

## **AMENDED & RESTATED BYLAWS**

*(as amended and restated May •, 2012)*

### **TRIATHLON CLUB OF SAN DIEGO a California Nonprofit Mutual Benefit Corporation**

#### **Article 1. NAME & CORPORATE OFFICES**

**Section 1.1.** The name of this corporation is Triathlon Club of San Diego (hereinafter, the “Club” or the “corporation”).

**Section 1.2.** The principal office for the transaction of the activities, affairs, and business of the corporation shall be located such address as the corporation’s board of directors (the “Board”) may determine from time to time. The Board may change the location of the principal office by a resolution thereof.

**Section 1.3.** The Board may at any time establish branch or subordinate offices at any place or places where the corporation is qualified to conduct its activities.

#### **Article 2. PURPOSE**

**Section 2.1.** The corporation is a nonprofit mutual benefit corporation organized under the Nonprofit Mutual Benefit Corporation Law of the State of California (the “Applicable Corporation Law”). The purpose of the corporation is to engage in any lawful act or activity (other than the credit union business) for which a corporation may be organized under the Applicable Corporation Law.

**Section 2.2.** Without limiting the generality of the foregoing, the specific purposes of the corporation are for pleasure, recreation, and other nonprofit purposes. In the context of these general purposes, the corporation shall support all levels of triathletes by offering training sessions, organized races, coached clinics, member meetings, social activities, and such other triathlon-related activities as the Board may determine to be reasonable and appropriate in light of the corporation’s purposes.

**Section 2.3.** Notwithstanding any other provision of these bylaws, the corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that do not further the purposes of the corporation. The corporation shall not carry on any other activities not permitted to be carried on by a corporation exempt from federal income tax under Section 501(c)(7) of the Internal Revenue Code of 1986, as amended.

#### **Article 3. CONSTRUCTION AND DEFINITIONS**

**Section 3.1.** Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the Applicable Corporation Law shall govern the construction of these Bylaws.

Without limiting the generality of the preceding sentence, the masculine gender includes the feminine and neuter, the singular includes the plural, the plural includes the singular, and the term “person” includes both a legal entity and a natural person.

#### **Article 4. CLASSES AND QUALIFICATIONS OF MEMBERSHIP**

**Section 4.1.** The corporation shall have one class of members, known as general members of the Club.

**Section 4.2.** Membership shall be individual and personal to the person applying for membership.

**Section 4.3.** Any person with an interest in the sport of triathlon may apply for membership. All applicants for membership must sign a liability waiver statement approved by the Board. In the case of an applicant for membership who is less than eighteen (18) years of age, a legal guardian of such applicant must also sign a liability waiver statement. The corporation shall not discriminate on the basis of race, creed, color, disability, religion, sex, sexual orientation, national origin, or any other class or category protected by federal or California laws or regulations and that are applicable to the corporation.

**Section 4.4.** Persons shall be eligible for membership on approval of the membership application by the Board and on timely payment of dues.

#### **Article 5. RIGHTS OF MEMBERSHIP**

**Section 5.1.** Each member in good standing shall be entitled to one (1) vote on each matter submitted to a vote of the members. In addition, each member in good standing shall have all rights afforded members under the Applicable Corporation Law.

**Section 5.2.** All rights of membership cease on the member’s death, suspension, expulsion, or termination.

#### **Article 6. MEMBERSHIP DUES, FEES, AND ASSESSMENTS**

**Section 6.1.** The Board may make determinations with respect to the amount of any dues, fees, or other assessments at such times as it shall determine appropriate.

**Section 6.2.** Each member must pay such dues, fees, and assessments in the amounts and within the time periods fixed from time to time by the Board. Failure to pay applicable dues, fees, or assessments in the amounts and within the time periods set forth in these Bylaws or otherwise prescribed by the Board shall be considered an election by the member to terminate membership in the Club, such resignation to be effective as specified in Section 8.1(c) and Section 10.2 below.

**Section 6.3.** Reserved.

**Section 6.4.** A member may avoid liability for any dues, fees, or assessments upon learning of them by promptly resigning from membership, except where the member is liable for them by contract, as a condition to ownership of an interest in real property, as an obligation arising out of the ownership of an interest in real property, or otherwise.

**Section 6.5.** Annual membership dues are waived for members of the Board and all officers of the corporation during their term of service and for one year thereafter, *provided that* such waiver shall not apply to any additional dues, fees, or assessments that may be imposed on members from time to time by the Board in accordance with the Applicable Corporation Law and these Bylaws.

## **Article 7. MEMBERS IN GOOD STANDING**

**Section 7.1.** Members who have paid the required dues, fees, and assessments in accordance with these Bylaws and who are not suspended, expelled, or otherwise terminated shall be members in good standing.

## **Article 8. TERMINATION OF MEMBERSHIP; EXPULSION**

**Section 8.1.** A membership shall terminate on the occurrence of any of the following events:

- (a) Voluntary resignation of the member by written or electronic notice to the corporation;
- (b) Expiration of the period of membership, unless the membership is renewed on the renewal terms fixed by the Board;
- (c) Failure of a member to pay dues, fees, or assessments set by the Board within sixty (60) days after they become due and payable; or
- (d) Occurrence of any event that renders the member ineligible for membership or results in the member's failure to satisfy membership qualifications.

**Section 8.2.** A member may be expelled from the Club, and such member's membership may be involuntarily terminated, in accordance with the procedures set forth in Article 10 below, upon the good faith determination of the Board, or a committee or person authorized to make such a determination, that such member has (a) failed to a material and serious degree to observe the rules of conduct of the corporation or (b) engaged in conduct materially and seriously prejudicial to the corporation's purposes and interests. Without limiting the foregoing and in light of the corporate purposes of the Club relating to athletic activities and good sportsmanship, the Board may terminate a membership based on the good faith determination of the Board (or an authorized committee or person) that the member has willfully or recklessly created a hazardous situation for other members.

**Article 9. SUSPENSION OF MEMBERSHIP**

**Section 9.1.** A member may be suspended, in accordance with the procedures set forth in Article 10 below, upon the good faith determination of the Board, or a committee or person authorized by the Board to make such a determination, that such member has (a) failed to a material and serious degree to observe the corporation’s rules of conduct or (b) engaged in conduct materially and seriously prejudicial to the corporation’s purposes and interests. Without limiting the foregoing and in light of the corporate purposes of the Club relating to athletic activities and good sportsmanship, the Board may suspend a member based on the good faith determination of the Board (or an authorized committee or person) that the member has willfully or recklessly created a hazardous situation for other members.

**Section 9.2.** A person whose membership is suspended shall not be a member during the period of suspension. No meeting or vote taken in which a suspended member participates shall be void or voidable because of such suspended member’s participation, but such suspended member’s presence and/or vote shall not be counted for any purpose.

**Article 10. PROCESS OF EXPULSION OR SUSPENSION OF MEMBERSHIP**

**Section 10.1.** If grounds appear to exist for expulsion or suspension of a member under Article 8 or Article 9 of these bylaws, the following procedures shall be followed:

(a) The Board shall give the member at least fifteen (15) days’ prior notice of the proposed expulsion or suspension and the reasons for the proposed expulsion or suspension. Notice shall be given by any method reasonably calculated to provide actual notice and may be sent electronically. Any notice given by mail shall be sent by first-class or registered mail to the member’s last address as shown on the corporation’s records.

(b) The member shall be given an opportunity to be heard, either orally or in writing (which may be delivered electronically), at least five (5) days before the effective date of the proposed expulsion or suspension. The hearing shall be held, or the written or electronic statement considered, by the Board or by a committee or person authorized by the Board to determine whether the expulsion or suspension should occur.

(c) The Board, or any such committee or person, shall decide whether the member should be expelled, suspended, or sanctioned in some other way. The decision of the Board, such committee, or such person shall be final.

(d) Any action challenging or appealing an expulsion, suspension, or termination of membership, including a claim alleging defective notice, must be commenced within one year after the date of the expulsion, suspension, or termination.

**Section 10.2.** Notwithstanding the foregoing, the Board, or a committee or person designated by the Board, may unilaterally and without further procedural formalities suspend a membership for nonpayment of dues, fees, or assessments as set by the Board within thirty (30) days after they become due and payable and expel the member sixty (60) days after they become payable, *provided*

*that* the member has received notice of such procedure not less than thirty (30) days prior to such event. A single notice may be used to provide notice of both the potential suspension and the potential expulsion for nonpayment.

## **Article 11. MEMBERSHIP TRANSFER NOT PERMITTED**

**Section 11.1.** No membership or right arising from membership shall be transferable or assignable.

## **Article 12. MEETINGS OF MEMBERS**

**Section 12.1.** An annual meeting of the members shall be held at such time and place as the Board in its discretion shall determine for the purpose of transacting such business as may come before the meeting, *provided that* the only matters that may be voted upon by members shall be matters notice of the general nature of which was given in accordance with these Bylaws.

**Section 12.2.** Additional meetings of the members shall be held at such times and places as the Board in its discretion shall determine for the purpose of transacting such business as may come before the meeting, *provided that* the only matters that may be voted upon by members shall be matters notice of the general nature of which was given in accordance with these Bylaws.

## **Article 13. PLACE OF MEETING**

**Section 13.1.** Meetings of the members may be held at any place designated by the Board, whether within or outside the State of California.

## **Article 14. SPECIAL MEETINGS**

**Section 14.1.** The Board, the Chairman of the Board, if any, the President, or members representing five percent (5%) or more of the members may call a special meeting of the members for any lawful purpose at any time.

**Section 14.2.** A special meeting called by any person (other than the Board) entitled to call a meeting shall be called by written request, specifying the general nature of the business proposed to be transacted, and submitted to the Chairman of the Board, if any, or the President, the Vice President, or the Secretary of the corporation. The officer receiving the request shall cause notice to be given promptly to the members entitled to vote under Section 5.1 and Section 7.1 of these Bylaws, stating that a meeting will be held at a specified time and date fixed by the Board, *provided, however,* that the meeting date shall be at least thirty five (35) but no more than ninety (90) days after the receipt of the request. If the notice is not given within 20 days after the request is received, the person or persons requesting the meeting may give the notice. Nothing in this section shall be construed as limiting, fixing, or affecting the time at which a meeting of members may be held when the meeting is called by the Board.

**Section 14.3.** No business, other than the business the general nature of which was set forth in the notice of the meeting, may be transacted at a special meeting.

## **Article 15. GENERAL NOTICE REQUIREMENTS**

**Section 15.1.** Whenever members are required or permitted to take any action at a meeting, a written or electronic notice of the meeting shall be given in accordance with this Article 15 to each member entitled to vote at that meeting. The notice shall specify the place, date, and hour of the meeting. For the annual meeting, the notice shall state the matters that the Board, at the time notice is given, intends to present for action by the members. For a special meeting, the notice shall state the general nature of the business to be transacted and shall state that no other business may be transacted. The notice of any meeting at which directors are to be elected shall include the names of all persons who are nominees when notice is given.

**Section 15.2.** Notice of any meeting of members shall be in writing and shall be given at least ten (10) but no more than ninety (90) days before the meeting date. The notice shall be given personally, by electronic transmission by a corporation, or by mail or other means of written or electronic communication, charges prepaid, addressed to the member at the address of the member appearing on the books of the corporation or given by the member to the corporation for purpose of notice. If notice is given by mail, and the notice is not mailed by first-class, registered, or certified mail, notice shall be given not less than twenty (20) days before the meeting date. If no address appears on the corporation's books and no address has been so given, notice shall be deemed to have been given if either (i) notice is sent to that member by first-class mail or other written or electronic communication to the corporation's principal office or (ii) notice is published at least once in a newspaper of general circulation in the county in which the principal office is located.

**Section 15.3.** An affidavit of the mailing of any notice of any members' meeting, or of the giving of such notice by other means, may be executed by the secretary, assistant secretary, or any transfer agent of the corporation, and if so executed, shall be filed and maintained in the corporation's minute book.

## **Article 16. QUORUM**

**Section 16.1.** The presence in person or by proxy of one hundred fifty (150) members shall constitute a quorum for purposes of transacting business at any meeting of the members.

**Section 16.2.** The members present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment, even if enough members have withdrawn to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the members required to constitute a quorum or, if required by the Applicable Corporation Law, the corporation's articles of incorporation, or these Bylaws, the vote of a greater number or voting by classes.

## **Article 17. VOTING**

**Section 17.1.** Subject to the Applicable Corporation Law, members in good standing on the record date as determined under Section 21.1 or Section 21.2 of these Bylaws shall be entitled to vote at any meeting of members.

**Section 17.2.** Voting may be by voice or by ballot, except that any election of directors must be by ballot if demanded before the voting begins by any member at the meeting.

**Section 17.3.** In accordance with Section 5.1, each member in good standing entitled to vote may cast one (1) vote on each matter submitted to a vote of the members.

**Section 17.4.** The affirmative vote of a majority of the votes represented and voting at a duly held meeting at which a quorum is present (which affirmative vote also constitutes a majority of the required quorum) or by written or electronic ballot in conformity with the Applicable Corporation Law and these Bylaws shall be deemed the act of the members, except as may be otherwise required by the Applicable Corporation Law, the corporation's articles of incorporation, or these Bylaws.

## **Article 18. WAIVER OF NOTICE OR CONSENT**

**Section 18.1.** The transactions of any meeting of members, however called or noticed and wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice, if (a) a quorum is present either in person or by proxy and (b) either before or after the meeting, each member entitled to vote but not present in person or by proxy, signs a written or electronic waiver of notice, a written or electronic consent to the holding of the meeting, or a written or electronic approval of the minutes of the meeting. All such waivers, consents, or approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

**Section 18.2.** A member's attendance at a meeting shall also constitute a waiver of notice of and presence at that meeting unless the member objects at the beginning of the meeting to the transaction of any business because the meeting was not lawfully called or convened. Also, attendance at a meeting is not a waiver of any right to object to the consideration of matters required to be included in the notice of the meeting but not so included, if that objection is expressly made at the meeting.

## **Article 19. ACTIONS BY UNANIMOUS WRITTEN OR ELECTRONIC CONSENT**

**Section 19.1.** Any action required or permitted to be taken by the members may be taken without a meeting if all members consent in writing (which may be electronic) to the action. The written or electronic consent or consents shall be filed with the minutes of the meeting. The action by written or electronic consent shall have the same force and effect as a unanimous vote of the members.

## **Article 20. ACTIONS BY WRITTEN OR ELECTRONIC BALLOT**

**Section 20.1.** Any action that members may take at any meeting of members may also be taken without a meeting by complying with Section 20.2 through Section 20.4 of these Bylaws.

**Section 20.2.** The corporation shall distribute one written or electronic ballot to each member entitled to vote on the matter. The ballots shall be mailed or delivered in the manner required by Section 15.2 of these Bylaws. All solicitations of votes by written or electronic ballot shall (a) state the number of responses needed to meet the quorum requirement; (b) state, with respect to ballots other than for election of directors, the percentage of approvals necessary to pass the measure or measures; and (c) specify the time by which the ballot must be received in order to be counted. Each ballot so distributed shall (a) set forth the proposed action; (b) give the members an opportunity to specify approval or disapproval of each proposal; and (c) provide a reasonable time in which to return the ballot to the corporation.

**Section 20.3.** If the corporation has one hundred (100) or more members, any form of written or electronic ballot distributed to ten (10) or more members shall provide, subject to reasonable specified conditions, that where the person solicited specifies a choice with respect to any such matter, the vote shall be cast in accordance therewith. In any election of directors, any form of written or electronic ballot in which the directors to be voted upon are named therein as candidates and which is marked by a member “withhold” or otherwise marked in a manner indicating that authority to vote for the election of directors is withheld, shall not be voted either for or against the election of a director.

**Section 20.4.** Approval by written or electronic ballot shall be valid only when (i) the number of votes cast by ballot (including ballots that are marked “withhold” or otherwise indicate that authority to vote is withheld) within the time specified equals or exceeds the quorum required to be present at a meeting authorizing the action and (ii) the number of approvals equals or exceeds the number of votes that would be required for approval at a meeting at which the total number of votes cast was the same as the number of votes cast by written or electronic ballot without a meeting.

**Section 20.5.** A written or electronic ballot may not be revoked.

**Section 20.6.** All written or electronic ballots shall be filed with the secretary of the corporation and maintained in the corporate records for at least two (2) years.

## **Article 21. RECORD DATE FOR NOTICE, VOTING, WRITTEN AND ELECTRONIC BALLOTS, AND OTHER BOARD ACTIONS.**

**Section 21.1.** For purposes of establishing the members entitled to receive notice of any meeting, entitled to vote at any meeting, entitled to vote by written or electronic ballot, or entitled to exercise any rights in any lawful action, the Board may, in advance, fix a record date. Any record date so fixed shall be set as follows:

(a) in the case of providing notice of a meeting, not more than 90 nor less than 10 days before the date of the meeting;

(b) in the case of voting at a meeting, not more than 60 days before the date of the meeting;

(c) in the case of voting by written or electronic ballot, not more than 60 days before the day on which the first written or electronic ballot is mailed or solicited; and

(d) in the case of the taking of any other action, not more than 60 days before that action.

**Section 21.2.** If the Board has not otherwise fixed a record date for determining members entitled to receive notice of a meeting of members, members at the close of business on the business day preceding the day on which notice is given or, if notice is waived, at the close of business on the business day preceding the day on which the meeting is held, shall be entitled to notice of such meeting of members. A determination of members entitled to notice of a meeting of members shall apply to any adjournment of the meeting unless the Board fixes a new record date for the adjourned meeting.

**Section 21.3.** If the Board has not otherwise fixed a record date for determining members entitled to vote at a meeting of members, members on the day of the meeting who are otherwise eligible to vote shall be entitled to vote at the meeting of members or, in the case of an adjourned meeting, members on the day of the adjourned meeting who are otherwise eligible to vote shall be entitled to vote at the adjourned meeting of members.

**Section 21.4.** If the Board has not otherwise fixed a record date for determining members entitled to cast written or electronic ballots, members on the day the first written or electronic ballot is mailed or solicited who are otherwise eligible to vote shall be entitled to cast written or electronic ballots.

**Section 21.5.** If the Board has not otherwise fixed a record date for determining members entitled to exercise rights in respect of any other lawful action, members at the close of business on the day on which the Board adopts the resolution relating thereto, or the 60th day before the date of such other lawful action, whichever is later, shall be entitled to exercise such rights.

**Section 21.6.** For purposes of Section 19 through Section 21 of these Bylaws, a person holding a membership at the close of business on the record date shall be a member of record.

## **Article 22. MEMBERS' PROXY RIGHTS**

**Section 22.1.** Each member entitled to vote shall have the right to do so either in person or by one or more agents authorized by a written or electronic proxy, signed by the member and filed with the secretary of the corporation. A proxy shall be deemed signed if the member's name is placed on the proxy (whether by manual signature, typewriting, facsimile transmission, or otherwise) by the member or the member's attorney-in-fact.

## **Article 23. SOLICITED PROXIES**

**Section 23.1.** If the corporation has one hundred (100) or more members, any form of proxy distributed to ten (10) or more members shall afford an opportunity on the proxy to specify a choice between approval and disapproval of each matter or group of related matters intended to be acted upon at the meeting for which the proxy is solicited and shall provide, subject to reasonable specified conditions, that, where the person solicited specifies a choice with respect to any such matter, the vote shall be cast in accordance therewith. In any election of directors, any form of proxy that a member marks “withhold,” or otherwise marks in a manner indicating that the authority to vote for the election of directors is withheld, shall not be voted either for or against the election of a director.

## **Article 24. SUBJECT MATTER OF PROXY TO BE STATED**

**Section 24.1.** Any revocable proxy covering matters for which a vote of the members is required shall not be valid unless the proxy sets forth the general nature of the matter to be voted on.

## **Article 25. REVOCABILITY OF PROXIES**

**Section 25.1.** No proxy shall be valid after the expiration of eleven (11) months from the date of the proxy unless provided otherwise in the proxy, except that the maximum term of a proxy shall be three years after the date of execution.

**Section 25.2.** The revocability of a proxy that states on its face that it is irrevocable shall be governed by Section 7613 of the Applicable Corporation Law.

**Section 25.3.** A validly executed proxy that does not state that it is irrevocable shall continue in full force and effect until either of the following shall have occurred prior to the casting of any vote thereunder:

(a) the proxy has been revoked by the member executing it (i) by a writing (which may be electronic) delivered to the corporation stating that the proxy has been revoked, (ii) by a subsequent proxy executed by that member and delivered to the corporation, or (iii) as to any meeting, by the member’s personal attendance and voting at the meeting; or

(b) the corporation has received written or electronic notice of the death or incapacity of the maker of the proxy.

## **Article 26. ADJOURNMENT AND NOTICE OF ADJOURNMENT OF MEETINGS.**

**Section 26.1.** Any members’ meeting, whether or not a quorum is present, may be adjourned from time to time by the vote of the majority of the members represented at the meeting, either in person or by proxy. No meeting may be adjourned for more than 45 days. When a members’ meeting is adjourned to another time or place, notice need not be given of the adjourned meeting if the time and

place thereof (or the means of electronic transmission by and to the corporation or electronic video screen communication, if any, by which members may participate) are announced at the meeting at which adjournment is taken. If after adjournment a new record date is fixed for notice or voting, a notice of the adjourned meeting shall be given to each member who, on the record date for notice of the meeting, is entitled to vote at the meeting. At the adjourned meeting, the corporation may transact any business that might have been transacted at the original meeting.

## **Article 27. GENERAL POWERS OF THE BOARD.**

**Section 27.1.** Subject to the provisions and limitations of the Applicable Corporation Law and any other applicable laws, and subject to any limitations of the corporation's articles of incorporation or these Bylaws regarding actions that require approval of the members, the corporation's activities and affairs shall be managed, and all corporate powers shall be exercised, by or under the direction of the Board.

**Section 27.2.** Without prejudice to the general powers set forth in Section 27.1 of these Bylaws, but subject to the same limitations, the Board shall have the power to do the following:

- (a) appoint and remove, at the pleasure of the Board, all corporate officers, agents, and employees; prescribe powers and duties for them as are consistent with the law, the corporation's articles of incorporation, and these Bylaws; fix their compensation; and require from them security for faithful performance of their duties; and
- (b) change the principal office or the principal business office in California from one location to another; cause the corporation to be qualified to conduct its activities in any other state, territory, dependency, or country; conduct its activities in or outside California; and designate a place in or outside California for holding any meeting of members; and
- (c) borrow money and incur indebtedness on the corporation's behalf and cause to be executed and delivered for the corporation's purposes, in the corporate name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations, and other evidences of debt and securities; and
- (d) adopt and use a corporate seal; prescribe the forms of membership certificates; and alter the forms of the seal and certificates.

## **Article 28. NUMBER AND QUALIFICATIONS FOR DIRECTORS.**

**Section 28.1.** Reserved.

**Section 28.2.** Upon the effectiveness of these Bylaws, the number of directors shall be set at seven (7) until such number is changed in accordance with these Bylaws and the Applicable Corporation Law.

**Section 28.3.** The President, Vice President, Treasurer, and Secretary shall each hold one of the director positions referenced in Section 28.2 above. For purposes of these Bylaws, the directors who

are also current officers of the corporation are referred to herein as the “Officer Directors.” All persons serving as Officer Directors shall satisfy the qualifications for Officer Directors set forth in Section 28.6 below.

**Section 28.4.** Provided that he or she agrees to serve in such capacity, one of the directors referenced in Section 28.2 above shall be the former President of the corporation who most recently served in such capacity (the “Former President Director”).

**Section 28.5.** The remaining directors specified in Section 28.2 but not determined in accordance with Section 28.3 or Section 28.4 (including as a result of the refusal or inability of a Former President to serve as the Former President Director pursuant to Section 28.4) shall consist of members meeting the director qualification requirements set forth in Section 28.7 (the “Non-Officer Directors”).

**Section 28.6.** Each person qualifying for a position as an Officer Director shall have been a member in good standing of the Club for not less than three (3) years.

**Section 28.7.** Each person qualifying for a position as a Non-Officer Director shall have been a member of the Club for not less than five (5) years and shall have previously served as an officer of the corporation.

**Section 28.8.** Directors shall be elected by a plurality vote of the members.

**Section 28.9.** The term of office of each director shall begin at the close of the annual meeting of members following their election to membership and continue until the close of the annual meeting of members held in the second year following the year of the annual meeting at which directors were most recently elected (or, in the case of an election by written or electronic consent or written or electronic ballot, until the second anniversary of the effective date of any such written consent or written or electronic ballot).

**Section 28.10.** The President may, with the consent of a majority of the Board, declare vacant the office of any member of the Board who has been absent for three or more consecutive meetings of the Board without having first been excused by the President prior to the time and date of each meeting. Notwithstanding the foregoing, the Board shall have authority at any special or regular meeting to (a) approve a director’s request for a leave of absence for a limited period of time or (b) waive the removal procedure of this Section 28.10 for any director who suffers from an illness or disability that prevents him or her from regularly attending meetings. Any such exercise of authority shall be approved by a majority of the Board, excluding the director seeking dispensation from such attendance requirements, and such director shall be recused from any discussions of the Board’s decisions with respect to any such approval or waiver. In the case of any leave granted pursuant to subsection (a) of the preceding sentence, during such leave, the number of Board members will be reduced by one in determining whether a quorum is or is not present.

**Article 29. RESERVED.**

**Article 30. RESERVED.**

**Article 31. RESERVED.**

**Article 32. RESERVED.**

**Article 33. DIRECTOR NOMINATION PROCEDURES.**

**Section 33.1.** As to directors elected by the members, the Board shall make available to the members reasonable nomination and election procedures given the nature, size, and operations of the corporation. Without limiting the foregoing, the Board shall formulate procedures that allow a reasonable opportunity for a nominee to communicate to members the nominee's qualifications and the reasons for the nominee's candidacy, a reasonable opportunity for the nominee to solicit votes, and a reasonable opportunity for all members to choose among the nominees.

**Article 34. USE OF CORPORATE FUNDS TO SUPPORT NOMINEE.**

**Section 34.1.** Without authorization by the Board, no corporation funds may be expended to support a nominee for director after there are more people nominated for director than can be elected.

**Article 35. VACANCIES ON BOARD OF DIRECTORS.**

**Section 35.1.** A vacancy or vacancies on the Board shall exist on the occurrence of any of the following:

- (a) the death, removal, or resignation of any director;
- (b) 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 or convicted of a felony or, if the corporation holds assets in charitable trust, has been found by a final order or judgment of any court to have breached any duty arising as a result of Section 7238 of the Applicable Corporation Law;
- (c) the declaration by the Board, by a majority vote of the directors who meet all of the required qualifications to be a director, to declare vacant the office of any director who fails or ceases to meet any required qualification that was in effect at the beginning of that director's current term of office;
- (d) the vote of the members or, if the corporation has fewer than fifty (50) members, the vote of a majority of all members, to remove any director(s), *provided that any*

director elected by the vote of members of a class or members within an organizational unit or geographic unit, voting as such, rather than by the members of the corporation, may be removed only by the vote of that class, unit, or grouping;

(e) an increase in the authorized number of directors;

(f) the failure of the members, at any meeting of members at which any director or directors are to be elected, to elect the number of directors required to be elected at that meeting; or

(g) subject to the provisions of Section 28.10, upon a declaration of the President with the consent of a majority of the Board if a member of the Board fails to attend three consecutive regular meetings of the Board.

### **Article 36. RESIGNATION OF DIRECTORS.**

**Section 36.1.** Except as provided below, any director may resign by giving written or electronic notice to the Chairman of the Board, if any, or to the President or the Secretary of the corporation. The resignation shall be effective when the notice is given unless it specifies a later time for the resignation to become effective. If a director's resignation is effective at a later time, the Board may elect a successor to take office as of the date when the resignation becomes effective.

**Section 36.2.** Except on notice to the California Attorney General, no director may resign if the corporation would be left without a duly elected director or directors.

### **Article 37. REMOVAL OF DIRECTORS; EFFECT OF REDUCTION IN SIZE.**

**Section 37.1.** Directors may removed as set forth in Section 35.1(b), Section 35.1(c), Section 35.1(d), and Section 35.1(g) or as may otherwise be permitted pursuant the Applicable Corporation Law or these Bylaws.

**Section 37.2.** Any reduction of the authorized number of directors shall not result in any director's being removed before his or her term of office expires.

### **Article 38. FILLING VACANCIES ON BOARD OF DIRECTORS**

**Section 38.1.** Except for a vacancy created by the removal of a director by the members, 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 (a) the unanimous written or electronic consent of the directors then in office; (b) 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 Section 7211 of the Applicable Corporation Law; or (c) a sole remaining director. The members may fill any vacancy not filled by the directors.

**Section 38.2.** The members may elect a director or directors at any time to fill any vacancy or vacancies not filled by the Board.

**Article 39. PLACE OF BOARD MEETINGS.**

**Section 39.1.** Meetings of the Board shall be held at any place within or outside the State of California that has been designated by resolution of the Board or in the notice of the meeting or, if not so designated, at the principal office of the corporation.

**Article 40. BOARD MEETINGS BY TELEPHONE OR OTHER TELECOMMUNICATIONS EQUIPMENT.**

**Section 40.1.** Any Board meeting may be held through the use of conference telephone, electronic video screen communication, or electronic transmission by and to the corporation. Participation in a meeting through use of conference telephone or electronic video screen communication pursuant to this Section 40.1 shall constitute presence in person at the meeting as long as all members participating in the meeting are able to hear one another. Participation in a meeting through use of electronic transmission by and to the corporation, other than conference telephone and electronic video screen communication, pursuant to this Section 40.1 shall constitute presence in person at the meeting if both of the following apply:

(a) Each member participating in the meeting can communicate with all other members concurrently; and

(b) Each member is provided the means of participating in all matters before the Board, including the capacity to propose, or to interpose an objection to, a specific action to be taken by the corporation.

**Article 41. REGULAR MEETINGS.**

**Section 41.1.** Regular meetings of the Board may be held without notice if the time and place of the meetings are fixed in these Bylaws or by the Board.

**Article 42. SPECIAL MEETINGS OF THE BOARD**

**Section 42.1.** Special meetings of the Board for any purpose may be called at any time by the Chairman of the Board, if any; the President or any Vice President; the Treasurer; the Secretary; or any two directors.

**Section 42.2.** Notice of the time and place of special meetings shall be given to each director by one of the following methods: (a) personal delivery of written or electronic notice; (b) first-class mail, postage prepaid; (c) telephone, including a voice messaging system or other system or technology designed to record and communicate messages, either directly to the director or to a person at the director's office who would reasonably be expected to communicate that notice promptly to the director; (d) confirmed facsimile; (e) electronic mail; or (f) other electronic transmission by the corporation. All such notices shall be given or sent to the director's address, telephone number, facsimile number, or email address as shown on the corporation's records.

**Section 42.3.** Notices sent by first-class mail shall be deposited in the United States mails at least four (4) days before the time set for the meeting. Notices given by personal delivery, telephone, confirmed facsimile, electronic mail, or other electronic transmission by the corporation shall be delivered, telephoned, transmitted or sent, respectively, at least forty-eight (48) hours before the time set for the meeting.

**Section 42.4.** The notice shall state the time of the meeting and the location, if the location is other than the corporation's principal office. The notice need not specify the purpose of the meeting.

#### **Article 43. WAIVER OF NOTICE.**

**Section 43.1.** Notice of a meeting need not be given to any director who, either before or after the meeting, signs a waiver of notice, a written or electronic consent to the holding of the meeting, or an approval of the minutes of the meeting. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting need not be given to any director who attends the meeting and who, before or at the beginning of the meeting, does not protest the lack of notice to him or her. All such waivers, consents, and approvals shall be filed with the corporate records or made a part of the minutes of the meetings.

#### **Article 44. QUORUM FOR BOARD MEETINGS.**

**Section 44.1.** A majority of the number of directors authorized in or pursuant to the articles of incorporation or these Bylaws shall constitute a quorum for the transaction of business. A meeting at which a quorum is initially present may continue to transact business, despite the withdrawal of some directors, if any action taken or decision made is approved by at least a majority of the required quorum for that meeting.

**Section 44.2.** Subject to the more stringent provisions of the Applicable Corporation Law, every action taken or decision made by a majority of the directors present at a duly held meeting at which a quorum is present shall be the act of the Board, including, without limitation, (a) approval of contracts or transactions between the corporation and one or more directors or between the corporation and any entity in which a director has a material financial interest; (b) creation of and appointments to committees of the Board; and (c) indemnification of directors.

#### **Article 45. ADJOURNMENT.**

**Section 45.1.** A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place.

**Section 45.2.** Notice of the time and place of holding an adjourned meeting need not be given unless the original meeting is adjourned for more than 24 hours. If the original meeting is adjourned for more than 24 hours, notice of any adjournment to another time and place shall be given, before the time of the adjourned meeting, to the directors who were not present at the time of the adjournment.

**Article 46. BOARD ACTION WITHOUT A MEETING.**

**Section 46.1.** Any action that the Board is required or permitted to take may be taken without a meeting if all Board members consent in writing to the action. Such action by written consent shall have the same force and effect as any other validly approved Board action. All such consents shall be filed with the minutes of the proceedings of the Board. A written consent may, to the extent permitted by the Applicable Corporation Law, be solicited and provided by electronic mail or facsimile so long as the response contains an actual, facsimile, or electronic signature indicating the Board member's assent to the proposed action.

**Article 47. COMPENSATION AND REIMBURSEMENT.**

**Section 47.1.** Directors and members of committees of the Board may receive such compensation, if any, for their services as directors or officers, and such reimbursement of expenses, as the Board may establish by resolution to be just and reasonable as to the corporation at the time that the resolution is adopted.

**Article 48. COMMITTEES OF BOARD OF DIRECTORS.**

**Section 48.1.** The Board, by resolution adopted by a majority of the directors then in office, may create one or more committees, each consisting of two or more directors, to serve at the pleasure of the Board. Appointments to committees of the Board shall be by a majority vote of the directors then in office. The Board may appoint one or more directors as alternate members of any such committee, who may replace any absent member at any meeting of the committee. Such committee, to the extent provided in the resolution of the Board, shall have all the authority of the Board, except with respect to:

- (a) The approval of any action for which the Applicable Corporation Law also requires approval of the members or approval of a majority of the members, regardless of whether the corporation has any members;
- (b) The filling of vacancies on the Board or in any committee which has the authority of the Board;
- (c) The fixing of compensation of the directors for serving on the Board or on any committee;
- (d) The amendment or repeal of bylaws or adoption of new bylaws;
- (e) The amendment or repeal of any resolution of the Board which by its express terms is not so amendable or repealable;
- (f) The appointment of committees of the Board or the members thereof;
- (g) The expenditure of corporate funds to support a nominee for director after there are more people nominated for director than can be elected;

(h) With respect to any assets held in charitable trust, the approval of any self-dealing transaction except as provided in paragraph (3) of subdivision (d) of Section 5233 of the Applicable Corporation Law.

**Section 48.2.** Meetings and actions of committees of the Board shall be governed by, held, and taken under the provisions of these Bylaws concerning meetings and other Board actions, except that the time for general meetings of such committees and the calling of special meetings of such committees may be set either by Board resolution or, if none, by resolution of the committee. Minutes of each meeting of any committee of the Board shall be kept and shall be filed with the corporate records. The Board may adopt rules for the governance of any committee as long as the rules are consistent with these Bylaws. If the Board has not adopted rules, the committee may do so.

#### **Article 49. OFFICERS.**

**Section 49.1.** The officers of the corporation shall be a President, a Vice President, a Secretary, a Treasurer, a Race Director, a Sponsorship Director, and a Head Coach. The corporation, at the Board's discretion, may also have a chairman of the Board, one or more vice presidents, one or more assistant secretaries, one or more assistant treasurers, and such other officers as may be appointed under Article 51 of these bylaws.

**Section 49.2.** In accordance with Article 28, the President, the Vice President, the Secretary, and the Treasurer shall be elected from the persons nominated and elected as a director to serve in such capacities.

**Section 49.3.** Any number of offices may be held by the same person.

#### **Article 50. ELECTION OF OFFICERS.**

**Section 50.1.** Except for officers determined in accordance with Article 28 and Section 49.2 above, the officers shall be chosen annually by the Board and shall serve at the pleasure of the Board, subject to the rights of any officer under any employment contract.

#### **Article 51. APPOINTMENT OF OTHER OFFICERS.**

**Section 51.1.** The Board may appoint any other officers that the corporation may require. Each appointed officer shall have the title and authority, hold office for the period, and perform the duties specified in the Bylaws or established by the Board.

#### **Article 52. REMOVAL OF OFFICERS.**

**Section 52.1.** Without prejudice to the rights of any officer under an employment contract and, in the case of those officers specified in Article 49.2 who serve as directors, subject to compliance with the provisions of these Bylaws and the Applicable Corporation Law relating to removal of directors, the Board may remove any officer with or without cause.

**Article 53. RESIGNATION OF OFFICERS.**

**Section 53.1.** Any officer may resign at any time by giving written or electronic notice to the board. The resignation shall take effect on the date the notice is received or at any later time specified in the notice. Unless otherwise specified in the notice, the resignation need not be accepted to be effective. Any resignation shall be without prejudice to any rights of the corporation under any contract to which the officer is a party.

**Article 54. OFFICER VACANCIES.**

**Section 54.1.** 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 normal appointments to that office, *provided, however,* that vacancies need not be filled on an annual basis.

**Article 55. RESPONSIBILITIES OF CHAIRMAN OF THE BOARD.**

**Section 55.1.** If a Chairman of the Board is elected, he or she shall preside at Board meetings and shall exercise and perform such powers and duties as the Board may assign from time to time. If there is no president, the Chairman of the Board shall also be the chief executive officer and shall have the powers and duties of the President of the corporation set forth in these bylaws.

**Article 56. RESPONSIBILITIES OF PRESIDENT.**

**Section 56.1.** Subject to such supervisory powers as the Board may give to the Chairman of the Board, if any, and subject to the oversight of the Board, the President shall be the general manager of the corporation and preside over the general membership and shall supervise and direct the corporation's activities, affairs, and officers. The President shall preside at all members' meetings and, in the absence of a Chairman of the Board, at all Board meetings. The President shall have such additional responsibilities and duties as the Board may assign or these Bylaws may require.

**Article 57. RESPONSIBILITIES OF VICE PRESIDENT.**

**Section 57.1.** The Vice President shall prepare the agenda for Board meetings and assist the president in Club duties as requested. If the President is absent or disabled, the Vice President shall, upon resolution of the Board, perform all duties of the President. When so acting under authority of the Board, the Vice President shall have all authority and responsibility of the President. In the absence of the Secretary, the vice president will record the minutes of any meeting of the Board or members. The Vice President shall have such additional responsibilities and duties as the Board may assign or these Bylaws may require.

## **Article 58. RESPONSIBILITIES OF THE SECRETARY.**

**Section 58.1.** The Secretary shall keep or cause to be kept, at the corporation's principal office or such other place as the Board may direct, a book of minutes of all meetings, proceedings, and actions of the Board, of committees of the Board, and of members' meetings and shall, if requested, read the previous minutes at each meeting.

**Section 58.2.** The Secretary shall keep or cause to be kept, at the principal California office, a copy of the articles of incorporation and Bylaws, as amended to date.

**Section 58.3.** The Secretary shall keep or cause to be kept, at the corporation's principal office or at a place determined by resolution of the Board, a record of the corporation's members, showing each member's name, address, and status of membership.

**Section 58.4.** The Secretary shall give, or cause to be given, all required notices of meetings of the members and of meetings of the Board and/or committees thereof. The Secretary shall assist the President as requested. The Secretary shall keep the corporate seal, if any, in safe custody. The Secretary shall have such additional responsibilities and duties as the Board may assign or these Bylaws may require.

## **Article 59. RESPONSIBILITIES OF TREASURER.**

**Section 59.1.** The Treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and accounts of the corporation's properties and transactions. The Treasurer shall send or cause to be given to the members and directors such financial statements and reports as are required to be given by law, by these Bylaws, or by the Board. The books of account shall be open to inspection by any director at all reasonable times.

**Section 59.2.** The Treasurer shall (i) deposit, or cause to be deposited, all money and other valuables in the name and to the credit of the corporation with such depositories as the Board may designate; (ii) disburse the corporation's funds as the Board may order, including reimbursement of approved expenses by officers or members; (iii) render to the President, Chairman of the Board, if any, and the Board, when requested, an account of all transactions of the corporation and of the financial condition of the corporation; and (iv) assist the President as requested. The Treasurer shall have such additional responsibilities and duties as the Board may assign or these Bylaws may require.

**Section 59.3.** If required by the Board, the Treasurer shall provide 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 office and for restoration to the corporation of all of its books, papers, vouchers, money, and other property of every kind in the possession or under the control of the Treasurer on his or her death, resignation, retirement, or removal from office.

**Article 60. RESERVED.**

**Article 61. RESPONSIBILITIES OF RACE DIRECTOR.**

**Section 61.1.** The race director shall oversee the yearly schedule of all training events (simulated races) including, but not limited to, triathlons, duathlons, and aquathlons. The race director will oversee all aspects of the event including permits, lifeguards, course marking, and timing. The race director will have such other responsibilities and duties as the Board may assign or these Bylaws may require.

**Article 62. RESERVED.**

**Article 63. RESPONSIBILITIES OF HEAD COACH.**

**Section 63.1.** The Head Coach will oversee all coached workouts advertised and/or supported by the Club. The Head Coach will ensure that those individuals leading the workouts are properly informed and trained in what is necessary to perform their duty. The Head Coach will also provide qualification criteria for the coaches leading each type of workout. The Head Coach will monitor all advertised and/or supported workouts periodically to ensure each coach is performing as expected. The Head Coach will have other such responsibilities and duties as the Board may assign or these Bylaws may require.

**Article 64. CONTRACTS WITH DIRECTORS.**

**Section 64.1.** Neither any director of the corporation nor any other corporation, firm, association, or other entity in which one or more of the corporation's directors is a directors or has a material financial interest, shall be interested, directly or indirectly, in any contract or other transaction with the corporation, unless (a) the material facts as to the transaction and such director's interest are fully disclosed or known to the members and such contract or transaction is approved by the members in good faith, with any membership owned by any interested director not being entitled to vote thereon or (b) the material facts regarding such director's financial interest in such contract or transaction or regarding such common directorship, officership, or financial interest are fully disclosed in good faith and are noted in the minutes or are known to all Board members before consideration by the Board of such contract or transaction, and such contract or transaction is authorized in good faith by a majority of the Board by a vote sufficient for that purpose without counting the vote of the interested director.

**Article 65. LOANS TO DIRECTORS AND OFFICERS.**

**Section 65.1.** The corporation shall not lend any money or property to or guarantee the obligation of any director or officer of the corporation or of its parent, affiliate, or subsidiary unless (a) the Board determines that the loan or guaranty may reasonably be expected to benefit the corporation, and (b) before consummating the transaction or any part of it, the loan or guaranty is approved by

either the members, without counting the vote of the director or officer or the vote of a majority of the directors then in office, without counting the vote of the director who is to receive the loan or guaranty.

## **Article 66. INDEMNIFICATION.**

**Section 66.1.** To the fullest extent permitted by law, the corporation shall indemnify its directors, officers, employees, and other persons described in Section 7237(a) of the Applicable Corporation Law, including persons formerly occupying any of such positions, 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 that Section, 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,” as used in these Bylaws, shall have the same meaning as in Section 7237(a) of the Applicable Corporation Law.

**Section 66.2.** On written request to the Board by any person seeking indemnification under Section 7237(b) or Section 7237(c) of the Applicable Corporation Law, the Board shall promptly decide under Section 7237(e) of the Applicable Corporation Law whether the applicable standard of conduct set forth in Section 7237(b) or Section 7237(c) of the Applicable Corporation Law has been met and, if so, the Board shall authorize indemnification. If the Board cannot authorize indemnification because the number of directors who are parties to the proceeding with respect to which indemnification is sought prevents the formation of a quorum of directors who are not parties to that proceeding, the Board shall promptly call a meeting of members. At that meeting, the members shall determine under Section 7237(e) of the Applicable Corporation Law whether the applicable standard of conduct has been met and, if so, the members present at the meeting in person or by proxy shall authorize indemnification.

**Section 66.3.** 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 under Article 66 of these Bylaws in defending any proceeding covered by those Sections shall be advanced by the corporation before final disposition of the proceeding, on receipt by the corporation of an undertaking by or on behalf of that person that the advance will be repaid unless it is ultimately found that the person is entitled to be indemnified by the corporation for those expenses.

## **Article 67. INSURANCE.**

**Section 67.1.** The corporation shall have the right, and shall use its best efforts, to purchase and maintain insurance to the full extent permitted by law on behalf of its officers, directors, employees, and other agents, to cover any liability asserted against or incurred by any officer, director, employee, or agent in such capacity or arising from the officer’s, director’s, employee’s, or agent’s status as such.

**Article 68. MAINTENANCE OF CORPORATE RECORDS.**

**Section 68.1.** The corporation shall keep the following:

- (a) Adequate and correct books and records of account;
- (b) Written minutes of the proceedings of its members, Board, and committees of the Board; and
- (c) A record of each member's name, address, and class of membership.

**Article 69. MEMBERS RIGHT TO INSPECT MEMBERSHIP RECORDS.**

**Section 69.1.** Subject to Division 2, Part 3, Chapter 13, Article 3 (commencing at Section 8330) of the Applicable Corporation Law, unless the corporation provides a reasonable alternative as provided below, any member may do either or both of the following for a purpose reasonably related to the member's interest as a member:

- (a) inspect and copy the records containing members' names, addresses, and voting rights during usual business hours on five (5) days' prior written demand on the corporation, which demand must state the purpose for which the inspection rights are requested; or
- (b) obtain from the secretary of the corporation, on written demand and tender of a reasonable charge, a list of names, addresses, and voting rights of members who are entitled to vote for the election of directors as of the most recent record date for which that list has been compiled, or as of the date, after the date of demand, specified by the member. The demand shall state the purpose for which the list is requested. The Secretary shall make this list available to the member on or before the later of ten days after the demand is received or the date specified in the demand as the date as of which the list is to be compiled.

**Section 69.2.** The corporation may, within ten business days after receiving a demand under this Section, make a written offer of an alternative method of reasonable and timely achievement of the proper purpose specified in the demand without providing access to or a copy of the membership list. Any rejection of this offer must be in writing and must state the reasons the proposed alternative does not meet the proper purpose of the demand.

**Section 69.3.** If the corporation reasonably believes that the information will be used for a purpose other than one reasonably related to a person's interest as a member, or if it provides a reasonable alternative under this section, it may deny the member access to the membership list.

**Section 69.4.** Any inspection and copying under this section may be made in person or by the member's agent or attorney. The right of inspection includes the right to copy and make extracts. This right of inspection extends to the records of any subsidiary of the corporation.

## **Article 70. ACCOUNTING RECORDS AND MINUTES.**

**Section 70.1.** On written demand on the corporation, any member may inspect, copy, and make extracts of the accounting books and records and the minutes of the proceedings of the members, the Board, and committees of the Board at any reasonable time for a purpose reasonably related to the member's interest as a member. Any such inspection and copying may be made in person or by the member's agent or attorney. This right of inspection extends to the records of any subsidiary of the corporation.

## **Article 71. MAINTENANCE AND INSPECTION OF ARTICLES AND BYLAWS.**

**Section 71.1.** The corporation shall keep at its principal California office the original or a copy of the articles of incorporation and bylaws, as amended to the current date, which shall be open to inspection by the members at all reasonable times during office hours. If the corporation has no business office in California, the secretary shall, on the written request of any member, furnish to that member a copy of the articles of incorporation and bylaws, as amended to the current date.

## **Article 72. DIRECTORS' RIGHT TO INSPECT**

**Section 72.1.** Every director shall have the absolute right at any reasonable time to inspect the corporation's books, records, documents of every kind, physical properties, and the records of each subsidiary. The inspection may be made in person or by the director's agent or attorney. The right of inspection includes the right to copy and make extracts of documents.

## **Article 73. ANNUAL REPORT**

**Section 73.1.** The Board shall cause an annual report to be prepared within 120 days after the end of the corporation's fiscal year. That report shall contain the following information in appropriate detail:

- (a) A balance sheet as of the end of the fiscal year, an income statement, and statement of changes in financial position for the fiscal year, accompanied by an independent accountants' report or, if none, by the certificate of an authorized officer of the corporation that they were prepared without audit from the corporation's books and records;
- (b) A statement of the place where the names and addresses of current members are located; and
- (c) Any information required by Section 71.1 of these bylaws.

**Section 73.2.** The corporation shall annually notify each member of the member's right to receive a copy of the financial report under this Section. Except as provided in the next paragraph of this bylaw, on written request by a member, the Board shall promptly cause the most recent annual report to be sent to the requesting member.

**Section 73.3.** This Section shall not apply if the corporation receives less than \$10,000 in gross revenues or receipts during the fiscal year.

**Article 74. ANNUAL STATEMENT OF CERTAIN TRANSACTIONS AND INDEMNIFICATIONS.**

**Section 74.1.** As part of the annual report to all members, or as a separate document if no annual report is issued, the corporation shall annually prepare and mail or deliver to its members and furnish to its directors a statement of any transaction or indemnification of the following kinds within 120 days after the end of the corporation's fiscal year:

(a) Unless approved by members under Section 7233(a) of the Applicable Corporation Law, any transaction (i) to which the corporation, its parent, or its subsidiary was a party, (ii) which involved more than \$50,000 or was one of a number of such transactions with the same person involving, in the aggregate, more than \$50,000, and (iii) in which either of the following interested persons had a direct or indirect material financial interest (a mere common directorship is not a material financial interest):

- (1) Any director or officer of the corporation, its parent, or its subsidiary;
- (2) Any holder of more than 10 percent of the voting power of the corporation, its parent, or its subsidiary.

The statement shall include a brief description of the transaction, the names of interested persons involved, their relationship to the corporation, the nature of their interest in the transaction, and, when practicable, the amount of that interest, except that, in a partnership in which such person is a partner, only the partnership interest need be stated.

(b) A brief description of the amounts and circumstances of any loans, guaranties, indemnifications, or advances aggregating more than \$10,000 paid during the fiscal year to any officer or director of the corporation under Articles 65 or 66 of these Bylaws, unless the loan, guaranty, indemnification, or advance has already been approved by the members under Section 5034 of the Applicable Corporation Law, or the loan or guaranty is not subject to Section 7235(a) of the Applicable Corporation Law.

**Article 75. AMENDMENT.**

**Section 75.1.** Except as may be otherwise provided in or required by the Applicable Corporation Law, these Bylaws may be adopted, amended, or repealed by the Board or the members.

**CERTIFICATE OF SECRETARY**

I certify that I am the duly elected and acting Secretary of the Triathlon Club of San Diego, a California nonprofit mutual benefit corporation; that these bylaws, consisting of \_\_\_ pages, are the bylaws of the corporation as adopted by the board of directors on \_\_\_\_\_; and that these bylaws have not been amended or modified since that date.

Executed on \_\_\_\_\_ at San Diego, California.

\_\_\_\_\_  
\_\_\_\_\_, Secretary