### **SECTION 10 RECORD DATE FOR MEMBER NOTICE, VOTING, AND GIVING CONSENTS AND OTHER ACTIONS**

(a) To Be Determined by Board. For the purposes of determining which members are entitled to receive notice of

any meeting, to vote, to give consent to corporate action without a meeting, or to take other action the Board may fix in advance, a "record date," which shall not be more than 60 nor fewer than ten days before the date of any such meeting, nor more than 60 days before any such action without a meeting. Only members of record in good standing on the date so fixed are entitled to notice, to vote, to give consents or take other action as the case may be, notwithstanding any transfer of any membership on the books of the Corporation after the record date except as otherwise provided in the Articles of Incorporation, by agreement, or in the California Nonprofit Corporation Law.

(b) Failure of Board to Determine Date.

(i) Record Date for Notices of Voting. Unless fixed by the Board, the record date for determining those members entitled to receive notice of, or to vote at a meeting of members, shall be the next business day preceding the day on which notice is given, or if notice is waived, the next business day preceding the day on which the meeting is held.

(ii) Record Date. for Written Consent to Action Without Meeting. Unless fixed by the Board, the record date for determining those members entitled to vote by ballot on corporate action without a meeting when no prior action by the Board has been taken, shall be the day on which the first written ballot is mailed or solicited. When prior action of the Board has been taken, it shall be the day on which the Board adopts the resolution relating to that action.

(iii) Record Date for Other Actions. Unless fixed by the Board, the record date for determining those members entitled to take any other action shall be the date the Board adopts the resolution relating thereto, or the 60th day prior to the date of such other action, whichever is later.

(iv) "Record Date" Means as of Close of Business. For purposes of this Subsection (i), a person holding membership as of the close of business on the record date shall be deemed the member of record.

**SECTION 11. PROXIES**

(a) Right of Members, Every person entitled to vote shall have the right to do so either in person or by one or more

agents authorized by a written proxy, signed by the person and filed with the Secretary of the Corporation. A proxy shall be deemed signed if the member's name is placed on the proxy (whether by manual signature, typewriting, telegraphic transmission or otherwise) by the member or the member's attorney in fact.

(b) Revocability. A validly executed proxy that does not state that it is irrevocable shall continue in full force and effect unless

(i) revoked by the member executing it, before the vote cast pursuant to that proxy, by a writing delivered to the Corporation stating that the proxy is revoked by a subsequent proxy executed by such member, or by personal attendance and voting at a meeting by such member; or  
(ii) written notice of the death or incapacity of the maker of the proxy is received by the Corporation before the vote pursuant to that proxy is counted; provided, however, that no proxy shall be valid after the earlier to occur of the expiration of 11 months from the date of the proxy, unless otherwise provided in the proxy, or the final adjournment of the meeting next following the date of the proxy. The revocability of a proxy that states on its face that it is irrevocable shall be governed by the provisions of the California Nonprofit Corporation Law.

(c) Effect of Member's Death. A proxy is not revoked by the death or incapacity of the maker or the termination of a member as a result thereof unless before the vote is counted, written notice of the death or incapacity is received by the Corporation.

## **SECTION 12. VOTING OF MEMBERS**

Each active member shall be entitled to cast one vote on all matters submitted to a vote of the members. Inactive members shall not be entitled to vote.

## **ARTICLE VI**

### **ELECTION OF DIRECTORS AND OFFICERS**

#### **SECTION 1. NOMINATIONS AND SOLICITATION OF OR VOTES**

(a) Nominating Committee. The President shall appoint a committee consisting of 2 Board members and 1 non-Board active member to select qualified candidates for election to the Board of Directors at least 45 days before the date of

any election of directors. Four of such candidates shall be designated as nominees for the offices of President, Vice President, Secretary, and Treasurer of the Corporation. The nominating committee shall make its report at least 30 days before the date of the election and the Secretary shall forward to each member, with the notice of meeting required by Article 'V', Section 4, a list of candidates nominated, by office.

(b) Nomination by Members; Any active members in good standing representing two percent of the membership may nominate candidates for directorships and officerships at any time before the fifteenth day preceding such election. On timely receipt of a petition signed by the required number of members, the Secretary shall cause the names of the candidates named on it to be placed on the ballot along with those candidates named by the nominating committee.

(c) Nominations from the Floor. If there is a meeting to elect directors and officers, any member present at the meeting, in person or by proxy, may place names in nomination.

(d) Consent. NO person may be nominated as a director or officer without that person's prior consent.

## **SECTION 2. VOTE REQUIRED TO ELECT DIRECTORS AND OFFICERS**

Nominees receiving the highest number of votes shall be elected as directors and officers.

## **ARTICLE VII DIRECTORS**

### **SECTION 1. POWERS**

(a) General Corporate Powers. Subject to the provisions of the California Nonprofit Corporation Law and any limitations in the Articles of Incorporation and these Bylaws relating to action required to be approved by the members, the business and affairs of the Corporation shall be managed, and all corporate powers shall be exercised, by or under the direction of the Board.

(b) Specific Powers. Without prejudice to these general powers, and subject to the same limitations, the directors shall have the power to:

(i) select and remove all officers, agents and employees of the Corporation, prescribe any powers and duties for them that are consistent with law, with the Articles of Incorporation, and with these Bylaws; and fix their compensation;

(ii) change the principal executive office or the principal business office in the State of California from one location to another, cause the Corporation to be qualified to do business in any other state, territory, dependency, or country and conduct business within or outside the State of California, and designate any place within or outside the State of California for the holding of any members' meeting or meetings, including annual meetings;

(iii) adopt, make, and use a corporate seal; prescribe the forms of membership certificates, alter the form of the seal and certificate; and

(iv) borrow money and incur indebtedness on behalf of the Corporation and cause to be executed and delivered for the Corporation's purposes, in the corporate name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations, and other evidences of debt and securities.

## **SECTION 2. NUMBER AND QUALIFICATION OF DIRECTORS**

The authorized number of directors shall be seven (7) Only persons who are active members may be elected and continue to serve as directors.

## **SECTION 3. ELECTION AND TERM OF OFFICE OF DIRECTORS AND OFFICERS**

Directors and officers shall be elected at each annual September meeting of the members to hold office until the next annual meeting, and shall hold office until expiration of the term for which elected and until a successor has been elected and qualified. No officer may hold the same position for more than two consecutive years.

## **SECTION 4. VACANCIES**

(a) Events Causing Vacancy. A vacancy or vacancies on the Board shall be deemed to exist on the occurrence of the following: (i) the death, resignation, or removal of any director or officer;

(ii) the declaration by resolution of the Board of a vacancy of the office of a director or officer who has

become ineligible to serve as a director or officer, has been declared of unsound mind by an order of court or convicted of a felony or has been found by final order or judgment of any court to have breached a duty under Corp Code §7230 and of the California Nonprofit Corporation Law;

(iii) the vote of a majority of the members to remove a director or officer;

(iv) the increase of the authorized number of director or officers; or

(v) the failure of the members, at any meeting of members at which any directors or officers are to be elected, to elect the number of directors and officers to be elected at such meeting.

(b) Resignations. Except as provided in this Subsection (b), any director or officer may resign, which resignation shall be effective on giving written notice to the President, the Secretary, or the Board, unless the notice specifies a later time for the resignation to become effective. If the resignation of a director or officer is effective at a future time, the Board may elect a successor to take office when the resignation becomes effective.

(c) Vacancies Filled By Remaining Directors. A vacancy on the Board or among the officers shall be filled by a majority vote of the remaining directors or by the sole remaining director.

(d) No Vacancy or reduction of Number of Directors. No reduction of the authorized number of directors shall have the effect of removing any director before that director's term of office expires.

## **SECTION 5. MEETINGS**

Regular meetings of the Board shall be held at the call of the President. The President shall call special meetings upon the request of any three (3) directors.

## **SECTION 6 REGULAR AND SPECIAL MEETINGS**

Regular meetings of the Board shall be held at the call of the President. The President shall call special meetings upon the request of any three (3) directors.

## **SECTION 7. NOTICE**

(a) Manner of Giving. Notice of the time and place of special meetings shall be given to each director by one of the following methods: (a) by personal delivery of written notice; (b) by first-class mail, postage paid; (c) by telephone communication, either directly to the director or to a person at the director's office who would reasonably be expected to communicate such notice promptly to the director; or (d) by telegram, charges prepaid. All such notices shall be given or sent to the director's address or telephone number as shown on the records of the Corporation.

(b) Time Requirements. Notices sent by first class mail shall be deposited into a United States mail box at least four days before the time set for the meeting. Notices given by personal delivery, telephone, or telegraph shall be delivered, telephoned, or given to the telegraph company at least 72 hours before the time set for the meeting.

(c) Notice Contents. The notice shall state the time and place for the meeting. However, it need not specify the purpose of the meeting, or the place of the meeting if it is to be held at the principal executive office of the Corporation.

#### **SECTION 8. QUORUM.**

Five director shall constitute a quorum of the Board for the transaction of business, except to adjourn as provided in Section 9 of this Article XII. If, because of vacancies on the Board, the number of Directors shall be less than seven, the quorum requirements herein stated shall be reduced by one for each such vacancy. Every act or decision done or made by a majority of the Directors present at a meeting duly held at which a quorum is present shall be regarded as the act of the Board, subject to the provisions of the California Nonprofit Corporation Law, especially those provisions relating to: (i) approval of contracts or transactions in which a director has a direct or indirect material financial interest; (ii) appointment of committees; and (iii) indemnification of directors. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting.

#### **SECTION 9. ADJOURNMENT.**

A majority of the directors present, whether or not constituting a quorum, may adjourn any meeting to another time and place.



## **SECTION 10. ACTION WITHOUT MEETING**

Any action required or permitted to be taken by the Board may be taken without a meeting, if all members of the Board, individually or collectively, consent in writing to that action. Such action by written consent shall have the same force and effect as a unanimous vote of the Board. Such written consent or consents shall be filed with the minutes of the proceedings of the Board.

## **SECTION 11. FEES AND COMPENSATION OF DIRECTORS**

Directors and members of committees shall receive no compensation for their services, but shall receive such reimbursement of expenses as may be determined by the Board to be just and reasonable. Directors may be exempted from paying all or a portion of their annual dues upon the approval of the active members.

## **ARTICLE VIII**

### **COMMITTEES**

#### **SECTION 1. COMMITTEES OF DIRECTORS**

The Board may, by resolution adopted by a majority of the directors then in office, designate one or more committees, each consisting of two or more directors, to serve at the pleasure of the Board. Any committee, to the extent provided in the resolution of the Board, shall have all the authority of the Board, except that no committee, regardless of Board resolution, may:

- (a) take any final action on matters which, under the Nonprofit Corporation Law of California, also requires members' approval or approval of a majority of all the members;
- (b) fill vacancies on the Board or in any committee which has the authority of the Board;
- (c) amend or repeal these Bylaws or adopt new Bylaws;
- (d) amend or repeal any resolution of the Board which by its express terms is not so amendable or repealable;
- (e) appoint any other committees of the Board or the members of these committees; or
- (f) approve any transaction: (1) to which the Corporation is a party and one or more directors have a material financial interest; or (2) between the Corporation and one or more of its directors or between the Corporation or any person in which one or more of its directors has a material financial interest.

#### **SECTION 2. MEETINGS AND ACTION OF COMMITTEES**

Meetings and action of committees shall be governed by, held and taken in accordance with the provisions of Article XII of these Bylaws concerning meetings of directors, with such changes in the context of those Bylaws as are necessary to substitute the committee and its members for the Board and its members, except that the time for regular meetings of committees may be determined either by resolution of the Board or by resolution of the committee. Special meetings of committees may also be called by resolution of the Board. Minutes shall be kept of each meeting of any committee and shall be filed with the corporate records. The Board may adopt rules for the government of any committee not inconsistent with the provisions of these Bylaws.

### **SECTION 3. ADVISORY COMMITTEES**

The Board may elect one or more committees consisting of two or more persons, all or some of whom are not directors. Any such committee having non-director members shall serve only in an advisory capacity to the Board and may not be authorized to exercise any powers belonging to the Board.

## **ARTICLE IX OFFICERS**

### **SECTION 1. OFFICERS**

The officers of the Corporation shall be a President, a Vice-President, a Secretary and a Treasurer. The Corporation may also have such other officers as may be appointed in accordance with the provisions of Section 3 of this Article IX. A person must be an active member in good standing to be eligible for appointment and to continue to serve as an officer.

### **SECTION 2. SUBORDINATE OFFICERS**

The Board may appoint, and may authorize the President or another officer to appoint, any other officers that the business of the Corporation may require, each of whom shall have the title, hold office for the period, have the authority and perform the duties specified in the Bylaws or determined from time to time by the Board.

### **SECTION 3. RESPONSIBILITIES OF OFFICERS**

(a) President. Subject to such supervisory power as may be given by the Board to the Chairman of the Board, if any, the President shall, subject to the control, of the Board, generally supervise, direct, and control, the business and the officers of the Corporation. He shall preside at all meetings of the members and at all meetings of the Board. He

shall have such other powers and duties as may be prescribed by the Board or the Bylaws.

(b) Vice Presidents: In the absence or disability of the President, the Vice President shall perform all the duties of the President and when so acting shall have all the powers of, and be subject to all the restrictions upon the President. The Vice President shall have such other powers and perform such other duties as from time to time may be prescribed for him by the Board.

(c) Secretary. The Secretary shall attend to the following:

(i) Book of Minutes. The Secretary shall keep or cause to be kept, at the principal executive office or such other place as the Board may direct, a book of minutes of all meetings and actions of directors, committees of directors, and members, with the time and place of holding, whether, regular or special, and, if special, how authorized, the notice given, the names of those present or represented at members' meetings, and the proceedings of such meetings;

(ii) Membership Records. The Secretary shall keep, or cause to be kept, at the principal executive office, as determined by resolution of the Board, a record of the Corporation's members showing the names of all members, their addresses and the class of membership held by each;

(iii) Notices, Seal and Other Duties. The Secretary shall give, or cause to be given, notice of all meetings of the members and of the Board required by the Bylaws to be given. He shall keep the seal of the Corporation in safe custody. He shall have such other powers and perform such other duties as may be prescribed by the Board or the Bylaws;

(d) Treasurer. The Treasurer shall attend to the following:

(i) Books of Account. The Treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and records of accounts of the properties and business transactions, of the Corporation including accounts of its assets, liabilities, receipts of disbursements, gains, losses, capital, retained earnings, and other matters customarily included in financial statements. The books of account shall be open to inspection by any director at all reasonable times.

(ii) Deposit and Disbursement of Money and Valuables. The Treasurer shall deposit all money and other valuables in the name and to the credit of the Corporation with such depositories as may be designated by the Board; shall disburse the funds of the corporation as may be ordered by the Board; shall co-sign all checks in payment of the Corporation's obligations together with the president or the Secretary, except that in the absence of the Treasurer the president and Secretary may co-sign checks; shall render to the President and directors, whenever they request, an account of all of his transactions as Treasurer and of the, financial condition of the Corporation; and shall have other powers and perform such other duties as may be prescribed by the Board or the Bylaws;

(iii) Bond. If required by the Board, the Treasurer shall give the Corporation a bond in the amount and with the surety or sureties specified by the Board for faithful performance of the duties of his office and for restoration to the Corporation of all its books, papers, vouchers, money, and other, property of every kind in his possession or under his control on his death, resignation, retirement, or removal from office.

## **ARTICLE X**

### **INDEMNIFICATION OF DIRECTORS OFFICERS, EMPLOYEES, AND OTHER AGENTS**

#### **SECTION 1. DEFINITIONS**

For the purposes of this Article,

(a) "agent" means any person who is or was a director, officer, employee or other agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee, or agent of another foreign or domestic Corporation, partnership, joint venture, trust, or other enterprise, or was a director, officer, employee or agent of a foreign or domestic Corporation that was a predecessor Corporation of the Corporation or of another enterprise at the request of the predecessor Corporation;

(b) "proceeding" means any threatened, pending, or completed action or proceeding, whether civil, criminal, administrative or investigative; and

(c) "expenses" includes, without limitation all attorneys' fees, costs and any other expenses incurred in the defense of any claims or proceedings against an agent by reason of his position or relationship as agent and all attorneys fees, costs and other expenses incurred in establishing a right to indemnification under this Article .

**SECTION 2. SUCCESSFUL DEFENSE BY AGENT**

To the extent that an agent of the Corporation has been successful on the merits in the defense of any proceeding referred to in this Article, or in the defense of any claim, issue, or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection with the claim. If an agent either settles any such claim or sustains a judgment rendered against him, then the provisions of Sections 3 through 5 shall determine whether the agent is entitled to indemnification;

**SECTION 3. ACTIONS BROUGHT BY PERSONS OTHER THAN THE CORPORATION**

Subject to the required findings to be made pursuant to Section 5 below, the Corporation shall indemnify any person who was or is a party, or is threatened to be made a party, to any proceeding other than an action brought by, or on behalf of the Corporation, or by an officer, director or person granted related status by the Attorney General, or by the Attorney General on the ground that the defendant director was or is engaging in selfdealing within the meaning of California Corporations Code Section 5233, or by the Attorney General or a person granted related status by the Attorney General for any breach of duty relating to assets held in charitable trust, by reason of the fact that such person is or was an agent of this Corporation, for all expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with the proceeding.

**SECTION 4. ACTION BROUGHT BY OR ON BEHALF OF THE CORPORATION.**

(a) Claims Settled Out of Court. If any agent settles or otherwise disposes of a threatened or pending action brought by or on behalf of the Corporation, with or without court approval, the agent shall receive no indemnification for either amounts paid pursuant to the terms of the settlement or other disposition or for any expenses incurred in defending against the proceeding, unless it is settled with the approval of the Attorney General.

(b) Claims and Suits Awarded Against Agent. The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action brought by or on behalf of the Corporation by reason of the fact that the person is or was an agent of the Corporation, for all expenses actually and reasonably incurred in connection with the defense of that action, provided that both of the following are met:

(i) the determination of good faith conduct required by Section 5 below must be made in the manner provided for in that Section; and

(ii) upon application, the court in which the action was brought must determine that, in view of all of the circumstances of the case, the agent should be entitled to indemnity for the expenses incurred. If the agent is found to be so entitled, the court shall determine the appropriate amount of expenses to be reimbursed.

#### **SECTION 5. DETERMINATION OF AGENT'S GOOD FAITH CONDUCT**

The indemnification granted to an agent in Sections 3 and 4 above is conditioned on the following:

(a) Required Standard of Conduct. The agent seeking reimbursement must be found, in the manner provided below, to have acted in good faith, in a manner he believed to be in the best interest of the Corporation, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use in similar circumstances. The termination of any proceeding by judgment, order, settlement, conviction, or on a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith or in a manner which he reasonably believed to be in good faith or in a manner which he reasonably believed to be in the best interest of the Corporation or that he had reasonable cause to believe that his conduct was unlawful. In the case of a criminal proceeding, the person must have had no reasonable cause to believe that his conduct was unlawful.

(b) Manner of Determination of Good Faith Conduct. The determination that the agent did act in a manner complying with paragraph (a) above shall be made by:

(i) the Board by a majority vote of a quorum consisting of directors who are not parties to the proceeding; or

(ii) the affirmative vote (or written ballot in accord with Article V, Section 9) of a majority of the votes represented and voting at a duly held meeting of members at which a quorum is present (which affirmative votes also constitute a majority of the required quorum); or (iii) the court in which the proceeding is or was pending. Such determination may be made on application brought by the Corporation or the agent or the attorney or other person rendering a defense to the agent, whether or not the application by the agent, attorney, or other person is opposed by the Corporation.

#### **SECTION 6. LIMITATIONS**

No indemnification or advance shall be made under this Article, except as provided in Sections 2 or 5(b) (iii), in any circumstance when it appears:

- (a) that the indemnification or advance would be inconsistent with a provision of this Article, a resolution of the members, or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were, incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or
- (b) that the indemnification would be inconsistent with any condition expressly imposed by a court in approving a settlement.

#### **SECTION 7. ADVANCE OF EXPENSES**

Expenses incurred in defending any proceeding may be advanced by the corporation before the final disposition of the proceeding on receipt of an undertaking by or on behalf of the agent to repay the amount of the advance unless it is determined ultimately that the agent is entitled to be indemnified as authorized in this Article.

#### **SECTION 8. CONTRACTUAL RIGHTS OF NONDIRECTORS AND NONOFFICERS**

Nothing contained in this Article shall affect any right to indemnification to which persons other than directors and officers of the Corporation, or any subsidiary hereof; may be entitled by contract or otherwise.

#### **SECTION 9. INSURANCE**

The Board may adopt a resolution authorizing the purchase and maintenance of insurance on behalf of any agent of the Corporation against any liability other than for violating provisions against selfdealing asserted against or incurred by

the agent in such capacity or arising out of the agent's status as such, whether or not the Corporation would have the power to indemnify the agent against that liability under the provisions of this Section.

**ARTICLE XI  
RECORDS AND REPORTS**

**SECTION 1. MAINTENANCE OF CORPORATE RECORDS**

The Corporation shall keep:

- (a) Adequate and correct books and records of account;
- (b) Minutes in written form of the proceedings of its members, the Board, and committees of the Board;
- (c) A record of its members, giving their names and addresses and the class of membership held by each. All such records shall be kept at the Corporation's principal executive office, or if its principal executive office is not in the State of California, at its principal business office in this state.

**SECTION 2. MEMBER'S INSPECTION RIGHTS**

- (a) (i) Any member of the Corporation may inspect and copy the records of members' names and addresses and voting rights during usual business hours on five days' prior written demand on the Corporation, stating the purpose for which the inspection rights are requested, or (ii) obtain from the Secretary of the Corporation on written demand and on the tender of the Secretary's usual charges for such a list, if any, a list of names and addresses of members who are entitled to vote for the election of directors, and their voting rights, as of the most recent record date for which that list has been compiled, or as of a date specified by the member after the date of demand. The demand shall state the purpose for which the list is requested. This list shall be made available to any such member by the Secretary on or before the later of 10 days after the demand is received or the date specified in it as the date by which the list is to be compiled;
- (b) any member of the Corporation may inspect the accounting books and records and minutes of the proceedings of the members and the Board and committees of the Board, at any reasonable time, for a purpose reasonably related to such person's interest as a member; and



(c) any inspection and copying, under this Section may be made in person or by an agent or attorney of the member and the right of inspection includes the right to copy and make extracts.

**SECTION 3. MAINTENANCE AND INSPECTION OF ARTICLES AND BYLAWS**

The Secretary of the corporation shall keep in safe keeping the original or a copy of the Articles of Incorporation and Bylaws as amended to date, which shall be open to inspection by the members at all reasonable times.

**SECTION 4. INSPECTION BY DIRECTORS**

Every director shall have the absolute right at any reasonable time to inspect all books records and documents of every kind and the physical properties of the Corporation and each of its subsidiary corporations. This inspection by a director may be made in person or by an agent or attorney, and the right of inspection includes the right to copy and make extracts of documents.

**SECTION 5. ANNUAL REPORT TO MEMBERS**

(a) Not later than the last day of April next following the close of the Corporation's fiscal year, the Board shall cause notice to be sent to the members advising them of their right to receive a copy of the Corporation's annual report. Such report shall contain the following information in reasonable detail:

- (i) the assets and liabilities, including the trust funds, of the corporation as of the end of the fiscal year.
- (ii) the principal changes in assets and liabilities, including trust funds, during the fiscal year;
- (iii) the revenue or receipts of the Corporation, both unrestricted and restricted to particular purposes, for the fiscal year.
- (iv) the expenses or disbursements of the Corporation, for both general and restricted purposes, during the fiscal year; and
- (v) any information required by Section 6 of this Article.

(b) The report required by this Section shall be accompanied by any report thereon of independent accountants, or, if there is no such report, by the certificate of an authorized officer of the Corporation that such statements were prepared without audit from the books and records of the Corporation.

**SECTION 6. ANNUAL STATEMENT OF CERTAIN TRANSACTIONS  
AND INDEMNIFICATIONS**

No later than the time the Corporation gives its annual report, if any, to the members, and in any event no later than 120 days after the close of the Corporation's fiscal year, the Corporation shall prepare and mail or deliver to each member a statement of the amount and circumstances of any transaction or indemnification of the following kind:

(a) Any transaction(s) in which the Corporation, its parent or its subsidiary was a party, and in which either of the following had a direct or indirect financial interest:

(i) any director or officer of the Corporation, its parent or subsidiary (a mere common directorship shall not be considered such an interest); or

(ii) any holder of more than 10% of the voting power of the Corporation, its parent or its subsidiary; if such transaction involved over \$40,000 or was one of a number of transactions with the same person involving, in the aggregate, over \$40,000.

(b) Any indemnifications or advances aggregating more than \$10,000 paid during the fiscal year to any officer or director of the Corporation pursuant to Article X hereof, unless such indemnification has already been approved by the members pursuant to Section 5(b)(ii) of Article X.

**ARTICLE XII**

**DISSOLUTION**

In the event of dissolution of the Corporation as determined by a majority of the active members or by law, the Board at the date of such dissolution shall divide the net assets of the Corporation equally among the active members on such date, subject to outstanding debts and contractual obligations of the Corporation. The amount of assets distributable to any member shall be decreased by the amount of unpaid dues, fees, assessments or other financial obligations owed by such member to the Corporation.

**ARTICLE 'XIII**

**CONSTRUCTION AND DEFINITIONS**

Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the California Nonprofit Corporation law shall govern the construction of these Bylaws. Without limiting the generality of the above, the masculine gender includes the feminine and neuter, the singular

number includes the plural, the plural number includes the singular, and the term "person" includes both the Corporation and a natural person.

**ARTICLE XIV**  
**AMENDMENTS**

**SECTION 1. AMENDMENT BY MEMBERS**

New Bylaws may be adopted or these Bylaws may be amended or repealed by approval of two-thirds of the active members or their proxies present at a duly called membership meeting, provided that notice of the proposed amendment or repeal was given to the membership not less than 14 days prior to the meeting. Further, where any provision of these Bylaws requires the vote of a larger proportion of the members than otherwise required by law, such provision may not be altered, amended or repealed except by vote of such larger number of members. No amendment may extend the terms of a director beyond that for which such director was elected.

**SECTION 2. AMENDMENT BY DIRECTORS**

Subject to the rights of members under Section 1 of this Article XIV and the limitations set forth below, the Board may adopt, amend or repeal bylaws. Such power is subject to the following limitations:

(a) the limitation set forth in Section 1 on the members power to adopt amend or repeal bylaws shall apply to actions by the Board;

(b) the Board may not amend a Bylaw provision fixing the authorized number of directors or the minimum and maximum number of directors. However, if the articles of incorporation or Bylaws provide for a variable number of directors within specified limits, the directors may, subject to the other limitations of this section, adopt, amend or repeal a Bylaw fixing the exact number of directors within those limits

(c) if any provision of these Bylaws requires the vote of a larger proportion of the directors than otherwise required by law, such provision may not be altered, amended or repealed except by vote of such larger number of directors; and

(d) the Board may not adopt or amend Bylaw provisions concerning the following subjects without the approval of the active members:

(i) any provision increasing the terms of directors;

- (ii) any provision allowing one or more directors to hold office by designation or selection rather than election by the members;
- (iii) any provision giving the Board power to fill vacancies on the Board created by removal of directors; and
- (iv) any provision repealing, restricting, creating or expanding proxy rights.

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Amendment History:

Article IV, Sections 1, 2, and 3(c) of these Bylaws were amended by a vote of the membership on July 8, 2007. These amendments created the official class of Senior membership, established their Annual Dues and increased the total authorized membership to 175. - Tom Cromeli, President / Uwe Settegast, Secretary.