

**AMENDED AND RESTATED BYLAWS  
OF  
SAN FRANCISCO BAY BIRD OBSERVATORY**

**ARTICLE I  
NAME**

**1.1 Name.** The name of this corporation is San Francisco Bay Bird Observatory, Inc. ("SFBBO").

**ARTICLE II  
PURPOSE**

**2.1 Purposes.** SFBBO has been organized for the purposes set forth in the Articles of Incorporation.

**2.2 Limitations.** SFBBO shall not take any action that is inconsistent with the Articles of Incorporation.

**ARTICLE III  
OFFICE**

**3.1 Principal Office.** The principal office of SFBBO for the transaction of its business shall be located in Santa Clara County, California, or in such other place as may be specified by resolution of the Board (as defined in Section 6.1).

**3.2 Other Offices.** SFBBO may also have branch or subordinate offices at other places, within or without the State of California, as the Board may from time to time designate.

**ARTICLE IV  
MEMBERSHIP**

**4.1 Classes and Qualifications of Membership.** SFBBO shall have one class of members (each, a "Member" and collectively, the "Members"). Any person shall be eligible for membership and admitted as a Member on approval of the membership application by the Board or any committee or person so authorized by the Board, and on timely payment of such dues and fees as the Board may fix from time to time. No person shall hold more than one membership.

**4.2 Member Rights.** Members shall have the right to vote on the election and, except as provided in Section 6.7, the removal of directors. Members also shall have the right to vote on:

- (i) the disposition of all or substantially all of SFBBO's assets;
- (ii) any merger and its principal terms and any amendment of those terms;
- (iii) any election to dissolve SFBBO;
- (iv) certain amendments of SFBBO's Articles of Incorporation or Bylaws (as provided in Section 13.1), and such other matters as set forth in these Bylaws and the California Nonprofit Public Benefit Corporation Law, as amended (the "Nonprofit Corporation Law").

Members also have inspection rights as set forth in Section 11.2. No Member shall claim to speak, or express him/herself in writing, on behalf of SFBBO without prior approval as provided by the Board.

**4.3 Admission.** Applicants shall be admitted to membership upon payment to SFBBO of a membership fee and/or first annual dues, as specified in Section 4.4. The Board, or a committee or person authorized by the Board, shall be responsible for the admission of Members.

**4.4 Dues, Fees, and Assessments.** Each Member shall pay, within the time and on the conditions set by the Board, dues, fees, and assessments in amounts to be fixed from time to time by the Board. Those Members who have timely paid the required dues, fees, and assessments, and who are not suspended, shall be Members in good standing. The Board may require the payment of dues and fees in amounts to be fixed from time to time, by such persons associated with SFBBO as described in Section 4.9. Membership shall be non-assessable.

**4.5 Transfer not Permitted.** Members shall not transfer membership or any right arising from membership. Membership rights cease on the Member's death or dissolution or termination of membership under Section 4.7.

**4.6 No Liability for Debts or Obligations.** A Member of SFBBO shall not, as such, be personally liable for the debts, liabilities, or obligations of SFBBO.

**4.7 Termination.** A membership shall automatically terminate on occurrence of any of the following events:

- (i) resignation of the Member, on reasonable notice to SFBBO;
- (ii) expiration of the period of membership, unless the membership is renewed on the renewal terms fixed by the Board;
- (iii) failure of the Member to pay dues, fees, or assessments as set by the Board within thirty (30) days after the Member receives written notification of the delinquency;
- (iv) any event that renders the Member ineligible for membership, or failure to satisfy membership qualifications; or
- (v) expulsion of the Member under Section 4.8.

**4.8 Suspension and Expulsion.** SFBBO may suspend or expel a Member based on the good faith determination by the Board that continued participation by the Member in SFBBO is not in the best interests of SFBBO and the furtherance of its purposes. A person whose membership is suspended shall not be a Member or have the right of a Member during the period of suspension. If grounds appear to exist for expulsion or suspension of a Member, SFBBO shall follow this procedure:

**(a) Notice.** The Board shall send a notice of the proposed expulsion or suspension and the reasons therefore shall by first-class, registered, or certified mail to the Member's last address as shown on SFBBO's records. Such notice shall be sent at least fifteen (15) days before the proposed effective date of the expulsion or suspension.

**(b) Hearing.** SFBBO shall give the Member an opportunity to be heard, either orally or in writing, at least five (5) days before the effective date of the proposed expulsion or suspension. The hearing shall be held, or the written statement considered, by the Board or by a committee or person authorized by the Board to determine whether the suspension or termination should take place.

**(c) Final Decision.** The Board, committee, or person so authorized shall decide whether the Member should be suspended, expelled, or sanctioned in some other way. This decision shall be final and the Member shall be promptly notified of this decision.

**(d) Refund of Dues.** The Board, committee, or person so authorized may determine whether any person whose membership has been terminated or suspended shall receive a refund of any dues, fees, or assessments already paid.

**(e) Challenges to Final Decision.** Any action challenging an expulsion, suspension, or termination of membership, including a claim alleging defective notice, must be commenced within one (1) year after the date of the expulsion, suspension, or termination.

**4.9 Other Persons Associated with SFBBO.** SFBBO may refer to persons associated with it as “members,” even though such persons do not meet the qualifications for membership as set forth in Section 4.1, but no such reference shall constitute anyone a member within the meaning of Section 5056 of the Nonprofit Corporation Law.

## **ARTICLE V MEETINGS OF MEMBERSHIP**

**5.1 Place of Meeting.** Meetings of the Members shall be held at any place designated by the Board. The Board may authorize Members who are not present in person to participate by conference telephone or electronic video communication.

**5.2 Annual Meeting.** SFBBO shall hold an annual meeting of the Members each year. The Board shall fix the date and time and notify the Members as provided in Section 5.4. At this meeting, the Members shall elect directors and any other proper business may be transacted.

**5.3 Special Meetings.** The Board, Chair, Executive Director (each of Chair and Executive Director defined in Section 9.1), or five percent (5%) or more of the Members may call a special meeting of the Members for any lawful purpose, in accordance with Section 5510 of the Nonprofit Corporation Law.

### **5.4 Notice of Meetings**

**(a) Manner and Timing of Notice.** Whenever Members are required or permitted to take action at a meeting, SFBBO shall give to each Member entitled to vote at that meeting written notice of the meeting at least ten (10) but no more than ninety (90) days before the meeting date. The notice shall comply with Section 5511 of the Nonprofit Corporation Law, and may be given either personally, by electronic transmission by in accordance with Section 11.5, by mail, or by other means of written communication, charges prepaid.

**(b) Contents of Notice.** Notices shall specify the place, date, and time of the meeting, and the means of conference telephone or electronic video screen communication, if any, by which Members may participate. For a special meeting, the notice shall include the general nature of the business to be transacted. For an annual meeting, the notice shall include those matters which the Board, at the time notice is given, intends to present for action by the Members. Notwithstanding any notice, the Board may present any proper matter at the meeting, except those matters provided in Sections 5.4(c) and 5.5 of this Article V. 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.

**(c) Notice of Certain Agenda Items.** Approval by the Members of any of the following proposals, other than by unanimous approval by those entitled to vote, is valid only if the notice or written waiver of notice states the general nature of the proposal or proposals:

- (i) removing a director without cause;
- (ii) filling vacancies on the Board if the vacancy was caused by removal of the director by the Members;
- (iii) amending the Articles of Incorporation or Bylaws; or
- (iv) electing to wind up and dissolve SFBBO.

**5.5 Quorum.** Five percent (5%) of Members shall constitute a quorum for the transaction of business at any meeting of Members; *provided, however*, that if any annual meeting is actually attended in person by less than one-third (1/3) of the voting power, the only matters that may be voted on are those of which notice of their general nature was given under Section 5.4. The Members present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, if any action taken, other than adjournment, is approved by at least a majority of the Members required to constitute a quorum, or such greater number as required by the Articles of Incorporation, these Bylaws, or the Nonprofit Corporation Law.

**5.6 Adjournment.** Any Member meeting, whether or not a quorum is present, may be adjourned from time to time by the vote of the majority of the Members at the meeting. SFBBO shall give notice of the adjournment in accordance with Section 5511 of the Nonprofit Corporation Law.

**5.7 Voting.** Members entitled to vote at any meeting of Members shall be those Members in good standing as of the record date determined under Section 5.12. At a meeting, voting may be by voice or ballot, except that any election of directors must be by ballot if demanded by any Member at the meeting before the voting begins. Each Member entitled to vote shall be entitled to cast one vote on each matter submitted to a vote. Each Member shall have the right to vote for as many nominees as there are vacancies on the Board to be filled by the Members. Cumulative voting and voting by proxy are prohibited. If a quorum is present, the affirmative vote of a majority of the voting power represented at the meeting, entitled to vote and voting on any matter, shall be the act of the Members, unless the vote of a greater number is required by the Articles of Incorporation, these Bylaws, or the Nonprofit Corporation Law. In any election of directors, the candidates receiving the highest number of votes shall be deemed elected.

## **5.8 Reasonable Nomination and Election Procedures**

**(a) Usual Nomination Procedures.** Subject to Section 5.8(b) below, any person who is qualified to be elected to the Board may be nominated (with nominee consent) in accordance with any of the follow procedures:

- (i) by any Member present at the annual meeting of Members held for the purpose of electing directors;
- (ii) by petition of at least twenty (20) Members, which petition shall be certified by the Secretary at least one (1) week prior to the annual meeting of Members; or
- (iii) by the Board during any duly held and properly noticed meeting of the Board.

**(b) Special Nomination Procedures.** If SFBBO membership is five hundred (500) or more, the following nomination procedures shall be utilized:

- (i) If SFBBO has 500 to 4,999 Members, SFBBO shall follow the nomination procedures specified in Section 5221 of the Nonprofit Corporation Law to nominate persons for election to the Board.
- (ii) If SFBBO has 5,000 or more Members, SFBBO shall follow the nomination procedures specified in Section 5522 of the Nonprofit Corporation Law to nominate persons for election to the Board.

**(c) Election Material.** Regardless of the number of Members, SFBBO and director nominees shall follow the procedures governing election materials found in Sections 5523, 5524, and 5525 of the Nonprofit Corporation Law.

## **5.9 Waiver of Notice or Consent by Absent Members**

**(a) Written Waiver of Notice, Consent, or Approval of Minutes.** 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 (i) a quorum is present and if, (ii) either before or after the meeting, each Member entitled to vote, not present, signs a written waiver of notice, a consent to the holding of the meeting, or an approval of the minutes of the meeting. The waiver of notice, consent, or approval need not specify either the business to be transacted or the purpose of any meeting of Members, except that if action is taken or proposed to be taken for approval of any of those matters specified in Section 5.4(c), the waiver of notice, consent, or approval shall state the general nature of the proposal. All such waivers, consents, or approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

**(b) Attendance at Meeting.** A Member's attendance at a meeting shall 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 on the grounds that the meeting was not lawfully called or convened.

**5.10 Action by Unanimous Written Consent.** Any Member action may be taken without a meeting and without prior notice, if all Members consent in writing to the action. SFBBO shall file the written consents with the minutes of the Member proceedings. The action by written consent shall have the same force and effect as the unanimous vote of the Members.

**5.11 Action by Written Ballot Without a Meeting.** Any action, including the election of directors, which may be taken at any meeting of Members, may be taken without a meeting and without prior notice by complying with the provisions of this Section 5.11.

**(a) Solicitation of Ballots.** SFBBO shall distribute one (1) written ballot to each Member entitled to vote on the matter in accordance with the notice provisions of Section 5.4(a). SFBBO may send the ballots and responses may be returned by electronic transmission, as permitted by Section 5513 of the Nonprofit Corporation Law. All solicitations of votes by written ballot shall:

- (i) indicate the number of responses needed to meet the quorum requirement;
- (ii) with respect to ballots other than for election of directors, state the percentage of approvals necessary to pass the measure or measures; and
- (iii) specify the time by which the ballot must be received in order to be counted.

Each ballot so distributed shall:

- (i) set forth the proposed action;

- (ii) provide the Members an opportunity to specify approval or disapproval of each proposal; and
- (iii) provide a reasonable time within which to return the ballot to SFBBO.

**(b) Election of Directors.** In any election of directors, a written ballot that a Member marks “withhold,” or otherwise marks in a manner indicating that authority to vote is withheld, shall not be voted either for or against the election of a director.

**(c) Number of Votes and Approvals Required.** Approval by written ballot shall be valid only when the number of votes cast by ballot, including those ballots marked in a manner indicating 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 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 ballot without a meeting.

**(d) Filing Ballots.** The Secretary shall file all written ballots and maintain them in the corporate records.

**5.12 Record Date.** For purposes of determining the Members entitled to notice of any meeting, entitled to vote at any meeting, entitled to vote by written ballot, or entitled to exercise any rights with respect to any lawful action, the Board may, in advance, fix a record date as provided by Section 5611 of the Nonprofit Corporation Law.

## **ARTICLE VI BOARD OF DIRECTORS**

**6.1 Powers.** Subject to the provisions of the Nonprofit Corporation Law, Articles of Incorporation, and these Bylaws, SFBBO’s activities and affairs shall be conducted, and all corporate powers shall be exercised, by or under the direction of the Board of Directors of SFBBO (the “Board”). Directors shall have no power as individual directors and shall act only as members of the Board.

**6.2 Number of Directors.** The number of authorized directors of SFBBO shall be not less than seven (7) nor more than fifteen (15) with the exact number of authorized directors to be fixed by resolution of the Board from time to time.

**6.3 Qualification of Directors.** No more than forty-nine percent (49%) of the directors serving on the Board may be interested persons, as defined in Section 5227 of the Nonprofit Corporation Law. However, any violation of this Section 6.3 shall not affect the validity or enforceability of any transaction entered into by SFBBO.

**6.4 Nomination, Election and Term of Office.** Candidates for election as directors shall be nominated in accordance with Section 5.8. Members shall elect directors by action as set forth in Section 5.7 of these Bylaws, to serve three (3) year terms; *provided that* no director may serve more than two (2) consecutive three (3)-year terms. Directors who have served two (2) consecutive terms may be elected to additional term(s) after one (1) year off the Board. A director may hold office until his or her successor is elected and qualifies.

**6.5 Vacancies.** A vacancy or vacancies on the Board shall exist in the event that the actual number of directors is less than the authorized number for any reason.

**6.6 Resignation.** Except as provided below, any director may resign at any time by giving written notice to the Chair, the Executive Director, or the Secretary (as defined in Section 9.1). The resignation shall take effect upon receipt of notice or at any later time specified in the

notice. Unless otherwise specified in the notice, the resignation need not be accepted to be 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. Except on notice to the Attorney General of California, no director may resign if SFBBO would be left without a duly elected director or directors under Section 5226 of the Nonprofit Corporation Law.

**6.7 Removal.** A director may be removed from office at any time with or without cause by a vote of a majority of Members as provided in Section 5222 of the Nonprofit Corporation Law. In addition, the Board may declare by resolution a vacancy in the office of any director who has been declared of unsound mind by an order of court, convicted of a felony, or found by final order or judgment of any court to have breached a duty under Article 3 of Chapter 2 of the Nonprofit Corporation Law. No reduction in the authorized number of directors shall have the effect of removing any director before that director's term of office expires.

#### **6.8 Filling Vacancies**

**(a) Vacancies Not Created by Members.** Vacancies on the Board not created by Members may be filled by approval of the Board or, if the number of directors then in office is less than a quorum, by (i) unanimous written consent of the directors then in office; (ii) a vote of a majority of the directors then in office at a meeting called in accordance with Section 7.5 or by written consent under Section 7.10; or (iii) a sole remaining director. Vacancies created by the removal of a director by the Members may only be filled by the approval of the Members.

**(b) Vacancies Created By Members.** The Members may elect a director at any time to fill any vacancy not filled by the directors. A director elected to fill an existing vacancy shall hold office until the next annual election of the Board, or until his or her death, resignation, or removal from office. After serving a partial term, a person elected to fill a vacancy may serve up to two (2) additional consecutive terms if so elected, in accordance with Section 6.4.

**6.9 Compensation and Reimbursement.** Directors shall not receive any compensation for their services as directors. The Board may authorize the advancement or reimbursement to a director of actual reasonable expenses incurred in carrying out his or her duties as a director.

**6.10 Conflict of Interest Policy.** The Board shall adopt a policy that requires directors, officers, and key employees to disclose interests that constitute or could result in a conflict of interest (the "Conflict of Interest Policy"). The Conflict of Interest Policy shall also specify, in accordance with Sections 5233 and 5234 of the Nonprofit Corporation Law, the steps that must be taken by the Board to approve a decision or transaction that involves an actual or apparent conflict of interest. The Board shall regularly and consistently monitor and enforce compliance with the Conflict of Interest Policy.

### **ARTICLE VII MEETINGS OF THE BOARD OF DIRECTORS**

**7.1 Annual Meeting.** An annual meeting of the Board shall be held each year on a date to be specified by the Board, and may coincide with the annual meeting of the Members.

**7.2 Regular Meetings.** Regular meetings of the Board shall be held at such dates, times, and places as determined by the Board.

**7.3 Special Meetings.** Special meetings of the Board, for any purpose, may be called at any time by the Chair, the Executive Director, the Secretary, or any two (2) directors. The meeting shall be held at a place within the State of California as designated by the person or persons calling the meeting, and in the absence of such designation, at the principal office of SFBBO.

**7.4 Telephone and Electronic Meetings.** Any meeting may be held by conference telephone, electronic video screen, or similar communication equipment, as long as all directors participating in the meeting can hear one another. All such directors shall be deemed to be present in person at such a meeting.

**7.5 Notice.** Regular meetings may be held without notice if the date, time, and place of the regular meetings are fixed by action of the Board. Notice of the date, time, and place within the State of California of a special meeting, or of a regular meeting if the date, time, or place of regular meetings are not designated by the Board, shall be given to each director by one of the following methods:

- (a) upon four (4) days' notice if by first-class mail; or
- (b) forty-eight (48) hours before the meeting if
  - (i) by personal delivery of written notice;
  - (ii) by telephone, whether directly to the director, to a person at the director's office who would reasonably be expected to communicate that notice promptly to the director, or by voice-messaging system;
  - (iii) by facsimile transmission; or
  - (iv) by e-mail.

All such notices shall be given or sent to the director's address, e-mail address, or telephone number as shown on the records of SFBBO. The notice shall state the date and time of the meeting, and the place if other than the principal office of SFBBO. It need not specify the purpose of the meeting.

**7.6 Voting.** Each director present and voting at a meeting shall have one vote on each matter presented to the Board for action at that meeting. No director may vote at any meeting by proxy.

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

**7.8 Quorum.** A quorum shall consist of fifty percent (50%) of the authorized number of directors. An 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, except as provided by Section 5211 of the Nonprofit Corporation Law or as elsewhere provided in these Bylaws. No business shall be considered by the Board at any meeting at which a quorum is not present. The directors at a duly held meeting at which a quorum is initially present may continue to transact business, despite the departure of directors, if any action taken or decision made is approved by at least a majority of the required quorum for that meeting.

**7.9 Adjournment.** A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. Notice of adjournment to another time or place need not be given unless a quorum was not present at the original meeting or the original meeting is adjourned for more than twenty-four (24) hours. In either of these cases, notice shall be given, before the time of the new meeting, to the directors who were not present at the time of the adjournment.

**7.10 Action Without a Meeting.** Any action that the Board is required or permitted to take may be taken without a meeting if all directors, individually or collectively, consent in writing to the action; provided, however, that the consent of any “interested director” as defined in Section 5233 of the Nonprofit Corporation Law shall not be required for approval of that transaction. Such action by written consent shall have the same force and effect as a unanimous vote of the directors. All such consents shall be filed with the minutes of the proceedings of the Board.

## **ARTICLE VIII COMMITTEES**

**8.1 Board Committees.** The Board may, by resolution of a majority of directors then in office, provided that a quorum is present, create, and appoint members of the Board to, one (1) or more committees (“Board Committees”), each consisting of two (2) or more directors, to serve at the pleasure of the Board. The Board shall create an audit committee if required by the California Nonprofit Integrity Act of 2004 (the “Nonprofit Integrity Act”). Only directors may serve on any Board Committee. The Board may appoint one (1) or more directors as alternate members of any such Board Committee, who may replace any absent Board Committee member at any meeting of the Board Committee. Any such Board Committee, to the extent provided in the Board resolution, shall have all the authority of the Board, subject to the limitations specified in Section 5212 of the Nonprofit Corporation Law.

**8.2 Meetings and Action of Board Committees.** Meetings and actions of Board Committees shall be governed by, held, and taken in accordance with the provisions of these Bylaws concerning meetings and other Board actions, except that the time for regular meetings of such Board Committees and the calling of special meetings of such Board Committees may be determined either by Board resolution or by resolution of the Board Committee. Minutes of each meeting of any Board Committee shall be kept and filed with the corporate records. The Board may adopt rules for the governance of any Board Committee, provided they are consistent with these Bylaws; or, in the absence of rules adopted by the Board, the Board Committee may adopt such rules.

**8.3 Advisory Committees.** The Board may create and appoint individuals to one (1) or more advisory committees (“Advisory Committees”), each consisting of two (2) or more directors, non-directors, or a combination of directors and non-directors. Advisory Committees may not exercise the authority of the Board to make decisions on behalf of SFBBO. Advisory Committees shall be restricted to making recommendations to the Board or Board Committees and implementing Board or Board Committee decisions and policies under the supervision and control of the Board or Board Committee. The Board may, at any time, revoke or modify any or all of the authority delegated to an Advisory Committee.

**8.4 Advisory Board.** The Board may create and appoint individuals to one or more advisory boards (each an “Advisory Board”), consisting of persons who are not officers or directors of SFBBO, to serve at the pleasure of the Board and to report its findings and recommendations on subjects of interest to the Board. Any such Advisory Board shall act only in an advisory capacity to the Board, shall have no legal authority to act for SFBBO, and shall clearly be held out as an “advisory board.” The Board may, at any time, revoke or modify any or all of the authority delegated to the Advisory Board.

## **ARTICLE IX OFFICERS**

**9.1 Officers.** The officers of SFBBO shall be a chair of the Board (the “Chair”), a vice chair of the Board (the “Vice Chair”), an executive director (the “Executive Director”), a secretary (the “Secretary”), and a treasurer (the “Treasurer”), and such other officers as the Board may determine. The Chair must be a director. Any number of offices may be held by the

same person, except that neither the Secretary nor the Treasurer may serve concurrently as either the Executive Director or the Chair.

**9.2 Other Officers.** The Board may authorize the Chair, the Executive Director, or other officer, to appoint any other officers that such officer deems appropriate. Each officer so appointed shall have the title, hold office for the period, have the authority, and perform the duties specified in these Bylaws or determined by the Board.

**9.3 Election and Term.** The officers of SFBBO, except those appointed under Section 9.2 of these Bylaws, shall be elected by the Board at the annual meeting for two (2) year terms and shall serve at the pleasure of the Board, subject to the rights, if any, of any officer under any contract of employment.

**9.4 Resignation.** Any officer may resign at any time by giving written notice to SFBBO. The resignation shall take effect upon receipt of notice 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 the rights, if any, of SFBBO under any contract to which the officer is a party.

**9.5 Removal.** Any officer may be removed with or without cause by the Board or by any officer on whom the Board may confer that power of removal, without prejudice to any rights of an officer under any contract of employment.

**9.6 Vacancies.** A vacancy in any office for any reason shall be filled in the manner prescribed in these Bylaws for regular appointments to that office; provided, however, that vacancies need not be filled at the annual meeting. If there is a vacancy in any office other than that of the Chair, such vacancy may be filled temporarily by appointment by the Chair until such time as the Board shall fill the vacancy.

**9.7 Chair.** The Chair shall preside at all meetings of the Board and of the Members, if present, and shall exercise and perform such other powers and duties as may be prescribed by these Bylaws or by the Board.

**9.8 Vice Chair.** In the absence of the Chair, or in the event of his or her inability or refusal to act, the Vice Chair shall perform all the duties of the Chair, and when so acting shall have all the powers of any be subject to all the restrictions on, the Chair. The Vice Chair shall have other powers and perform such other duties as may be prescribed by these Bylaws or by the Board.

**9.9 Executive Director.** The Executive Director shall be the general manager and chief executive officer of SFBBO and shall supervise, direct, and control SFBBO's activities, affairs, and officers. The Executive Director shall have such other powers and perform such other duties as may be prescribed by these Bylaws or by the Board.

**9.10 Secretary.** The Secretary shall keep or cause to be kept, at SFBBO's principal office or such other place as the Board may direct, a book of minutes of all meetings, proceedings, and actions of the Members, the Board and the Board Committees. The minutes of meetings shall include, without limitation, the time and place that the meeting was held; whether the meeting was annual, regular, or special, and, if special, how authorized and the notice given; and the names of those present at Members, Board, and Board Committee meetings. The Secretary shall give or cause to be given notice of all meetings of the Members, the Board, and the Board Committees as required by law or by these Bylaws. The Secretary shall keep or cause to be kept at SFBBO's principal office, a copy of the Articles of Incorporation and Bylaws, as amended to date. The Secretary shall have such other powers and perform such other duties as may be prescribed by these Bylaws or by the Board.

**9.11 Treasurer.** The Treasurer shall be the chief financial officer of SFBBO and shall keep and maintain, or cause to be kept and maintained, adequate and correct books and records of account, including accounts of SFBBO's properties and transactions. The Treasurer shall send or cause to be given to the directors such financial statements and reports as are required to be given by law, by these Bylaws, or by the Board. The Treasurer shall deposit, or cause to be deposited, all money and other valuables in the name and to the credit of SFBBO with such depositories as the Board may designate; shall disburse or cause to be disbursed SFBBO's funds as the Board may order; shall render to the Board, the Chair and the Executive Director, when requested, an account of all transactions as Treasurer and of the financial condition of SFBBO; and shall have such other powers and perform such other duties as may be prescribed by these Bylaws or by the Board.

**9.12 Compensation Policy.** Aside from the Executive Director, the officers of SFBBO shall receive no compensation as officers. The Board shall adopt a policy that sets forth guidelines for the determination, review and approval of the compensation of its officers and key employees (the "Compensation Review Policy"). The Board shall regularly and consistently monitor and enforce compliance with the Compensation Review Policy.

## **ARTICLE X INDEMNIFICATION AND INSURANCE**

**10.1 Definitions.** For purposes of this Article, "Agent" means any person who is or was a director, officer, employee, or other agent of SFBBO, or is or was serving at the request of SFBBO as a director, officer, employee, or other agent of another foreign or domestic corporation, partnership, joint venture, trust, or other enterprise, or was a director, officer, employee, or agent of a predecessor corporation of SFBBO or another enterprise at the request of such predecessor corporation; "Proceeding" means any threatened, pending, or completed action or proceeding, whether civil, criminal, administrative, or investigative; and "Expenses" includes, without limitation, attorneys' fees and any expenses incurred in establishing a right to indemnification under Section 10.2 of this Article.

**10.2 Right of Indemnity.** To the fullest extent permitted by law and as provided by these Bylaws, SFBBO may indemnify any person who was or is a party or is threatened to be made a party by reason of the fact that such person is or was an Agent of SFBBO, against all Expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with the Proceeding.

**10.3 Approval of Indemnity.** On written request to the Board by any Agent seeking indemnification, to the extent that the Agent has been successful on the merits, the Board shall promptly authorize indemnification in accordance with Section 5238(d) of the Nonprofit Corporation Law. Otherwise, the Board shall promptly determine, by a majority vote of a quorum consisting of directors who are not parties to the Proceeding, whether the applicable standard of conduct set forth in Section 5238(b) or Section 5238(c) of the Nonprofit Corporation Law has been met and, if so, may authorize indemnification.

**10.4 Advancement of Expenses.** The Board may authorize the advance of Expenses incurred by or on behalf of an Agent in defending any Proceeding, before final disposition of the Proceeding, if (a) the Board finds that the requested advances are reasonable in amount under the circumstances, and (b) the Agent submits a written undertaking to repay the advance unless it is ultimately determined that the Agent is entitled to be indemnified by SFBBO for those Expenses.

**10.5 Insurance.** SFBBO shall have the right to purchase and maintain insurance on behalf of any Agent against any liability asserted against or incurred by the Agent in such capacity or arising out of the Agent's status as such, whether or not SFBBO would have the power to indemnify the Agent against such liability under this Article; *provided, however*, that

SFBBO shall not have the power to purchase and maintain such insurance to indemnify any Agent of SFBBO for a violation of Section 5233 of the Nonprofit Corporation Law.

## **ARTICLE XI RECORDS, REPORTS, AND COMMUNICATIONS**

**11.1 Inspection by Directors.** Every director shall have the right at any reasonable time to inspect SFBBO's books, records, documents, and physical properties. 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.

### **11.2 Members' Right to Inspect**

**(a) Articles of Incorporation and Bylaws.** SFBBO shall provide, upon written request of any Member, a copy of the Articles of Incorporation and Bylaws, as amended to date.

**(b) Accounting Books and Minutes.** SFBBO shall keep adequate and correct books and records of accounts and written minutes of the proceedings of its Members, Board, and Board Committees. SFBBO shall keep all such records at such place or places designated by the Board, or, in the absence of such designation, at the principal office of SFBBO. On written demand of SFBBO, any Member may inspect, copy, and make extracts of the accounting books and records and the minutes and proceedings of the Members, the Board, and the Board Committees at any reasonable time for a purpose reasonably related to the Member's interest as a Member.

**(c) Membership Lists.** SFBBO shall keep a correct record of each Member's name and address. SFBBO shall keep the record at such place or places designated by the Board of Directors, or, in the absence of such designation, at the principal office of SFBBO. Subject to Sections 6330-6332 of the Nonprofit Corporation Law and unless SFBBO provides a reasonable alternative as provided below, any Member may, for a purpose reasonably related to the Member's interest as a Member:

- (i) inspect and copy the records of Members' names, addresses, and voting rights during usual business hours on five (5) days' prior written demand on SFBBO; and/or
- (ii) obtain from the Secretary, on written demand and tender of a reasonable charge, an alphabetized 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 the demand, specified by the Member.

Either such 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 (10) 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. SFBBO may, within ten (10) business days after receiving a demand under this Section 11.2, 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 that the proposed alternative does not meet the proper purpose of the demand. If SFBBO 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 11.2, it may deny the Member access to the membership list.

**(d) Other Rights.** Any inspection and copying under this Section 11.2 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.

**11.3 Financial Reporting.** SFBBO shall produce and distribute the financial and other reports required by the Nonprofit Corporation Law, including, without limitation, the annual report required by Section 6321 and the statement of transactions or indemnification required by Section 6322, and if required, produce and make publicly available the financial statements required by the Nonprofit Integrity Act. The Board shall cause the annual report to be sent to all directors and Members of SFBBO within one hundred and twenty (120) days after the end of SFBBO's fiscal year. SFBBO shall furnish any Member who so requests a copy of any report filed by SFBBO with the California Attorney General. SFBBO may impose reasonable charges for copying and mailing this report to a Member.

**11.4 Fiscal Year.** The fiscal year of SFBBO shall begin on the first day of January and end on the last day of December of the following year, unless otherwise specified by the Board.

**11.5 Electronic Transmissions.** Unless otherwise provided in these Bylaws, and subject to any guidelines and procedures that the Board may adopt from time to time, the terms "written" and "in writing" as used in these Bylaws (including, without limitation, the written consents contemplated by Section 7.10) include any form of recorded message in the English language capable of comprehension by ordinary visual means, and may include electronic transmissions, such as facsimile or e-mail, provided: (i) SFBBO has obtained a valid written consent from the recipient to the use of such means of communication; (ii) for electronic transmissions to SFBBO, SFBBO has in effect reasonable measures to verify that the sender is the individual purporting to have sent such transmission; and (iii) the transmission creates a record that can be retained, retrieved, reviewed, and rendered into clearly legible tangible form.

## **ARTICLE XII GIFTS, GRANTS, CONTRACTS, AND INVESTMENTS**

**12.1 Gifts.** The Board or its designee may accept on behalf of SFBBO any contribution, gift, bequest, or devise for the charitable or public purposes of SFBBO.

**12.2 Grants.** The Board shall exercise itself, or delegate, subject to its supervision, control over grants, contributions, and other financial assistance provided by SFBBO, including, without limitation, those made in connection with fiscal sponsorship relationships.

**12.3 Deposits.** All funds of SFBBO shall be deposited to the credit of SFBBO in such banks, trust companies, or other depositories or agency organizations as the Board may authorize.

**12.4 Contracts.** The Board may authorize any officer(s) or agent(s), in the name of and on behalf of SFBBO, to enter into any contract or execute any instrument. Any such authority may be general or confined to specific instances, or otherwise limited. In the absence of any action by the Board to the contrary, the Chair, the Executive Director, and the Treasurer are each authorized to execute such instruments on behalf of the corporation.

**12.5 Payment of Money.** Except as otherwise specifically determined by resolution of the Board, or as otherwise required by law, checks, drafts, promissory notes, orders for the payment of money, and other evidence of indebtedness of SFBBO may be signed by each of the Chair, the Executive Director, and the Treasurer.

**ARTICLE XIII  
AMENDMENTS**

**13.1 Amendment of Bylaws.** Except as otherwise provided by law and in this Section 13.1, these Bylaws may be amended or repealed or new bylaws adopted by approval of the Board, unless doing so would materially and adversely affect the Members' rights as to voting or transfer. The Board may not, without the approval of the Members, adopt, amend, or repeal a Bylaw provision that

- (i) specifies or changes the fixed number of directors of SFBBO or the maximum or minimum number of directors;
- (ii) increases or extends the terms of directors;
- (iii) changes the structure of the Board from fixed to variable or vice versa;
- (iv) increases the quorum for Members' meetings;
- (v) changes Members' proxy rights;
- (vi) authorizes cumulative voting;
- (vii) increases the number of directors appointed by the Board rather than elected by the Members; or
- (viii) authorizes the Board to fill a vacancy created by the removal of a director by the Member.

Any amendment that would result in the termination of all memberships or any class of memberships shall comply with provisions of Section 5342 of the Nonprofit Corporation Law.

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**Adopted:** \_\_\_\_\_