



# Model Incorporation and Tax Exemption Documents for California Non-Profits

## Chapter 5- A Guide to California Model Bylaws for a Nonprofit Corporations

By Brad Caftel  
Emily Xiao

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## Introduction

The Bylaws of an organization are its internal operating rules. If operations change, so should the Bylaws—avoid having outdated Bylaws that do not reflect how the organization operates. The model Bylaws document provides an example of important and recommended provisions. Each organization should, however, tailor its Bylaws to match its specific mission and operations. As the IRS, media, and donors scrutinize nonprofits more carefully, any organization should take measures to ensure compliance with the law.

California law recognizes 3 types of nonprofit corporations: public benefit, mutual benefit, and religious corporations. This guide primarily deals with the first type—nonprofit public benefit corporations. There are two model Bylaw versions provided, one for membership public benefit nonprofits, and one for non-membership public benefit nonprofits.

## ARTICLE 1: NAME

Here, state your corporation's name. The name of the corporation should exactly match the name stated in the Articles of Incorporation. Also include any alternate names your organization may use when conducting business.

## ARTICLE 2: PURPOSES

This section is a broad general purpose statement. A broader statement provides room for the corporation's purposes to evolve without requiring immediate amendment to the Bylaws and Articles of Incorporation. A corporation may not engage in broader purposes than are stated in the Articles of Incorporation. Therefore, a corporation should beware of adopting narrow purpose statements that will limit future activities. However, more specific purpose statements may promote a clearer vision.

A corporation may run into charitable trust issues if the purpose of the organization changes, but the Bylaws and other documents such as the Articles of Incorporation are not updated to reflect the change. California has a stricter view on the charitable trust doctrine than some other states; some only require that the assets of a charitable organization be used for charitable purposes. In California, even when a donor imposes no express restrictions on a donation at the time of contribution, the nonprofit corporation may only use the assets for the specific charitable purpose set forth in the corporation's Articles of Incorporation.<sup>1</sup> Drafting a too-specific purpose can prevent funds from going to a slightly different purpose when the corporation grows.

Note that the purpose statement should exactly repeat what is written in the Articles of Incorporation. If one is amended, so should the other (and material changes in activities must be reported to the IRS).

## ARTICLE 3: PRINCIPAL OFFICE

Write the initial principal office address, and include a section allowing for location changes. Avoid using PO Box addresses.

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<sup>1</sup> In re Metropolitan Baptist Church of Richmond, Inc., 48 Cal. App. 3d 850, 857.

If you anticipate the corporation moving fairly often and do not wish to amend the Bylaws every time, you should only include a sentence permitting the Board to set the exact address by Board resolution and not a specific address. The principle office will, however, need to be written on a bi-annual filing with the Secretary of State. If a specific address is put down, be sure that it matches what is on the filing and the Articles of Incorporation.

## ARTICLE 4: NONPARTISAN ACTIVITIES

This section on political activities is required if a corporation wants to qualify for tax exemption under 501(c)(3) of the Code. This helps ensure that directors, who must review and abide by the Bylaws, know that the corporation may not spend any time on political campaign activities, and that the corporation is allowed to influence legislation through lobbying as long as it does not constitute a “substantial” part of its activities. “Substantial” is context-dependent but a general rule of thumb is to not exceed ~5% of the corporation’s gross revenue.

## ARTICLE 5: DEDICATION OF ASSETS

This portion is legally required for tax exemption under 501(c)(3) and to qualify for California property tax exemption on the corporation’s real property. This latter exemption is not automatic; a corporation will need to apply for this exemption with the State Board of Equalization and the County Assessor’s office.

## ARTICLE 6: MEMBERSHIP

There is no legal requirement for nonprofits to have members. If there is no specific provision for members, the law presumes that the corporation has no members. Cal. Corp. Code. § 5310(a). However, to avoid confusion, the nonprofit should state whether it will have members. The Insight Center provides model Bylaws for both membership and non-membership public benefit nonprofit corporations.

<b>Non-membership public benefit nonprofit corporation</b>	<b>Membership public benefit nonprofit corporation</b>
A corporation without members within the meaning of Section 5056 of the California Corporations Code	A corporation with “members” who have the right to vote for directors, on assets, on a merger, or on dissolution. “Member” also applies to any person designated by the Bylaws as a member. <i>Cal. Corp. Code 5056(a)</i> .

A member is any person with governance rights. If there is no pressing reason for members, a corporation should avoid the additional hassle and choose not to have members. Note that if there are no members other than the directors, the corporation will be treated as having no members.

<b>Pros of having members</b>	<b>Cons of having members</b>
Can give stakeholders and organizers a voice in managing the corporation	Fractional divisions can distract management and interfere with objectives
Can help develop financial support among public and wider community integration	Administrative burdens in organizing meetings and making corporate decisions

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Can provide checks and balances against operating the corporation for private gain

Creates added expenses that can frustrate goals

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However, a corporation may have members who are not legal members. If a corporation wishes to have associate members or honorary members who do not have rights to vote, it may specify that within its Bylaws.

## ARTICLE 7: BOARD OF DIRECTORS

While Section 5210 allows the Board to delegate authority, the Board nonetheless remains responsible for the organization's acts and omissions. The Board cannot delegate its function to govern—this should be kept in mind when writing Bylaws. For example, delegating complete control of corporate property to a non-Board member with little oversight is not permissible.

*Keep in mind:*

- No Board actions by email vote unless unanimous
- No directors voting by proxy
- Each voting director has one vote
- Directors owe a duty of loyalty and a duty of care to the corporation. Directors should:
  - Attend meetings regularly
  - Exercise independent and informed judgment on corporate decisions
  - Act and judge in the corporation's best interest
  - Avoid conflicts of interest that are detrimental to the corporation
- Not more than 49% of the Board of a nonprofit public benefit corporation may be "interested persons"
  - Interested persons are defined as
    - § Any person who has been compensated by the corporation within the last 12 months AND
    - § Any member of such a person's family

Number: a very small Board may be problematic because the IRS may believe it does not represent a sufficiently broad public interest. Government funding sources may also require a certain number of Board members. Aim for at least 5. Also, to ensure flexibility, consider using a range instead of setting the exact number of directors on the Board. There are many possible approaches; the model Bylaws present some common options.

Quorum: the minimum number of directors that must be present at a Board meeting in order to take valid action. This number cannot be less than a fifth of the number of authorized directors or fewer than 2 directors, whichever is larger. A corporation should specify a quorum requirement, because if not stated in the Bylaws, the default quorum will be a majority of authorized directors. Consider making a quorum a majority of directors currently in office (as opposed to a majority of authorized directors) in order to prevent vacancies from posing a problem. A corporation could also require certain specific directors to be present to constitute a quorum. While a higher quorum ensures more consensus in Board actions, it may be burdensome to assemble all the necessary directors. If too high, a small group of directors can prevent Board action by simply refusing to attend.

Term: if the Articles and Bylaws do not designate a term length for a director, the law assumes that it is a year. In order to have longer terms, a corporation must explicitly state so. For a non-membership corporation, directorial terms may not exceed 6 years. For others, the limit is 4 years. There is also no legal limit on the number of consecutive terms a director can serve but a corporation may wish to write such a restriction into their Bylaws. Whether or not a corporation imposes term limits, it should add a provision for a staggered Board to ensure that Board members' terms do not all expire at once.

- *Example: Directors shall not serve for more than [#] consecutive terms. A director who has served [#] consecutive terms may be eligible to serve as a director after [##] year(s) have passed since that person was last a director*

Meetings: there is no minimum number of Board meetings a year. While there is similarly no minimum attendance requirement for directors, his or her fiduciary duties require reasonable attendance. Therefore the Board should meet at least once a year, perhaps quarterly. If the Board does not have regular meetings, an executive or finance committee may be necessary to oversee the corporation's activities.

Notice: it may be more convenient to create a meeting schedule every year containing the necessary information. This could act as notice for all directors.

Technology: conference telephones and video communication is allowed for Board meetings if all directors can hear one another.

## ARTICLE 8: STANDARD OF CARE

### LOANS

The Code prohibits loans of money or property to directors and officers unless approved by the Attorney General. There are a few exceptions to this rule, which the corporation may choose to include in the Bylaws: (1) for advancement of expenses, (2) payment of life insurance premiums, or (3) a secured loan to help the director or officer finance the purchase of a principal residence if it is necessary to retain the director or officer's services. *Cal. Corp. Code § 5236*.

### CONFLICT OF INTEREST

The purpose of the conflict of interest 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 one of its officers or directors, or that might otherwise result in a possible excess benefit transaction. Depending on specific circumstances, your organization may need a more detailed conflict of interest section than the one provided.

#### **Example of a more detailed conflict of interest policy<sup>2</sup> :**

This policy is intended to supplement but not replace any applicable California and federal laws governing conflict of interest applicable to nonprofit and charitable corporations and is not intended as an exclusive statement of responsibilities.

1. Definitions: Unless otherwise defined, the terms used in this section have the following meanings:

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<sup>2</sup> See appendix A in the IRS's instructions for Form 1023 at <http://www.irs.gov/pub/irs-pdf/i1023.pdf>

- a. "Interested Persons" - Any director, principal officer, or member of a committee with governing Board delegated powers, which has a direct or indirect financial interest, as defined below, is an interested person.
- b. "Financial Interest" - A person has a financial interest if the person has, directly or indirectly, through business, investment, or family:
  - i. An ownership or investment interest in any entity with which the Corporation has a transaction or arrangement;
  - ii. A compensation arrangement with the Corporation or with any entity or individual with which the Corporation has a transaction or arrangement; or
  - iii. 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 not insubstantial.

A financial interest is not necessarily a conflict of interest. A person who has a financial interest may have a conflict of interest only if the appropriate governing Board or committee decides that a conflict of interest exists.

## 2. Procedures

- a. Duty To Disclose: In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be given the opportunity to disclose all material facts to the directors, who are considering the proposed transaction or arrangement.
- b. Determining Whether A Conflict Of Interest Exists: After disclosure of the financial interest and all material facts, and after any discussion with the interested person, the interested person shall leave the Board meeting while the determination of a conflict of interest is discussed and voted upon. The remaining Board members shall decide if a conflict of interest exists.
- c. Procedure for Addressing The Conflict Of Interest: In the event that the Board determines that a proposed transaction or arrangement presents a conflict of interest, the Board shall take the following actions:
  - i. An interested person may make a presentation at the Board meeting, but after the presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.
  - ii. The Chairperson of the Board shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
  - iii. After exercising due diligence, the Board shall determine whether the Corporation can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.

- iv. If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the Board shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the Corporation's best interest, for its own benefit, and whether it is fair and reasonable. It shall make its decision as to whether to enter into the transaction or arrangement in conformity with this determination.
- d. Violations Of The Conflict Of Interest Policy
- i. If the Board has reasonable cause to believe an interested person has failed to disclose actual or possible conflicts of interest, it shall inform the interested person of the basis for such belief and afford the interested person an opportunity to explain the alleged failure to disclose.
  - ii. If, after hearing the interested person's response and after making further investigation as warranted by the circumstances, the Board determines the interested person has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.
- e. Records And Procedures: The minutes of the Board and shall contain:
- i. 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 decision as to whether a conflict of interest in fact existed.
  - ii. The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.
- f. Annual Statements: Each director, principal officer and member of a committee with Board-delegated powers shall annually sign a statement which affirms such person:
- i. Has received a copy of the conflict of interest policy;
  - ii. Has read and understands the policy;
  - iii. Has agreed to comply with the policy; and
  - iv. Understands the Corporation is charitable and in order to maintain its federal tax exemption it must engage primarily in activities, which accomplish one or more of its tax-exempt purposes.

## COMPENSATION

The California Non-Profit Integrity Act of 2004 requires organizations that receive or accrue in any fiscal year gross revenues of \$2 million, or more (exclusive of grants from, and contracts for services with, governmental entities for which the governmental entity requires an accounting of the funds received) to review the Chief Executive Officer's and Treasurer's compensation upon the occurrence of certain events.

Generally, the IRS frowns on compensation arrangements that are not approved by the full Board (rather than a compensation committee or consultant). The arrangement must be authorized by individuals who do not have a conflict of interest in the matter. It is best to document the data (for example, comparable salaries at similar organizations, executives performing similar duties, etc.) used to decide compensation figures in its meeting minutes. This can avoid future accusations of arbitrariness or favoritism. If a nonprofit wishes to be more detailed in its Bylaws, it can further add that the minutes should include: (1) a list of attendees, (2) consideration of conflicts, (3) timeline of the compensation package, from proposal to approval, (4) specific terms in the compensation package, and (5) review of comparable salary data. This will help establish reasonableness for the IRS.

### **Example of a detailed compensation policy:**

#### COMPENSATION

Definitions: unless otherwise defined, the terms below have the following meanings:

- “Highest Compensated Employee” - Any employee of the Corporation, whose total compensation would require the employee to be listed in Part I of Schedule A of IRS Form 990, or in response to an equivalent question on any successor exempt organization annual return.
- “Highest Compensated Independent Contractor” - Any independent contractor engaged by the Corporation, whose total compensation would require the contractor to be listed in Part II of Schedule A of IRS Form 990, or in response to an equivalent question on any successor exempt organization annual return.

No director, officer, Highest Compensated Employee or Highest Compensated Independent Contractor may receive compensation, directly or indirectly, from the Corporation unless such compensation is first determined by the disinterested directors, or an authorized committee thereof, to be just and reasonable to the corporation.

The names of the persons who were present for discussions and votes relating to the compensation arrangement, the content of the discussion, including any the information used to determine the reasonableness of the compensation, and a record of any votes taken in connection with the proceedings shall be maintained in the minutes of the Corporation.

The determination of reasonableness shall be based upon information about compensation paid by similarly situated organizations for similar services, current compensation surveys compiled by independent firms or actual written offers from similarly situated organizations. Similarly situated organizations may include both taxable and tax exempt organizations.

No director, principal officer, Highest Compensated Employee or Highest Compensated Independent Contractor, shall participate in the discussion and approval of his or her compensation, except that such persons may provide information to the disinterested directors as described in the conflict of interest policy above.

#### COMPENSATION REVIEW

The Board shall review the fairness of compensation, including benefits, paid to the Chairperson of the Board and the Treasurer upon the occurrence of the following events:



- The officer is hired;
- The officer's term of employment is extended or renewed; or
- The officer's compensation is modified, unless such modification occurs pursuant to a general modification of compensation that extends to all employees.

## PERIODIC REVIEWS

Periodic reviews shall be conducted to ensure the Corporation operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status. The periodic reviews shall, at a minimum, include the following subjects:

- Whether compensation arrangements and benefits are reasonable, based on competent survey information, and the result of arm's length bargaining; and
- Whether partnerships, joint ventures, and arrangements with management corporations conform to the Corporation's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in inurement, impermissible private benefit or in an excess benefit transaction.

When conducting the periodic reviews as provided for above, 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.

## MUTUAL DIRECTORS

When a person who is a director of multiple nonprofit organizations learns of an opportunity relevant to one or more nonprofit, conflict of interest issues can come up. The director owes loyalty to both organizations. The model Bylaw provision here prevents transactions from running into problems simply because of the attendance of mutual directors. If desired, the corporation may add in its Bylaws that directors have the freedom to allocate corporate opportunities among the nonprofits they serve however they see fit. For instance:

"A director's efforts to assist another corporation's purpose will not constitute a conflict of interest or a breach of fiduciary duty to this corporation absent a showing of bad faith."

## INDEMNIFICATION AND INSURANCE<sup>3</sup>

Indemnification is a form of protection against loss. Indemnification is a promise to pay on behalf of, or to reimburse, a director or officer who suffers a loss because of their service to the corporation. However, the corporation's promise to indemnify a director or officer is only as good as the corporation's resources allow. In other words, it is self-insurance. The purchase of an insurance policy from a reputable insurer adds another layer of protection.

This default provision allows the corporation to purchase insurance but does not require it. A corporation may wish to write an insurance provision into its Bylaws or guarantee indemnification to reassure potential directors. Organizations should balance the likelihood of liability with the costs of insurance—the need for insurance will depend on the size of the organization and the type of work it does.

However, generally, even if the corporation is found liable for some act, a director will not be personally liable if he or she acted responsibly. Therefore, to best avoid liability, directors should act in accordance

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<sup>3</sup> Note: special complex rules apply to indemnifying volunteers. They will not be discussed here.

with their duty of loyalty and care. But if sued, whether indemnification is mandatory depends on the specifics of the action:

	<b>Proceedings brought by the Attorney General, by or in the name of the corporation, or under § 5233</b>	<b>Proceedings NOT brought by the Attorney General, by or in the name of the corporation, or under § 5233</b>
<b>Agent of the corporation wins on the merits</b>	Indemnification is mandatory	Indemnification is mandatory
<b>Agent does not prevail on the merits (e.g. case is settled)</b>	Agent can only receive indemnification of legal defense costs and other expenses (but not the settlement amount itself). The court, the Board (by quorum), or the members must determine that the agent acted in good faith. The settlement - and thus the indemnification - must be approved by the Attorney General. §§ 5238(c)(2),(3), 5238(e).	Indemnification is discretionary. The corporation may indemnify the agent if the court, the Board (by quorum), or the members determine that the agent acted in “good faith and in a manner the person reasonably believed to be in the best interests of the corporation and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of the person was unlawful.” §§ 5238(b), 5238(e).
<b>Agent loses</b>	Indemnification prohibited unless the court determines that the agent is fairly and reasonably entitled to indemnification for expenses (but not the judgment itself) which the court shall determine. § 5238(c)(1).	Same as above. Indemnification is discretionary.

For more details, see Cal. Corp. Code. § 5238.

## ARTICLE 9: COMMITTEES

The use of committees allows the corporation to accomplish administrative, ministerial, or specialized tasks without requiring the presence or approval of the entire Board. This sample provision allows the Board the flexibility to create committees, but does not require the Board to create any committees. Thus, at the startup phase, while the Board is small, the full Board can act on all decisions, and if the Board grows in size and has many different projects to monitor and supervise, the Board can create committees later.

When creating a committee, an organization should take care to decide whether (1) it will have purely advisory power or if it will have authority to act on behalf of the Board, (2) how the committee is elected or appointed, and (3) who will be expected to serve on the committee and for how long.

The restrictions provided reflect legal limitations and serve as a reminder to the Board of what is and is not permitted.

## EXECUTIVE COMMITTEES

This is an optional provision which may be omitted by smaller organizations. Executive Committees meets more frequently than the full Board and usually have the authority to act on behalf of the Board

between Board meetings. They are commonly used when the full Board is large and cannot meet often, so that the corporation can take actions between the times of full Board meetings.

Note that in order for the executive committee to exercise the authority of the Board, all of its members must be directors.

## AUDIT COMMITTEE

A corporation with annual gross revenues of less than 2 million dollars may find that the cost of an audit outweighs the benefits. However, if a corporation has gross revenues of 2 million dollars or more, the Nonprofit Integrity Act of 2004 requires the Board of Directors of corporate charities to appoint an audit committee of at least one member and conduct an audit. This committee may include non-Board members, but (as the model provision lays out) it may not include (a) any member of staff or (b) any person with a material financial interest in any entity doing business with the charitable organization. The Act provides specific duties—audit committees must:

1. Recommend to the Board the retention and termination of the independent auditor
2. Negotiate the compensation of the auditor on behalf of the Board
3. Confer with the auditor to satisfy the committee members that the financial affairs of the charitable organization are in order
4. Review and determine whether to accept the audit
5. Approve performance of any non-audit services to be provided by the auditing firm

Other possible committees that may be established in the Bylaws: budget committee, development committee, nominating committee, etc.

## ARTICLE 10: OFFICERS

These are the important default rules to keep in mind. *Cal. Corp. Code. § 5213.*

- The President (or if there is no President, the Chairperson of the Board) is the general manager and chief executive officer of the corporation, unless otherwise provided in the Articles or Bylaws. Some organizations prefer to use different terms, such as “Executive Director”—if so, this must be incorporated into the Bylaws.
  - The corporation must have a Chairperson, a President, or both.
- If there is no chief financial officer, the Treasurer is the chief financial officer of the corporation unless otherwise specified in the Articles or the Bylaws,
- No person serving as the Secretary, the Treasurer, or the chief financial officer may serve concurrently as the President or Chair of the Board. This provision is already written into the Bylaws.
  - Rationale: if any corporate document is signed by both the President/Chairperson and the Secretary/Treasurer/chief financial officer, then a third party can regard the document as validly signed by the corporation.

- Officers shall not act in their official capacity by proxy.

Possible additional requirements to incorporate into the Bylaws include:

- Qualifications for the various Board positions (such as a requirement that the director must have served on the Board for at least a year)
- A succession mechanism for a Vice President, Vice Chairperson, etc. to transition into the President or Chairperson.
  - For example: The Vice President shall serve as the President-elect and shall prepare to assume the office of President following completion of the President's current term of office and any renewals thereof.
- Limits on the number of consecutive terms a director may serve in a certain position
  - This may help prevent Board stagnancy. However, if such a provision is incorporated, the organization should consider adding additional details. For example, if the initial term of a director is a partial one because he or she filled a vacancy created by the resignation or removal of a previous director, does that partial term count for purposes of this limitation?

## ARTICLE 11: EXECUTION OF CORPORATE INSTRUMENTS

If desired, the corporation may modify its Bylaws to contain different requirements for entering into valid contracts or transactions. For instance, the Board may specify that all contracts above a certain amount will require Board approval.

## ARTICLE 12: RECORDS AND REPORTS

Corporations are required to maintain minutes of their Board meetings. Minutes can serve as proof of corporate actions, and must be kept in written form. A backup copy is also recommended. This can help limit liability and serve as evidence of fulfilling fiduciary duties.

The IRS requires that any 501(c)(3) corporation's federal tax exemption application and annual tax returns must be open to the public for inspection and copy. Bylaws can serve to remind directors to maintain these documents. If a corporation posts its tax returns on [www.guidestar.org](http://www.guidestar.org), the tax returns would be considered "widely available" and spares the corporation the cost of copying them for anyone who makes a request.

Directors also have a right to inspect the corporation's Articles of Incorporation and Bylaws and other corporate records. This helps enable the director to fulfill his or her duties of care.

## ARTICLE 13: FISCAL YEAR

A fiscal year is used to calculate yearly financial statements or the year used for income tax reporting. It does not have to mirror the calendar year. The corporation may choose to end its fiscal year on the Friday closest to a particular date (for example, December 31) or on the last day of a particular month.

## ARTICLE 14: AMENDMENTS AND REVISIONS

This article may be revised to reflect the individual needs of the corporation.

## ARTICLE 15: CORPORATE SEAL

California corporations are not legally required to have a corporate seal. If desired, a corporation may make affixing the seal necessary for an instrument to become valid.

## ARTICLE 16: CONSTRUCTIONS AND DEFINITIONS

This article is used to prevent changes in the California Nonprofit Corporation Law from invalidating the Bylaws if the two happen to conflict.

## OTHER BYLAWS

While adopting another organization's Bylaws without modification is not recommended, it may be helpful to review them when crafting your own.

- [Red Cross Bylaws](#)
- [International Trademark Association Bylaws](#)

## OTHER RESOURCES

- [Recent changes to California Business Entity Filings](#) (Updated May 15, 2013)
- [California Secretary of State Corporate Filing Tips](#)
- [What Every Nonprofit Board Member Should Know](#) (Adler Colvin)

## Model Bylaws for a Nonprofit Coporation

**Please note:** This document below contains blanks and areas to be filled in as well as alternative provisions. For convenience, a .docx version of this document is available for download and editing. Do not adopt this document as your Bylaws without first filling in the blanks, selecting among the alternate provisions, and customizing it to fit your organization. Please refer to the accompanying Guide to California Model Bylaws document for more information and detailed instructions.

## BYLAWS OF

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(A California Nonprofit Public Benefit Corporation)

### ARTICLE 1: NAME

The name of this corporation is \_\_\_\_\_  
(hereinafter "ABBREVIATION").

### ARTICLE 2: PURPOSES

This corporation has been formed for charitable purposes, to \_\_\_\_\_  
\_\_\_\_\_, as stated in greater detail in Article II of this corporation's Articles of Incorporation. In addition, this corporation is formed for the purposes of performing all things incidental to, or appropriate in, the achievement of the foregoing primary purposes.

This corporation shall hold and may exercise all such powers as may be conferred upon a nonprofit corporation by the laws of the State of California and as may be necessary or expedient for the administration of the affairs and attainment of the purposes of the corporation.

This corporation is a nonprofit Public Benefit Corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporation Law for [public purposes, charitable purposes, or public and charitable purposes].

The corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of its primary charitable purposes. In no event shall the corporation engage in activities which are not permitted to be carried on by a corporation exempt under Section 501(c)(3) of the Internal Revenue Code.

### ARTICLE 3: PRINCIPAL OFFICE

The initial principal office of this corporation shall be located at [123 Address] in the City of \_\_\_\_\_, County of \_\_\_\_\_, State of California. The Board of Directors may change the location of the principal office from one location to another within said city and county. Any such change of location must be noted by the Secretary on these Bylaws opposite this Section; alternatively, this Section may be amended to state the new location.

The Board of Directors may also at any time establish branch offices at any place where this corporation is qualified to conduct its activities.

#### ARTICLE 4: NONPARTISAN ACTIVITIES

This corporation has been formed under the California Nonprofit Public Benefit Corporation Law for the charitable purposes described in Article 2, and it shall be nonprofit and nonpartisan. No substantial part of the activities of the corporation shall consist of the carrying on of propaganda or otherwise attempting to influence legislation. The corporation shall not participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office.

#### ARTICLE 5: DEDICATION OF ASSETS

The properties and assets of this nonprofit corporation are irrevocably dedicated to charitable purposes. No part of the net earnings, properties, or assets of this corporation, on dissolution or otherwise, shall inure to the benefit of any private person or individual, or any member, director or officer of this corporation. On liquidation or dissolution, all remaining properties and assets of the corporation shall be distributed and paid over to an organization dedicated to charitable purposes which has established its tax-exempt status under Section 501(c)(3) of the Internal Revenue Code.

#### ARTICLE 6: MEMBERSHIP

The corporation shall not have any members within the meaning of Section 5056 of the California Corporations Code (“Code”). The corporation may from time to time use the term “members” to refer to persons associated with it, but such persons shall not be members within the meaning of Section 5056 of the Code.

#### ARTICLE 7: BOARD OF DIRECTORS

##### SECTION 1: POWERS.

Subject to the provisions and limitations of the Code and any other applicable laws, 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 of Directors.

The Board of Directors may delegate the management of the day-to-day operation of the business of the corporation to a management company, committee (however composed), or other person, provided that the activities and affairs of the corporation shall be managed and all corporate powers shall be exercised under the ultimate direction of the Board of Directors.

##### SECTION 2: NUMBER OF DIRECTORS

<b>Provision option 1: fixed number of directors</b>	<b>Provision option 2: range of directors</b>
Initially, a ____ ( ) member Board of Directors shall govern this corporation. As of the date of the first annual meeting of the directors, the authorized number of directors shall be ____ ( ). The number of directors may be changed by amendment or revision of these Bylaws, or by	The authorized number of directors of the corporation shall not be less than ____ ( ) nor more than ____ ( ), until changed by amendment of the Articles of Incorporation or these Bylaws. The Board of Directors shall fix the exact number of directors from

repeal of these Bylaws and adoption of new Bylaws.	time to time, within these limits. Until changed by the Board, the authorized number of directors shall be ____ ( ).
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SECTION 3: ELECTION, DESIGNATION, AND TERM OF OFFICE

The initial Board of Directors shall **[hold office for a \_\_\_\_ ( ) year term OR serve until their successors have been elected and seated at the first annual meeting of the directors]**. Except for the initial directors, the Board of Directors shall elect the directors.

At the first annual meeting, the directors shall be divided into **two (2)** approximately equal groups for the purpose of establishing the tenure of each director. **One-half (1/2)** of the initial directors will serve **[1 year]** while **one-half (1/2)** will serve [2 years] so that the term of office of **one-half (1/2)** of the directors shall expire **[each year]**. Thereafter, the term of office of each director shall be two (2) years. Each director, including a director elected to fill a vacancy, shall hold office until expiration of the term for which elected and until a successor has been elected and qualified at the annual meeting. If any annual meeting is not held or the directors are not elected at the annual meeting, the directors may be elected at any meeting of the Board.

Provision option 1	Provision option 2
Directors may serve any number of consecutive terms.	Directors may not serve more than ____ ( ) consecutive ____-year terms.

The corporation intends that the Board of Directors shall collectively represent a diversity of relevant backgrounds and skills to enable the Board of Directors to make informed, well-balanced decisions on the economic viability and social impact of corporate activities. [Add other qualifications for Board membership as appropriate.]

SECTION 4: VACANCIES

A vacancy on the Board shall occur in the event of the following:

- The death, resignation, or removal of any director
- An increase in the authorized number of directors
- The failure of the directors, at any annual or other meeting of directors at which any director or directors are to be elected, to elect the full authorized number of directors
- The declaration by resolution of the Board of a vacancy in the office of a director who has been declared of unsound mind by a final order of court, convicted of a felony, or found by final order or judgment of any court to have breached a duty under Sections 5230-5239 of the Code dealing with standards of conduct for a director
- The declaration by resolution of the Board of a vacancy in the office of a director who has missed **[three (3)]** consecutive Board meetings or a total of **[four (4)]** meetings of the Board during any one calendar year



The Board of Directors, by affirmative vote of a majority of the directors then in office, may remove any director without cause at any regular or special meeting; provided that the director to be removed has been notified in writing in the manner set forth in Article 7, Section 5, that such action would be considered at the meeting.

Except as provided in this paragraph, any director may resign effective upon giving written notice to the Chairperson of the Board, the President, the Secretary, or the Board of Directors, unless the notice specifies a later time for the effectiveness of the resignation. If the resignation is effective at a future time, a successor may be designated to take office when the resignation becomes effective. Unless the California Attorney General is first notified, no director may resign when the corporation would then be left without a duly elected director in charge of its affairs.

Vacancies on the board may be filled by approval of the board or, if the number of directors then in office is less than a quorum, by:

- (1) The unanimous written consent of the directors then in office
- (2) The affirmative vote of a majority of the directors then in office at a meeting held according to notice or waivers of notice complying with the California Nonprofit Public Benefit Corporation Law
- (3) A sole remaining director

Any reduction of the authorized number of directors shall not result in any director's removal before his or her term of office expires.

## SECTION 5: MEETINGS

The Board of Directors shall hold an annual meeting in \_\_\_\_\_ of each year for the purpose of electing directors and officers of the corporation and for the transaction of other business. Notice of the annual meeting shall be given in the manner set forth below. Other regular meetings shall be held at such times as are fixed by the Board of Directors. Such regular meetings may be held without notice. Meetings may be held at any place designated by resolution of the Board, or, if not designated, at the principal office of the corporation. Special meetings shall be held at any place designated in the notice of the meeting or, if not stated in the notice or if there is no notice, at the principal office of the corporation. Notwithstanding the above, any meeting may be held at any place consented to in writing by all the directors, either before or after the meeting. Consents shall be filed with the minutes of the meeting.

Any meeting may be held by conference telephone, video screen communication, or other communications equipment permitted by the Code, as long as all directors participating in the meeting can communicate with one another and all other requirements of the Code are satisfied. All such directors shall be deemed to be present in person at such meeting.

Meetings of the Board for any purpose may be called at any time by the Chairperson of the Board, the President, the Secretary, or any [two (2)] directors. Notice of the date, time, and place of meetings shall be delivered personally to each director or communicated to each director by telephone (including a voice messaging system which records and communicates messages), facsimile, or electronic mail at least forty-eight (48) hours prior to the meeting, or communicated by telegraph, express mail service, first-class mail, or by other means of written communication,

charges prepaid, addressed to the director at the director's address as it is shown upon the records of the corporation, deposited in the mails or given to the telegraph company or express mail company or other carrier at least four (4) days before the date of the meeting. The notice need not specify the purpose of the meeting.

Notice of a meeting need not be given to any director who signs a waiver of notice or a consent to holding the meeting or an approval of the minutes of the meeting, whether before or after the meeting, or who attends the meeting without protesting, prior to the meeting or at its commencement, the lack of notice to such director. The waiver of notice or consent need not specify the purpose of the meeting. All such waivers, consents, and approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

#### SECTION 6: ACTION AT A MEETING

Quorum. Presence of a majority of the directors then in office or twenty percent (20%) of the authorized number of directors, whichever is greater, at a meeting of the Board of Directors constitutes a quorum for the transaction of business, except as otherwise provided in these Bylaws.

Every act done or decision 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 of Directors, unless a greater number, or the same number after disqualifying one or more directors from voting, is required by the Articles of Incorporation, these Bylaws, or the Code. Directors may not vote by proxy. A meeting at which a quorum is initially present, including an adjourned meeting, may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a disinterested majority of the required quorum for such meeting, or such greater number as required by the Articles of Incorporation, these Bylaws or the Code.

#### SECTION 7: ADJOURNED MEETING AND NOTICE

A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than twenty-four (24) hours, notice of any adjournment to another time or place shall be given prior to the time of the adjourned meeting to the directors who were not present at the time of the adjournment. Such notice may be waived in the manner provided for in Article 7, Section 5.

#### SECTION 8: ACTION WITHOUT A MEETING

The Board of Directors may take any required or permitted action without a meeting, if all members of the Board shall individually or collectively consent in writing (including electronic mail) to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board. Such action by written consent shall have the same force and effect as the unanimous vote of such directors. For purposes of this section only, "all members of the Board" does not include any "interested directors" as defined in Section 5233 of the Code.

#### SECTION 9: FEES AND COMPENSATION

Directors and members of committees may not receive any compensation for their services as such, but may receive reasonable reimbursement of expenses incurred in the performance of

their duties, including advances as provided in Article 8, Section 2, as may be fixed or determined by resolution of the Board of Directors.

Directors may not be compensated for rendering services to this corporation in any capacity other than director, unless such compensation is reasonable and approved as provided in Article 8, Section 4.

## **ARTICLE 8: STANDARD OF CARE**

### **SECTION 1: GENERAL**

A director shall perform the duties of a director, including duties as a member of any committee of the Board on which the director may serve, in good faith, in a manner such director believes to be in the best interest of this corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like situation would use under similar circumstances.

In performing the duties of a director, a director shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by:

- One or more officers or employees of the corporation whom the director believes to be reliable and competent in the matters presented;
- Counsel, independent accountants or other persons as to matters which the director believes to be within such person's professional or expert competence; or
- A committee of the Board upon which the director does not serve, as to matters within its designated authority, which committee the director believes to merit confidence

—so long as in any such case, the director acts in good faith, after reasonable inquiry when the need therefore is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted.

Except as provided in Article 8, Section 3, a person who performs the duties of a director in accordance with the above shall have no liability based upon any failure or alleged failure to discharge that person's obligations as a director, including, without limiting the generality of the foregoing, any actions or omissions which exceed or defeat a public or charitable purpose to which the corporation, or assets held by it, are dedicated.

### **SECTION 2: LOANS**

This corporation shall not make any loan of money or property to, or guarantee the obligation of, any director or officer, unless approved by the California Attorney General; provided, however, that this corporation may advance money to a director or officer of this corporation or any subsidiary for expenses reasonably anticipated to be incurred in the performance of the duties of such officer or director so long as such individual would be entitled to be reimbursed for such expenses absent that advance.

### SECTION 3: CONFLICT OF INTEREST

Whenever a director or officer has a financial or personal interest in any matter coming before the Board of Directors, the interested person shall (i) fully disclose the nature of the interest and (ii) withdraw from discussion, lobbying, and voting on the matter. Any transaction or vote involving a potential conflict of interest shall be approved only when a majority of disinterested directors determine that it is in the best interest of the corporation to do so and the transaction was fair and reasonable as to the corporation at the time the corporation enters the transaction. The minutes of meetings at which such votes are taken shall record such disclosure, abstention and rationale for approval.

**Note: a more detailed conflict of interest section is available in the Guide to California Model Bylaws for a Nonprofit Corporation.**

### SECTION 4: MUTUAL DIRECTORS

No contract or transaction between the corporation and any California nonprofit public benefit corporation, of which one or more of its directors are directors of this corporation, is void or voidable because such director(s) are present at a meeting of the Board which authorizes, approves, or ratifies the contract or transaction if the material facts as to the transaction and as to such director's other directorship are fully disclosed or known to the Board and the Board authorizes, approves, or ratifies the contract or transaction in good faith by a vote sufficient without counting the vote of the common director(s), or if the contract or transaction is just and reasonable as to the corporation at the time it is authorized, approved or ratified.

### SECTION 5: RESTRICTION ON INTERESTED DIRECTORS

Not more than forty-nine percent (49%) of the persons serving on the Board of Directors at any time may be interested persons. An interested person is:

- (1) Any person currently being compensated by the corporation for services rendered to it within the previous twelve (12) months, whether as a full-time or part-time employee, independent contractor, or otherwise, excluding any reasonable compensation paid to a director as director; and
- (2) Any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law of any such person.

However, any violation of the provisions of this section shall not affect the validity or enforceability of any transaction entered into by the corporation.

### SECTION 6: INDEMNIFICATION AND INSURANCE

To the fullest extent permitted by law, this corporation shall indemnify its "agents", as described in Section 5238(a) of the Code, including its directors, officers, employees, and volunteers, and including persons formerly occupying any such position, and their heirs, executors, and administrators, against all expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred by them in connection with any "proceeding," as that term is used in said Section 5238(a), and including an action by or in the right of the corporation, by reason of the fact that the person is or was a person described in that Section. "Expenses" shall have the same

meaning as in said Section. Such right of indemnification shall not be deemed exclusive of any other rights to which such persons may be entitled apart from this Article 8, Section 6.

To the fullest extent permitted by law and except as otherwise determined by the Board in a specific instance, expenses incurred by a person seeking indemnification in defending any "proceeding" shall be advanced by the corporation before final disposition of the proceeding upon receipt by the corporation of an undertaking by or on behalf of that person to repay such amount unless it is ultimately determined that the person is entitled to be indemnified by the corporation for those expenses.

The corporation shall have power to purchase and maintain insurance to the fullest extent permitted by law on behalf of any agent of the corporation, against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such, or to give other indemnification to the extent permitted by law.

## **ARTICLE 9: COMMITTEES**

### **SECTION 1: COMMITTEES OF DIRECTORS**

The Board of Directors may, by resolution adopted by a majority of the directors then in office, provided that a quorum is present:

- Designate one or more committees, each consisting of two (2) or more directors, to exercise all or a portion of the authority of the Board
- Designate one or more advisory committees, which may include persons who are not on the Board, that do not have the authority of the Board.
- Appoint committee members and alternate members who may replace any absent member at any meeting of the committee

All committees and their members and alternates serve at the pleasure of the Board. However, no committee, regardless of Board resolution, may:

- Approve any action that, under the Code, would also require approval of the members or approval of a majority of all members if this were a membership corporation.
- Fill vacancies on, or remove the members of, the Board of Directors or in any committee that has the authority of the Board.
- Fix compensation of the directors for serving on the Board or on any committee.
- Amend or repeal the Articles of Incorporation or Bylaws or adopt new Bylaws.
- Amend or repeal any resolution of the Board of Directors that by its express terms is not so amendable or repealable.
- Appoint any other committees of the Board of Directors or members of these committees.

- Approve a plan of merger; consolidation; voluntary dissolution; bankruptcy or reorganization; or for the sale, lease, or exchange of all or substantially all of the property and assets of the corporation otherwise than in the usual and regular course of its business; or revoke any such plan.
- Approve any self-dealing transaction, except as provided by Section 5233 of the Code

No committee shall bind the corporation in a contract or agreement or expend corporate funds, unless authorized to do so by the Board of Directors.

## SECTION 2: MEETINGS AND ACTIONS OF COMMITTEES

Meetings and actions of all committees shall be governed by, and held and taken in accordance with, the provisions of Article 7 of these Bylaws, concerning meetings and actions of directors, with such changes in the context of those Bylaws as are necessary to substitute the committee and its members for the Board of Directors and its members, except that the time for regular meetings of committees may be determined either by resolution of the Board of Directors or by resolution of the committee. Special meetings of committees may also be called by resolution of the Board of Directors.

Members and alternates of a committee must receive notice of committee meetings consistent with the manner of giving, time, and notice contents requirements applicable to full board meetings.

All alternate members shall have the right to attend all meetings of the committee. Minutes shall be kept of each meeting of any committee and shall be filed with the corporate records. The Board of Directors may adopt rules not inconsistent with the provisions of these Bylaws for the governance of any committee.

## SECTION 3: EXECUTIVE COMMITTEE

Pursuant to Article 9, Section 1, the Board may appoint an Executive Committee composed of three (3) or more directors, one of whom shall be the Chairperson of the Board **[OR consisting of the Chairperson of the Board, the Vice Chairperson, the Secretary, and the Treasurer]**, to serve as the Executive Committee of the Board. The Executive Committee, unless limited in a resolution of the Board, shall have and may exercise all the authority of the Board in the management of the business and affairs of the corporation between meetings of the Board; provided, however, that the Executive Committee shall not have the authority of the Board in reference to those matters enumerated in Article 9, Section 1. The Secretary of the corporation shall send to each director a summary report of the business conducted at any meeting of the Executive Committee.

When a decision can be deferred until the next Board meeting, the Executive Committee shall not act on the matter. No Executive Committee meeting shall be held in lieu of a regular Board meeting, unless agreed to by a majority of the Directors.

## SECTION 4: AUDIT COMMITTEE

The Board may appoint an Audit Committee, and shall appoint an Audit Committee in accordance with the Nonprofit Integrity Act of 2004 when the corporation has gross revenues of 2 million

dollars or more. Notwithstanding Article 9, Section 1, which shall otherwise govern the committee's operations, the committee may be comprised of one or more persons and may include persons other than directors of the corporation.

The membership of the Audit Committee shall not include the following persons;

- The Chairperson of the Board;
- The Treasurer of the corporation;
- Any employee of the corporation; or
- Any person with a material financial interest in any entity doing business with the corporation.

In the event that the Board appoints a Finance Committee, members of the Finance Committee must constitute less than one-half of the membership of the Audit Committee and the Chair of the Finance Committee shall not serve on the Audit Committee.

The Audit Committee shall make recommendations to the Board of Directors regarding the hiring and termination of an auditor, who shall be an independent certified public accountant, and may be authorized by the Board to negotiate the auditor's salary.

The Audit Committee shall confer with the auditor to satisfy its members that the corporation's financial affairs are in order, and shall review and determine whether to accept the audit.

In the event that the auditor's firm provides non-audit services to the corporation, the Audit Committee shall ensure that the auditor's firm adheres to the standards for auditor independence set forth in the latest revision of the Government Auditing Standards published by the Comptroller General of the United States, or any standards promulgated by the Attorney General of California.

## **ARTICLE 10: OFFICERS**

### **SECTION 1: OFFICERS**

The officers of the corporation shall consist of (1) a President or a Chairperson of the Board, or both, (2) a Secretary, and (3) a Treasurer or chief financial officer, or both, and may consist of one or more Vice Chairpersons and/or Vice Presidents and such other officers as the Board may designate by resolution. Other than the Chairperson of the Board, these persons may, but need not be, selected from among the Directors.

The same person may hold any number of offices, except that the Secretary, the Treasurer, or the chief financial officer may not serve concurrently as the Chairperson of the Board or the President.

In addition to the duties specified in this Article 10, officers shall perform all other duties customarily incident to their office and such other duties as may be required by law, by the Articles of Incorporation, or by these Bylaws, subject to control of the Board of Directors, and shall perform such additional duties as the Board of Directors shall from time to time assign.

### *APPOINTMENT AND REMOVAL*

The officers shall be chosen by the Board at its annual meeting, and shall serve at the pleasure of the Board, subject to the rights, if any, of any officer under any contract of employment. Without prejudice to any rights of an officer under any contract of employment, any officer may be removed with or without cause by the Board.

### *RESIGNATION, DISQUALIFICATION AND VACANCIES*

Any officer may resign at any time by giving written notice to the Board of Directors, the Chairperson of the Board, the President, or the Secretary of the corporation, without prejudice, however, to the rights, if any, of the corporation under any contract to which such officer is a party. Any resignation shall take effect on the date of the receipt of such notice or at any later time specified in the resignation. Unless otherwise specified in the resignation, acceptance of the resignation shall not be necessary to make it effective.

A vacancy in any office because of death, resignation, removal, disqualification, or any other cause shall be filled in the manner prescribed in these Bylaws for regular appointments to that office. The compensation, if any, of the officers shall be fixed or determined by resolution of the Board of Directors.

## SECTION 2: CHAIRPERSON OF THE BOARD

The Chairperson of the Board shall, when present, preside at all meetings of the Board of Directors and Executive Committee. The Chairperson is authorized to execute in the name of the corporation all contracts and other documents authorized either generally or specifically by the Board to be executed by the corporation, except when by law the President's signature is required. If the Board designates both a Chairperson and a President, the Board shall, by resolution, establish the specific duties carried out by each position.

## SECTION 3: VICE CHAIRPERSON OF THE BOARD

The Vice Chairperson shall, in the absence of the Chairperson, or in the event of his or her inability or refusal to act, perform all the duties of the Chairperson, and when so acting shall have all the powers of, and be subject to all the restrictions on, the Chairperson.

## SECTION 4: PRESIDENT

(Default general manager and CEO). Subject to the control, advice and consent of the Board of Directors, the President shall, in general:

- Supervise and conduct the activities and operations of the corporation
- Keep the Board of Directors fully informed and shall freely consult with them concerning the activities of the corporation
- See that all orders and resolutions of the Board are carried into effect.
- Be empowered to act, speak for, or otherwise represent the corporation between meetings of the Board



- Be responsible for the hiring and firing of all personnel, and shall be responsible for keeping the Board informed at all times of staff performance and for implementing any personnel policies adopted by the Board

The President is authorized to contract, receive, deposit, disburse, and account for funds of the corporation; to execute in the name of the corporation all contracts and other documents authorized either generally or specifically by the Board to be executed by the corporation; and to negotiate all material business transactions of the corporation.

If there is no Chairperson and Vice Chairperson, the President shall preside at meetings of the Board. If no other person is designated as the chief executive, the President shall be the chief executive and have the powers and duties prescribed by the Board or these Bylaws.

Where appropriate, the Board of Directors shall place the President under a contract of employment.

#### SECTION 5: SECRETARY

The Secretary, or his or her designee, shall:

- Be custodian of all records and documents of the corporation which are to be kept at the principal office of the corporation
- Act as Secretary of all the meetings of the Board of Directors
- Keep the minutes of all such meetings in books proposed for that purpose
- Attend to the giving and serving of all notices of the corporation
- See that the seal of the corporation is affixed to all documents, the execution of which on behalf of the corporation under its seal is duly authorized in accordance with the provisions of these Bylaws.

#### SECTION 6: TREASURER

The Treasurer shall:

- Keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the corporation, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital, retained earnings, and other matters customarily included in financial statements
- Deposit or cause to be deposited all moneys and other valuables in the name and to the credit of the corporation with such depositories as may be designated by the Board of Directors
- Disburse or cause to be disbursed the funds of the corporation as may be ordered by the Board of Directors

- Render to the Chairperson, President and directors, whenever they request it, an account of all of the Treasurer's transactions as Treasurer and of the financial condition of the corporation.

If required by the Board of Directors, 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 the Treasurer's office and for restoration to the corporation of all its books, papers, vouchers, money and other property of every kind in the Treasurer's possession or under the Treasurer's control on the Treasurer's death, resignation, retirement, or removal from office. The corporation shall pay the cost of such bond.

## **ARTICLE 11: EXECUTION OF CORPORATE INSTRUMENTS**

### **SECTION 1: EXECUTION OF CORPORATE INSTRUMENTS**

The Board of Directors may, in its discretion, determine the method and designate the signatory officer or officers or other person or persons, to execute any corporate instrument or document, or to sign the corporate name without limitation, except when otherwise provided by law, and such execution or signature shall be binding upon the corporation.

Unless otherwise specifically determined by the Board of Directors or otherwise required by law, formal contracts of the corporation, promissory notes, deeds of trust, mortgages, and other evidences of indebtedness of the corporation, and other corporate instruments or documents, memberships in other corporations, and certificates of shares of stock owned by the corporation, shall be executed, signed, or endorsed by the Chairperson of the Board, Vice Chairperson of the Board or the President and by the Secretary or Treasurer or any Assistant Secretary or Assistant Treasurer.

All checks and drafts drawn on banks or other depositories on funds to the credit of the corporation, or in special accounts of the corporation, shall be signed by such person or persons as the Board of Directors shall authorize to do so.

### **SECTION 2: LOANS AND CONTRACTS**

No loans or advances shall be contracted on behalf of the corporation and no note or other evidence of indebtedness shall be issued in its name unless and except as the specific transaction is authorized by the Board of Directors. Without the express and specific authorization of the Board, no officer or other agent of the corporation may enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation.

## **ARTICLE 12: RECORDS AND REPORTS**

### **SECTION 1: MAINTENANCE AND INSPECTION OF ARTICLES AND BYLAWS**

The corporation shall keep at its principal office the original or a copy of its Articles of Incorporation and Bylaws as amended to date, which shall be open to inspection by the directors at all reasonable times during office hours.

## SECTION 2: MAINTENANCE AND INSPECTION OF FEDERAL TAX EXEMPTION APPLICATION AND ANNUAL INFORMATION RETURNS

The corporation shall keep at its principal office a copy of its federal tax exemption application and its annual information returns for three years from their date of filing, which shall be open to public inspection and copying to the extent required by law.

## SECTION 3: MAINTENANCE AND INSPECTION OF OTHER CORPORATE RECORDS

The corporation shall keep adequate and correct books and records of accounts, and written minutes of the proceedings of the Board and committees of the Board. All such records shall be kept at such place or places designated by the Board of Directors, or, in the absence of such designation, at the principal office of the corporation. The minutes shall be kept in written or typed form, and other books and records shall be kept either in written or typed form or in any other form capable of being converted into written, typed, or printed form. Upon leaving office, each officer, employee, or agent of the corporation shall turn over to his or her successor or the Chairperson or President, in good order, such corporate monies, books, records, minutes, lists, documents, contracts or other property of the corporation as have been in the custody of such officer, employee, or agent during his or her term of office.

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

## SECTION 4: PREPARATION OF ANNUAL FINANCIAL STATEMENTS

The corporation shall prepare annual financial statements using generally accepted accounting principles. If required by law or as determined by the Board, such statements shall be audited by an independent certified public accountant, in conformity with generally accepted accounting standards, under supervision of the Audit Committee established by these Bylaws. The corporation shall make these financial statements available to the California Attorney General and members of the public for inspection no later than nine (9) months after the close of the fiscal year to which the statements relate.

## SECTION 5: REPORTS

The Board shall send an annual report, electronically or otherwise, to all directors, within 120 days after the end of the corporation's fiscal year, containing the following information:

- The assets and liabilities, including the trust funds, of this corporation at the end of the fiscal year;
- The principal changes in assets and liabilities, including trust funds, during the fiscal year;
- The revenues or receipts of this corporation, both unrestricted and restricted for particular purposes, for the fiscal year;
- The expenses or disbursements of this corporation for both general and restricted purposes during the fiscal year; and

- The information required by Section 6322 of the Code concerning certain self-dealing transactions involving more than \$50,000 or indemnifications involving more than \$10,000 which took place during the fiscal year.

The report shall be accompanied by any pertinent report of independent accountants, or, if there is no such report, the certificate of an authorized officer of the corporation that such statements were prepared without audit from the books and records of the corporation.

### **ARTICLE 13: FISCAL YEAR**

The fiscal year for this corporation shall begin on \_\_\_\_\_ and shall end on \_\_\_\_\_.

### **ARTICLE 14: AMENDMENTS AND REVISIONS**

These Bylaws may be adopted, amended or repealed by the vote of a majority of the directors then in office. Such action is authorized only at a duly called and held meeting of the Board of Directors for which written notice of such meeting, setting forth the proposed Bylaw revisions with explanations therefore, is given in accordance with these Bylaws, unless such notice is waived in accordance with these Bylaws. If any provision of these Bylaws requires the vote of a larger proportion of the Board than is otherwise required by law, that provision may not be altered, amended, or repealed except by that greater vote.

### **ARTICLE 15: CORPORATE SEAL**

The Board of Directors may adopt, use, and alter a corporate seal. The seal shall be kept at the principal office of the corporation. Failure to affix the seal to any corporate instrument, however, shall not affect the validity of that instrument.

If adopted, the seal of the corporation shall be [circular/other shape] in form and shall bear on [location on seal] the words “[name of corporation]” and in the center the word “\_\_\_\_\_”, with the date of incorporation inscribed thereon.

### **ARTICLE 16: CONSTRUCTION AND DEFINITIONS**

Unless the context otherwise requires, the general provisions, rules of construction, and definitions contained in the California Nonprofit Corporation Law as amended from time to time shall govern the construction of these Bylaws. Without limiting the generality of the foregoing, the masculine gender includes the feminine and neuter, the singular number includes the plural and the plural number includes the singular, and the term "person" includes a corporation as well as a natural person. If any competent court of law shall deem any portion of these Bylaws invalid or inoperative, then so far as is reasonable and possible (i) the remainder of these Bylaws shall be considered valid and operative, and (ii) effect shall be given to the intent manifested by the portion deemed invalid or inoperative.

**CERTIFICATE OF SECRETARY**

I, the undersigned, certify that I am the presently elected and acting secretary of \_\_\_\_\_, a California nonprofit public benefit corporation, and the above bylaws, consisting of \_\_\_ ( ) pages, are the Bylaws of this corporation as adopted by the Board of Directors on \_\_\_\_\_, 20\_\_, and that they have not been amended or modified since that date.

Executed on \_\_\_\_\_, 20\_\_, at \_\_\_\_\_, California.

\_\_\_\_\_  
Secretary