

Effective Date: 7-1-10

**AMENDED AND RESTATED
CORPORATE BYLAWS
OF
BOYS & GIRLS CLUBS OF THE TENNESSEE VALLEY**

**ARTICLE I
CORPORATION**

SECTION 1.1 **Corporate Name.** The name of the corporation shall be Boys & Girls Clubs of the Tennessee Valley, a Tennessee public benefit corporation organized pursuant to the Tennessee Nonprofit Corporation Act (the "Act").

SECTION 1.2 **Corporate Offices.** The corporation shall have and continuously maintain in this state a registered office and registered agent whose office address is identical with such registered office, and may have other offices within or without the state of Tennessee as the board of directors may from time to time determine.

SECTION 1.3 **Corporate Purposes.** The purposes of the corporation are as set forth in its charter to be carried out through all lawful activities, including engaging in such other activities, exercising such other powers and privileges, taking such other actions and carrying out such other purposes as may be authorized by the charter and which are permitted to be carried on by an entity either (i) exempt from Federal income taxation under Section 501(c)(3) of the Internal Revenue Code ("Code") or (ii) to which contributions are deductible under Section 170(c)(2) of the Code. The primary purpose of the corporation is to inspire youth in the Tennessee Valley area to realize their potential, with a special concern for the disadvantaged, and to provide such youth with opportunities to develop social, educational and leadership skills that shape character and prepare them for participation as productive members in a richly diverse society.

SECTION 1.4 **Restrictions on Purpose and Activities.** Notwithstanding any other provisions of these bylaws to the contrary, the following restrictions shall apply to the purposes, operations and activities of the corporation:

- (a) the purposes of the corporation shall in all events be charitable, religious, scientific or educational within the meaning of Section 501(c)(3) of the Code and shall be consistent with the requirements of Section 501(c)(3) and either Section 509(a)(2) or Section 509(a)(3) of the Code and all applicable Treasury Regulations issued thereunder;

- (b) no part of the net earnings of the corporation shall inure to the benefit of, or be distributable to, its directors, officers or other persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in the bylaws;
- (c) no substantial part of the activities of the corporation shall be in the carrying on of propaganda or otherwise attempting to influence legislation, and the corporation shall not participate in, nor intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office except as authorized under the Code; and
- (d) the corporation shall not carry on any other activities not permitted to be carried on (i) by a corporation exempt from federal income tax under Section 501(c)(3) of the Code, or (ii) by a corporation, contributions to which are deductible under Section 170(c)(2) of the Code.

SECTION 1.5 **Members.** The corporation shall not have any members, voting or otherwise.

SECTION 1.6 **Corporate Dissolution.** Upon the dissolution of the corporation, after paying or making provision for the payment of all of the liabilities and obligations of the corporation, all of the assets of the corporation shall be distributed pursuant to a plan of liquidation adopted by the board of directors to such organization or organizations organized and operated exclusively for religious, charitable, educational and scientific purposes as shall at the time qualify as an organization or organizations exempt from Federal income taxation under Section 501(c)(3) of the Code. Any such assets not so disposed of shall be disposed of by a court of competent jurisdiction of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations as said court shall determine which are organized and operated exclusively for such purposes, provided that such organization or organizations then qualify as organizations exempt from Federal income taxation under Section 501(c)(3) of the Code.

ARTICLE II

BOARD OF DIRECTORS

SECTION 2.1 **Powers.** Except as provided in Article V of these bylaws, all corporate powers shall be exercised by or under the authority of, and the affairs of the corporation shall be managed under the direction of, the board of directors (referred to in these bylaws as the "board" or "board of directors") which shall have charge, control and responsibility for the oversight of the property, affairs and funds of the corporation and which shall alone determine compliance with the corporation's stated purposes and have the power and authority to do and perform all acts or functions not inconsistent with these bylaws or the corporation's charter. Specifically, the board is authorized and empowered to create, appoint, establish or name such committees, councils, or other person or persons to exercise some or all of the powers which would otherwise be exercisable by the board as the board shall deem necessary or appropriate and shall have the power by resolution to

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delegate and designate those powers, rights and privileges of the board which shall be vested in and exercised by one or more such committees, counsels, or other person or persons to the extent permitted by the charter of the corporation, these bylaws and the applicable provisions of the Act.

SECTION 2.2 **Number and Composition.** The board shall consist of no less than eleven (11) directors comprised of the following classes of persons:

- (a) no less than a majority of the total number of directors shall be persons who shall each qualify as an "Independent" director (as such term is hereinafter defined);
- (b) the president and chief executive officer of the corporation who shall be an *ex officio* member with full voting rights and privileges;
- (c) the "trustees' appointee" (as such term is defined in Section 5.3) who shall be an *ex officio* member with full voting rights and privileges;
- (d) the board shall at all times have among its members at least one (1) member each Advisory Board created under Section 3.8 of these bylaws who shall either be elected by the board or, there being no such person elected, who be the chairman of such Advisory Board who shall be deemed an *ex officio* member with full voting rights and privileges; and
- (e) such additional persons as shall be elected from time to time by the board of directors.

The requirements of subsection (a) shall take precedence and have priority over the requirements of subsections (b) - (e), it being the intent of these bylaws that a majority of all directors shall at all times consist of persons who qualify as Independent under this Section 2.2.

The specific number of directors shall be set and established from time to time by resolution of the board adopted by the affirmative vote of the majority of the members of the board then in office; provided, however, that the number of directors shall not be less than the minimum number authorized by this Section 2.2.

The term "Independent" shall mean a person who is a member of the general public who (i) does not have direct or indirect (through business, investment or family) financial interest in the corporation, (ii) does not have any other personal or private interest in the activities of the corporation and who does not otherwise have a relationship with the corporation, except in the capacity of a member of a board of directors, which would allow such person an opportunity to control or influence the activities of the corporation, and (iii) is not related, directly or indirectly, to any person described in (i) or (ii) above. The term "Independent" shall specifically exclude any officer (other than an officer of the board) or employee of the corporation.

SECTION 2.3 **Election and Term.** Each member of the board of directors, other than the *ex officio* members shall be nominated and elected by the members of the board of directors then serving as provided in Section 2.5 of these bylaws. Each director shall be elected for a term of three (3) years except that a director who shall be elected or appointed to the board to fill any vacancy on the board shall serve for the remainder of the unexpired term which such director is filling. Notwithstanding that a director may be elected for a designated term, the term of a director may be extended for a period of less than three (3) years by vote of the board. Except for the *ex officio* members, it is intended that the expiration of the term of office of members of the board shall be staggered with approximately one-third (1/3) of the terms expiring each year. In the event an *ex officio* members of the board ceases to hold his or her designated office or is otherwise unable to serve or ceases to serve as a director for any reason, his or her successor to the office shall then serve as the *ex officio* member without election.

SECTION 2.4 **Qualifications of Board Members.** To be eligible for board membership election, a candidate shall be a natural person who, at the time of election, shall be at least 21 years of age. Each director shall, in the determination of the board, (1) exemplify qualities of honesty, integrity, and sound moral character and (2) be committed to support and uphold the purposes, mission and general policies of the corporation and (3) have a willingness and ability to support the financial needs of the corporation and devote necessary time to board activities. The board may establish such other requirements or expectations of board members as it deems appropriate. Except for the president and chief executive officer of the corporation, no person who is employed by the corporation shall be eligible to serve as a voting member of the board of directors during the term of his or her employment. Any voting members who becomes so employed during his or her term as a director shall be deemed to have resigned as a member of the board, effective of the time of such employment.

SECTION 2.5 **Method of Election of Vacancies.** Except as to the *ex officio* member and the trustees' appointee, the board of directors shall nominate and elect members of the board, fill vacancies on the board as often as vacancies occur, whether such vacancies are due to expansion, resignation, expiration of term, death or for any other reason and designate the term of service of each elected member of the board. In the event only one candidate is nominated to fill any vacant seat, the candidate so nominated shall be elected by a vote of a majority of the directors then in office. In the event two or more candidates are nominated to fill any vacant seat, the candidate with the greatest number of votes cast by the directors then in office shall be elected to such seat.

SECTION 2.6 **Resignation and Removal.** Any director may resign at any time by giving written notice of such resignation to the board of directors. Any board member may be removed with or without cause by the affirmative vote of two thirds (2/3) of directors then serving.

ARTICLE III

MEETINGS OF THE BOARD OF DIRECTORS

SECTION 3.1 **Regular Meetings of the Board.** The board shall hold regular meetings at least once each calendar quarter at the principal office of the corporation or at such other place as may be designated from time to time by the board, for the purpose of transacting such business as may be required or permitted pursuant to the corporation's charter, these bylaws or as may otherwise be properly presented to the board. The specific number of, and the date and time for, regular meetings shall be established and subject to change by the board of directors.

SECTION 3.2 **Special Meetings of the Board.** Special meetings of the board may be called by the board chairman, the president or upon receipt of the written request of any two (2) directors.

SECTION 3.3 **Notice of Board Meeting.** Regular meetings of the board may be held without notice. Written notice of all special board meetings, setting the place, date and hour of the meeting, shall be by any reasonable means, including first class mail, electronic or facsimile transmission or hand delivery. Unless properly waived, notice shall be given to each director at least twenty-four (24) hours before the time of the meeting. Any notice of a special meeting of the board that is not given at least two (2) days before the meeting shall be given by electronic or facsimile transmission or hand delivery to each director or may be given by telephonic notice so long as such telephonic notice is confirmed in writing prior to the time of the meeting. Notwithstanding the preceding, any action of the board to remove a director or to approve a matter which would require approval by members if the corporation had members shall not be valid unless each director is given at least seven (7) days written notice that the matter will be voted upon at a director's meeting or unless notice is waived pursuant to the Act.

SECTION 3.4 **Action by Written Consent.** Waiver of notice of any board meeting or any action required to be taken at a meeting of the board, or any other action which may be taken at a meeting of the board or of any committee of the board, may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all the directors entitled to vote with respect to the subject matter thereof, or by all the members of the committee, as the case may be. Any consent signed by all the directors or all the members of the committee shall have the same effect as a unanimous vote and may be stated as such in any document.

SECTION 3.5 **Meeting by Telephone Conference.** All members of the board or of any committee of the board may participate in and act at any meeting of such board or committee by means of conference telephone or similar communications equipment so long as all persons participating in the meeting can hear each other. Participation in such a meeting shall constitute attendance and presence in person at the meeting of the person or persons so participating.

SECTION 3.6 **Quorum at Board Meetings.** For all meetings of the board (other than for action taken by unanimous written consent), an initial quorum shall be required in order to convene and begin the meeting. An initial quorum shall constitute one third (1/3) of the voting directors in office immediately before the meeting begins. Except with respect to indemnification

proceedings, common or interested directors may always be counted in determining the presence of a quorum at a meeting of the board or of a committee which authorizes, approves or ratifies a transaction of the corporation. When a quorum is once present to organize a meeting, it is not broken by the subsequent withdrawal of any of those present so long as at least five (5) voting members are present. A meeting may be adjourned despite the absence of a quorum. If a quorum is present when a vote is taken, the affirmative vote of a majority of the directors present is the act of the board unless the Act, the charter or bylaws of this corporation or any contract to which this corporation is a party requires the vote of a greater number of directors.

SECTION 3.7 **Procedure at Meetings.** Roberts Rules of Order Revised (latest edition) shall govern procedure at all meetings of all boards and committees on matters not covered expressly by these bylaws.

SECTION 3.8 **Advisory Boards.** The board of directors may establish and appoint, from time to time, one or more advisory boards and councils consisting of persons who express support for and interest in the activities of the corporation to serve the board of directors in an advisory capacity. Such advisory boards and councils shall conduct separate meetings but shall have no authority to act for or on behalf of the board of directors and their activities shall be advisory in nature only. The board shall establish the role and function of each advisory board and council established by the board.

SECTION 3.9 **Emeritus Directors.** The board, in its discretion, may designate one or more former directors as a "Director Emeritus," an honorary title intended to express the appreciation and gratitude of the board for such former director's dedicated service to the corporation. A Director Emeritus shall not be deemed a director of the corporation and shall not attend meetings of the board or hold any voting rights or powers.

SECTION 3.10 **Honorary Directors.** The board, in its discretion, may designate one or more persons of this corporation as an "Honorary Director," an honorary title in recognition of such person's dedicated support of the corporation. An Honorary Director shall not be deemed a director of the corporation and shall not attend meetings of the board or hold any voting rights or powers.

SECTION 3.11 **Compensation.** Directors as such shall not receive any compensation for their services as directors, but the Board may authorize reimbursement of expenses incurred in the performance of their duties and responsibilities. Such authorization may prescribe the procedure for approval and payment of such expenses by designated officers of the corporation. Nothing herein shall preclude a director from serving the corporation in any other capacity and receiving compensation for such services.

ARTICLE IV

BOARD COMMITTEES

SECTION 4.1 **Committees Generally.** Committees of the board may be standing or special as designated in these bylaws or established by the board from time to time. Committees other than those created by these bylaws may be created or terminated at any time by resolution of the board and shall have such functions and authority as designated by the board. Except as provided in these bylaws and in the Act, members of any standing or special committee may be members of the board or other natural persons.

SECTION 4.2 **Requirement of Independence.** No less than a majority of the total number of committee members shall be persons who shall qualify as Independent as such term is defined in Section 2.2.

SECTION 4.3 **Executive Committee.** There shall be a standing committee known as the Executive Committee that shall consist of the officers of the board, the immediate past chairman of the board, the president and chief executive officer of this corporation, the chairman of each of the standing committees and such other members of the board as may be appointed by the chairman of the board. An individual may serve as a member of the Executive Committee in more than one capacity (e.g., chairman of two committees). The chairman of the board shall serve as chairman of the Executive Committee. The Executive Committee shall have the power and authority to exercise all of the powers and authorities of the board of directors; provided that the Executive Committee shall not have authority to (a) authorize dissolution or merger of the corporation or the sale, pledge or transfer of all or substantially all of the corporation's assets, (b) elect, appoint or remove directors or fill vacancies on the board, (c) adopt, amend or repeal the charter or bylaws of the corporation, or (d) authorize distributions. In addition, the Executive Committee, shall exercise and perform all functions of the board related to (i) the establishment of compensation policies, rules and procedures applicable to those officers and other employees of this corporation who are Adisqualified persons, as such term is defined in Section 4958 of the Code, (ii) the evaluation of the performance and determination of the compensation of the president and chief executive officer of the corporation, (iii) the review of all executive compensation policies, plans, benefits and perquisites and (iv) the review and approval of all transactions and arrangements between this corporation or any of its affiliates and any Adisqualified person. Such duties and responsibilities include the adoption of policies and procedures designed to prevent this corporation from engaging in any Aexcess benefit transaction, as such term is defined in Section 4958, with any Adisqualified person and to help assure that all compensation and financial or other transactions between this corporation and any Adisqualified person qualify for the Arebuttable presumption protections under Section 4958. Although a member of the Executive Committee, the president and chief executive officer shall not participate in any committee deliberations or vote involving item (ii) above or any other matter in which he is determined to have a conflict of interest under Article VIII of these bylaws.

SECTION 4.4 **Finance, Audit and Investment Committee.** There shall be a standing committee known as the Finance, Audit and Investment Committee having no less than five (5) members of the board of directors and such other persons as the chairman of the board may appoint. The responsibilities of the Finance, Audit and Investment Committee shall be to:

- chairman
- (a) review and monitor the financial performance and condition of the corporation;
 - (b) oversee the development of financial planning for and the policies of the corporation;
 - (c) assist and consult with management in regard to the formation and adoption of operating and capital budgets, borrowings and other important financial matters;
 - (d) manage and supervise the investment of the corporation's funds, including any endowments;
 - (e) make recommendations to the board of directors with respect to material financial matters brought before the board;
 - (f) to perform such other duties and functions related to the financial affairs of the corporation as may be requested by the board of directors or the chairman of the board;
 - (g) oversee the corporation's internal controls and internal and external audit processes;
 - (h) appoint and oversee the work of a public accounting firm employed by the organization to conduct the annual audit;
 - (i) resolve any disagreements between management and the auditors regarding financial reporting;
 - (j) review all auditing and non-audit services performed of the independent auditors;
 - (k) seek any information that it requires from employees or external parties necessary to carry out its functions;
 - (l) meet with corporate officers, external auditors or outside counsel, as necessary; and
 - (m) carry out any other actions deemed necessary or appropriate to its responsibilities as an audit committee.

SECTION 4.5 **Appointment.** Except as otherwise provided in this Article IV, committee members shall be appointed by the chairman of the board. A committee shall limit its activities to the accomplishment of the tasks for which it is created and shall have no power to act except as specifically conferred by these bylaws or by action of the board. Unless otherwise provided in these bylaws, the chairman of the board shall appoint a member of each committee to serve as chairman of the committee. Subject to the requirements of these bylaws, the chairman of the board may remove committee members, change member appointments and change chairmen appointments from time to time in his or her discretion.

SECTION 4.6 **Committee Procedures Generally.** Each committee shall record minutes of its meetings and shall promptly deliver a copy of such minutes to the secretary of the corporation. Reasonable notice of the meetings of any committee shall be given to the members thereof. The committee chairman may invite to any committee meeting such individuals as he or she may select who may be helpful to the deliberations of the committee. A majority of the voting members of each committee shall constitute a quorum for the transaction of business and the act of a majority of the voting members of any committee present at a meeting at which a quorum is present

shall be the action of the committee. Each committee may operate through the establishment of one or more subcommittees to be composed of such members of the committee and to have such duties and responsibilities as shall be delegated to the subcommittee by the committee. Each committee may adopt rules for its own operations and that of its subcommittees not inconsistent with these bylaws, the policies of the board, the charter of the corporation, or the Act.

ARTICLE V

BOARD OF TRUSTEES

SECTION 5.1 **Purpose.** The purpose of the board of trustees is fundraising for the corporation. The board of trustees shall conduct separate meetings but shall have no authority to act for or on behalf of the board of directors and, except to the extent expressly provided in this Article V, its their activities shall consist solely of raising funds to support the corporation’s mission.

SECTION 5.2 **Number and Composition.** There shall be no specific number of trustees, the board of trustees to consist of those persons appointed by the board of directors. The board of trustees shall select a member to serve as its chairman.

SECTION 5.3 **Trustees’ Appointee.** One member of the board of trustees shall be appointed by the board of trustees to serve as its representative on the board of directors as an *ex officio* member (the “trustees’ appointee”). Such member shall be selected by a vote of a majority of members in attendance at a meeting at which a quorum is present. The board of trustees shall have the right to remove or replace the trustees’ appointee at any time and from time to time by similar vote. The chairman of the board of trustees shall notify the chairman of the board of the appointment of each trustees’ appointee.

SECTION 5.4 **Appointment and Term.** Each member of the board of trustees shall be appointed by the board of directors and shall serve an indefinite term at the pleasure of the board.

SECTION 5.5 **Qualifications of Board of Trustee Members.** To be eligible for appointment to, and continued membership on, the board of trustees, a person must commit to those fundraising obligations of a member as may be established and revised from time to time by the board of directors. The chairman of the board shall serve as an *ex officio* member of the board of trustees.

SECTION 5.6 **Resignation and Removal.** Any trustee may resign at any time by giving written notice of such resignation to the chairman of the board of trustees and may be removed with or without cause by the board of directors.

SECTION 5.7 **Annual and Regular Meetings.** The Board of Trustees shall hold an annual meeting and may hold such other regular meetings as it shall deem necessary. The date and time for the annual meeting and the regular meetings shall be established and subject to change by the board of trustees. The meetings shall be held at the principal office of the corporation or at such

other place as may be designated by the board of trustees. At the annual meeting the board of trustees shall undertake consideration of any or all of the following:

- (i) appointment of the trustees' appointee;
- (ii) the annual operating and capital budgets of the corporation and the need to provide advice and comment on same to the management of the corporation and chairman of the board of directors;
- (iii) approval or recommended reconsideration of the slate of officers elected by the board of directors at its immediately preceding annual meeting ;and
- (iv) adoption of an annual fundraising goal/campaign.

SECTION 5.8 **Notice of Board Meeting.** The annual meeting and regular meetings of the board may be held without notice.

SECTION 5.9 **Meeting by Telephone Conference.** All members of the board of trustees may participate in and act at any meeting by means of conference telephone or similar communications equipment so long as all persons participating in the meeting can hear each other. Participation in such a meeting shall constitute attendance and presence in person at the meeting of the person or persons so participating.

SECTION 5.10 **Quorum at Board Meetings.** There shall be no quorum requirements for the board of trustees to meet or act.

SECTION 5.11 **Compensation.** Trustees as such shall not receive any compensation for their services as trustees.

ARTICLE VI

OFFICERS OF THE CORPORATION

SECTION 6.1 **Designation of Corporate Officers.** The officers of the corporation shall be a chairman of the board (who must be a member of the board of directors), a vice chairman of the board (who must be a member of the board of directors), a president and chief executive officer, a secretary, a treasurer and such other officers as the board may approve from time to time. All such officers shall be elected by the board of directors and serve at the pleasure of the board. All other officers shall be appointed by the president.

SECTION 6.2 **Term and Removal.** An officer may be elected or appointed for a designated term or for an unspecified term but shall continue to hold office until removed or a successor shall have been duly elected or appointed in accordance with these bylaws. No person shall hold more than one office. Any officer elected by the board may be removed from office at any time with or without cause by action of the board. Officers appointed by the president and chief executive officer may also be removed by such officer at any time with or without cause.

SECTION 6.3 **Duties of the Chairman and Vice Chairman.** The chairman of the board shall have all the duties which that position would customarily require, including chairing all meetings of the board, serving as an *ex officio* member of the board of trustees and all other duties assigned by board resolution. The vice chairman shall carry out the duties of the chairman in the chairman's absence. The chairman shall serve as chairman of the Executive Committee and as an *ex officio* member of all committees.

SECTION 6.4 **Duties of the President and Chief Executive Officer.** The president and chief executive officer shall be the chief executive officer of the corporation, shall be responsible for implementing and carrying out corporate policies established by the board of directors of the corporation and advising the board on and making recommendations to the board regarding the formation of such policies. The president and chief executive officer shall carry out such duties as shall be necessary to ensure that this corporation carries out all of the corporation's policies established by the board of directors in a manner that is not inconsistent with the purposes of the corporation. The president and chief executive officer shall have such other duties and authority which such position customarily requires, including those duties assigned from time to time by the board of directors.

SECTION 6.5 **Duties of the Secretary.** The secretary shall act as secretary of the corporation, shall send or cause to be sent appropriate notices or waivers of notice regarding board meetings, shall prepare agendas and other materials for all meetings of the board, shall act as official custodian of all records, reports and minutes of the corporation, the board and all committees, shall be responsible for the keeping and reporting of adequate records of all meetings of the board, shall certify as to actions taken by the board, shall authenticate records of the corporation and shall perform such other duties as are customarily performed by or required of corporate secretaries.

SECTION 6.6 **Duties of the Treasurer.** The treasurer shall have the custody of the corporate funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the corporation and shall deposit all monies and other valuable effects in the name and to the credit of the corporation in such depositories as may be designated by the board of directors. The treasurer shall disburse the funds of the corporation as may be ordered by the board of directors taking proper vouchers for such disbursements and shall render to the chairman and board of directors at its regular meetings, or when the board of directors so requires, an account of all the transactions as treasurer and of the financial condition of the corporation. The treasurer shall see that all tax returns and other financial reports are properly filed by the corporation. If required by the board of directors, he shall give the corporation a bond in such sum and with such surety or sureties as shall be satisfactory to the board of directors for the faithful performance of the duties of the office and for the restoration to the corporation in case of the treasurer's death, resignation, retirement or removal from office of all the books, papers, vouchers, money and other property of whatever kind in his/her possession or under his/her control belonging to the corporation. The chairman of the board shall, in the absence of the treasurer or in the event of his inability or refusal to act, perform the duties and exercise the powers of the treasurer and shall perform such other duties and have such other powers as the board of directors may from time to time prescribe.

ARTICLE VII

FISCAL MATTERS

SECTION 7.1 **Contracts.** The president and chief executive officer and his express designees shall be authorized to execute contracts on behalf of the corporation. In addition, the board may authorize other officers or agents to enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation, with such authority being either general or confined to specific instances.

SECTION 7.2 **Loans and Indebtedness.** No loans shall be contracted on behalf of the corporation and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the board. Such authority may be general or confined to specific instances. No loan shall be made to an officer or director of the corporation.

SECTION 7.3 **Checks, Drafts, Etc.** All checks, drafts, or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the corporation or to the corporation, shall be signed or endorsed by such officer or officers, agent or agents of the corporation and in such manner as shall from time to time be determined by resolution of the board.

SECTION 7.4 **Maintenance of Records.** The corporation shall keep correct and complete books and records of account and other records of the activities of the corporation as may be appropriate. All such records shall be open to inspection upon the demand of any member of the board.

SECTION 7.5 **Gifts.** The board may accept on behalf of the corporation any contribution, gift, bequest or devise for the general or any special purposes of the corporation.

SECTION 7.6 **Auditors.** The board shall select the independent auditor or auditors for this corporation.

ARTICLE VIII

CONFLICTS OF INTEREST

SECTION 8.1 **Purpose.** The purpose of this policy is to protect the corporation's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or director of the corporation. This policy is intended to supplement but not replace any applicable state laws governing conflicts of interest applicable to nonprofit and charitable corporations.

SECTION 8.2 **Definitions.**

8.2.1 **Interested Person.** Any director, principal officer, or member of a committee with board delegated powers who has a direct or indirect financial interest, as defined below, is an interested person.

8.2.2 **Financial Interest.** A person has a financial interest if the person has, directly or indirectly, through business, investment or family--

- 8.2.2.1 an ownership or investment interest in any entity with which the corporation has a transaction or arrangement, or
- 8.2.2.2 a compensation arrangement with the corporation or with any entity or individual with which the corporation has a transaction or arrangement, or
- 8.2.2.3 a potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the corporation is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are substantial in nature. A person shall not be deemed to have a financial interest in any entity whose securities are publicly traded if such person owns, directly or indirectly, through business, investment, or family, less than five percent (5%) of each class of outstanding publicly traded securities of such entity.

SECTION 8.3 Procedures.

8.3.1 Duty to Disclose. In connection with any actual or possible conflicts of interest, an interested person must disclose the existence and nature of his or her financial interest to the directors and members of committees with board delegated powers considering the proposed transaction or arrangement.

8.3.2 Determining Whether a Conflict of Interest Exists. After disclosure of the financial interest, the interested person shall leave the board or committee meeting while the financial interest is discussed and the question of whether such financial interest constitutes a conflict of interest voted upon. The remaining board or committee members shall decide if a conflict of interest exists.

8.3.3 Procedures for Addressing the Conflict of Interest.

8.3.3.1 The chairperson of the board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.

8.3.3.2 After exercising due diligence, the board or committee shall determine whether the corporation can obtain a more advantageous transaction or arrangement with reasonable efforts from a person or entity that would not give rise to a conflict of interest.

8.3.3.3 If a more advantageous transaction or arrangement is not reasonably attainable under circumstances that would not give rise to a conflict of interest, the board or committee shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the corporation's best interest and for its own benefit and whether the transaction is fair and reasonable to the corporation and shall make its decision as to whether to enter into the transaction or arrangement in conformity with such determination.

8.3.4 Violations of the Conflicts of Interest Policy.

8.3.4.1 If the board or committee has reasonable cause to believe that a member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.

8.3.4.2. If, after hearing the response of the member and making such further investigation as may be warranted in the circumstances, the board or committee determines that the member has in fact failed to

disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

SECTION 8.4 **Records of Proceedings.** The minutes of the board and all committees with board-delegated powers shall contain:

8.4.1 the names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the board's or committee's decision as to whether a conflict of interest in fact existed.

8.4.2 the names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussions, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection therewith.

SECTION 8.5 **Compensation Committee.** A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the corporation for services is precluded from voting on matters pertaining to that member's compensation.

SECTION 8.6 **Annual Statements.** Each director, principal officer and member of a committee with board delegated powers shall annually sign a statement which affirms that such person:

8.6.1 has received a copy of the conflicts of interest policy,

8.6.2 has read and understands the policy,

8.6.3 has agreed to comply with the policy, and

8.6.4 understands that the corporation is a charitable organization and that in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

Any officer holding the title of senior vice president or higher in any organization shall be deemed a "principal officer" for purposes of this policy.

SECTION 8.7 **Periodic Reviews.** To ensure that the corporation operates in a manner consistent with its charitable purposes and that it does not engage in activities that could jeopardize its status as an organization exempt from federal income tax, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include whether compensation arrangements and benefits are reasonable and are the result of arm's-length bargaining.

SECTION 8.8 **Use of Outside Experts.** In conducting the periodic reviews provided for in Section 8.7, the corporation may, but need not, use outside advisors. If outside experts are

used their use shall not relieve the board of its responsibility for ensuring that periodic reviews are conducted.

ARTICLE IX

INDEMNIFICATION

SECTION 9.1 **Obligation to Indemnify.** The corporation shall indemnify and hold harmless to the fullest extent required or permitted by applicable law as it presently exists or may hereafter be amended, any individual who is or was a member of the corporation's board of directors (such individual hereinafter referred to as "Director) from and against all loss, cost, liability and expense which may be imposed upon or reasonably incurred by such Director, including reasonable attorney's fees and disbursements and reasonable settlement payments, in connection with any claim, action, suit or proceeding or threat thereof, whether civil, criminal, administrative or investigative (a AProceeding) made or instituted in which such Director may be involved or made a party by reason of such Director being, or having been in the past, a Director, or by reason of any action alleged to have been taken or omitted by such Director in such capacity, if (a) such Director is or was wholly successful, on the merits or otherwise, in defense of such Proceeding or (b) such Director satisfies the following standard of conduct:

9.1.1 The Director's conduct was in good faith and the Director reasonably believed (a) in the case of conduct in the Director's official capacity with the corporation, that his or her conduct was in the best interest of the corporation and (b) in all other cases, that his or her conduct was at least not opposed to the corporation's best interest.

9.1.2 In the case of any criminal Proceeding, the Director had no reasonable cause to believe his or her conduct was unlawful.

9.1.3 In the case of an employee benefit plan, the Director reasonably believed his conduct advanced a purpose in the interests of the participants in, and beneficiaries of, the plan.

The termination of a proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent is not, of itself, determinative that the Director did not satisfy the foregoing standards of conduct.

Indemnification under this Subsection 9.1 shall be mandatory if the above conditions to indemnification are met.

SECTION 9.2 **Limitation on Indemnification.** The corporation shall not indemnify nor hold harmless:

9.2.1 Any Director, in a Proceeding by or in the right of the corporation, who is adjudged liable to the corporation; or

9.2.2 Any Director who, in any other Proceeding alleging improper personal benefit to such Director, was adjudged liable to the corporation on the basis that such Director improperly received any personal benefit.

SECTION 9.3 **Procedure for Defense.** Promptly after receipt by a Director indemnified under any express provision of this Article (the "Indemnified Director ") of notice of the commencement of any action against the Indemnified Director, such Indemnified Director shall give notice to the person or persons or entity or entities obligated to indemnify the Indemnified Director pursuant to the express provisions of this Article (the "Indemnifying Party"). The Indemnifying Party shall be entitled to participate in the defense of the action and, to the extent that it may elect in its discretion by written notice to the Indemnified Director, to assume the control and defense and/or settlement of such action; provided, however, that (i) both the Indemnifying Party and the Indemnified Director must consent and agree to any settlement of any such action, except that if the Indemnifying Party has reached a bona fide settlement agreement with the plaintiff(s) in any such action and the Indemnified Director does not consent to such settlement agreement, then the dollar amount specified in the settlement agreement shall act as an absolute maximum limit on the indemnification obligation of the Indemnifying Party, and (ii) if the defendants in any such action include both the Indemnifying Party and the Indemnified Director, and if the Indemnified Director shall have reasonably concluded that there are legal defenses available to him which are in conflict with those available to the Indemnifying Party, then the Indemnified Director shall have the right to select separate counsel to assert such legal defenses and otherwise to participate in the defense of such action on its own behalf, and the fees and disbursements of such separate counsel shall be included in the amount which the Indemnified Director is entitled to recover under the terms and subject to the conditions of this Agreement.

SECTION 9.4 **Advances for Expenses.** The corporation shall pay for or reimburse the reasonable expenses incurred by a Director who is a party to a proceeding in advance of final disposition of the proceeding if:

9.4.1 The Director furnishes to the corporation a written affirmation of his or her good faith belief that he or she has satisfied the standards of conduct set forth in Section 9.1 hereof or is otherwise immune from suit as provided by law; and

9.4.2 The Director furnishes to the corporation a written undertaking (which shall be an unlimited general obligation of the Director but need not be secured, and may be accepted by the corporation without reference to financial ability to repay), executed personally on his or her behalf, to repay the advance if it is ultimately determined that he or she is not entitled to indemnification; and

9.4.3 A determination is made that the facts then known to those making the determination would not preclude indemnification.

Advancement of expenses under this Section 9.4 shall be mandatory if the above conditions are met.

SECTION 9.5 **Indemnification of Employees and Agents.** An officer of the corporation who is not a Director is entitled to mandatory indemnification if he is wholly successful,

on the merits or otherwise, in any Proceeding, to the same extent as a director. In addition, the corporation may, but shall not be obligated to, indemnify and advance expenses to an officer, employee or agent of the corporation who is not a Director to the same extent as it is obligated to indemnify a Director under this Article. Except with respect to mandatory indemnification, the determination of whether the corporation shall indemnify and advance expenses to an officer, employee or agent of the corporation who is not a Director shall be made by the board of directors.

SECTION 9.6 **Determination of Authority to Indemnify.** Except as to court-ordered indemnification, the corporation shall not indemnify or advance expenses to a Director, officer, employee or agent unless a determination has been made that indemnification or advancement of expenses is permissible or required under this Article. The determination shall be made by:

9.6.1 The board of directors by majority vote of a quorum consisting of directors not at the time parties to the Proceeding;

9.6.2 If a quorum cannot be obtained under Section 9.6.1, a majority vote of a committee duly designated by the board of directors (in which designation the directors who are parties may participate) consisting solely of two (2) or more directors not at the time parties to the Proceeding; or

9.6.3 Independent legal counsel:

9.6.3.1 Selected by the board of directors or its committee in the manner prescribed in Subsections 9.6.1 or 9.6.2; or

9.6.3.2 If a quorum of the board cannot be obtained under Subsection 9.6.1 and a committee cannot be designated under Subsection 9.6.2, selected by a majority vote of the full board of directors (in which selection the directors who are parties may participate).

Authorization of indemnification and evaluation as to reasonableness of expenses shall be made in the same manner as the determination that indemnification is permissible, except that if the determination is made by independent special legal counsel, authorization of indemnification and evaluation as to reasonableness of expenses shall be made by those entitled under Subsection 9.6.3 to select counsel.

SECTION 9.7 **Claims.** If a claim for indemnification or payment of expenses under this Article is not paid in full within sixty days after a written claim therefor has been received by the corporation, the claimant may file suit to recover the unpaid amount of such claim and, if successful in whole or in part, shall be entitled to be paid the expense of prosecuting such claim. In any such action the corporation shall have the burden of proving that the claimant was not entitled to the requested indemnification or payment of expenses under applicable law.

SECTION 9.8 **Nonexclusivity of Rights.** The rights conferred by this Article shall not be exclusive of any other rights which a person may have or hereafter acquire under any statute,

provision of the charter, these bylaws, agreement, vote of members or disinterested directors or otherwise.

SECTION 9.9 **Other Indemnification.** The corporation's obligation, if any, to indemnify any Director, officer, employee or agent who was or is serving at its request as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, enterprise or nonprofit entity shall be reduced by any amount such person may collect as indemnification from such other corporation, partnership, joint venture, trust, enterprise or nonprofit enterprise.

SECTION 9.10 **Amendment or Repeal.** Any repeal or modification of the foregoing provisions of this Article shall not adversely affect any right or protection hereunder of any person in respect of any act or omission occurring prior to the time of such repeal or modification.

ARTICLE X

ADOPTION AND AMENDMENTS

SECTION 10.1 **Adoption.** These bylaws shall be effective upon being approved and adopted by the affirmative vote of a majority of the members of the board then in office at any meeting of the board at which these bylaws are properly presented for consideration by the board.

SECTION 10.2 **Amendments.** These bylaws may be amended by the affirmative vote of a majority of the members of the board then in office at any regular meeting or any special meeting of the board.