



**ISM—Twin Cities, Inc.**

**BYLAWS**

**ISM-Twin Cities, Inc.**

January 2017

## **BYLAWS**

### **ARTICLE I NAME AND LOCATION**

**SECTION 1. Name.** The name of this Association shall be the ISM-Twin Cities, Inc., a not-for-profit corporation organized and existing by virtue of the laws of the State of Minnesota (hereinafter referred to as the "Association").

**SECTION 2. Location.** The principal office of the Association shall be located in the Twin Cities or surrounding suburbs in the State of Minnesota or in such other localities as may be determined by the Board of Directors.

### **ARTICLE II PURPOSES**

The Association is a not-for-profit corporation organized and operated not for pecuniary profit, but exclusively for educational purposes within the meaning of Section 501(c)6 of the Internal Revenue Code (hereinafter referred to as the "Code") and in this connection, the purposes for which the Association shall be organized and operated are as follows:

- (a) To foster and promote interchange of ideas and cooperation among its members.
- (b) To promote the study, development and application of supply management, including improved procurement or purchasing methods and practices and all matters related to the foregoing (hereinafter referred to as "the supply management profession").
- (c) To collect and disseminate by all lawful means information of interest and benefit to its members, including surveys and reports of current business trends and other information of interest to the supply management profession.
- (d) To develop and encourage standards of personal and ethical conduct among persons engaged in the supply management profession.
- (e) To develop, sponsor, promote and encourage a professional certification program for persons engaged in the supply management profession.
- (f) To encourage and cooperate in the institution and development of educational courses, seminars, programs and materials on the subject of supply management and all matters related thereto.
- (g) To strive by all lawful means to promote and enhance the supply management profession.

- (h) To be affiliated with the Institute for Supply Management, Inc. ("ISM") and other associations or organizations of persons engaged in the supply management profession throughout the United States and all foreign countries.
- (i) To cooperate, collaborate and exchange information by lawful means with professional, trade and other associations and organizations of persons engaged in the supply management profession and to advance public relations with governmental agencies and the public in general concerning the supply management profession.
- (j) To do any other act or thing incidental to or connected with the foregoing purposes or in advancement thereof and not for the pecuniary profit or financial gain of its members, directors or officers, except as otherwise permitted by the laws of the State of Minnesota.

In the accomplishment of these purposes, it shall be the policy of the Association to comply at all times with all existing and future laws, including the antitrust laws and in furtherance of this policy, no activity or program shall be sponsored or conducted by or within the Association which in any manner whatsoever shall represent or be deemed a violation of any existing or future law, including the antitrust laws, all in accordance with the *ISM Statement of Antitrust Policy and Guide for Antitrust Compliance*, as amended from time to time by the Board of Directors of ISM.

### **ARTICLE III AFFILIATION WITH ISM**

**SECTION 1. General.** The Association shall be affiliated with ISM in accordance with the procedures set forth in the ISM Bylaws and the association shall comply at all times with ISM policy as it may be adopted from time to time by the ISM Board of Directors and the provisions of this Article.

**SECTION 2. Conditions of Affiliation.** The Association shall be obligated as a condition of affiliation with ISM to comply with the following:

- (a) To be incorporated as a not-for-profit corporation in accordance with the laws of the State of Minnesota and to be validly existing and in good standing during the period of its affiliation with ISM.
- (b) To cause these Bylaws to conform at all times with the ISM Bylaws and ISM Policy, including without limitation, the provisions hereof with respect to the purposes of the Association and eligibility for membership.
- (c) To perform all necessary procedures concerning the review and approval of all applications for membership in the Association and ISM.
- (d) To resolve all questions concerning eligibility for membership in the Association and ISM in a fair and impartial manner in accordance with procedures established from time to time by the Association.

- (e) To collect all dues from members of the Association and to remit to ISM all dues required by Article IV of the ISM Bylaws.
- (f) To comply at all times with ISM Policy as it may be adopted from time to time by the ISM Board of Directors including without limitation, the *ISM Statement of Antitrust Policy and Guide For Antitrust Compliance*.
- (g) To obtain prior written approval of ISM with respect to any proposed amendments to these Bylaws.

**SECTION 3. Suspension or Termination of Affiliation.** The affiliation with ISM of the Association may be suspended by the ISM Board of Directors for violation of or failure to comply with the *ISM Bylaws*, including specifically, but without limitation, provisions respecting payment of dues, eligibility of members and observance of ISM policies as may be adopted by the ISM Board of Directors from time to time. Any charge of violation or failure to comply under this Section shall be first presented to ISM. If ISM shall determine that the charges are well founded, after the Association has been given reasonable notice of such charges and an opportunity to present a defense to the same, the charges shall be referred to the ISM Board of Directors for action together with the recommendations of ISM. If the Association is suspended or terminated it may be reinstated by the ISM Board of Directors at any time subsequent to such suspension or termination upon a proper showing of good cause to justify a reinstatement of affiliation with ISM.

## **ARTICLE IV MEMBERSHIP**

**SECTION 1. Regular Members.** A person shall be eligible to be a regular member of this Association who satisfies the eligibility requirements of a regular member of an Affiliated Association as defined in the bylaws of the Institute for Supply Management, Inc. (ISM), as amended from time to time. Regular members of this Association shall have the right to cast one (1) vote on all questions which require a vote of the regular members of this Association other than those regular members who, pursuant to the ISM Bylaws, as amended from time to time, do not have voting rights.

**SECTION 2. Affiliate Membership.** Affiliate membership is membership in an affiliate for an individual who is a Direct Member of ISM through the ISM Corporate Program.

**SECTION 3. Associate Membership.** Associate members are members of the local ISM chapter only and not a member of ISM-National. Associate members may vote on local chapter issues, but not on ISM-National issues.

**SECTION 4. Dual Membership.** Dual membership may be afforded to individuals who meet the same criteria as Regular Members and hold regular membership in ISM through another affiliated association. Dual Members may vote and hold office in the Association.

**SECTION 5. Dues-free Members.** Dues-free members include:

- (a) *Academic Members.* A person with a full-time appointment as a teacher, research specialist, department head, director or dean of a college, university, other academic institution whose academic responsibility includes supply management or other related fields or subjects. Academic members are Regular voting members.
- (b) *Student Members.* An undergraduate or graduate student enrolled full-time in an accredited community college or four-year college or university may receive all the benefits of membership in ISM and this Association and be exempted from payments of all dues and fees. Student members are Regular non-voting members.
- (c) *Lifetime Members.* A person who has been a Regular Member for a period of ten (10) years or more, has retired from all regular employment and has been approved for this category by a majority vote of the Regular Members of the Affiliated Association of which he/she has been a member. Voting takes place at the next membership meeting following receipt of the Lifetime application. Lifetime members are Regular voting members.
- (d) *Special Membership Extension.* Membership will be extended to an additional 12 months without requiring payment of ISM dues for persons who have been a member of ISM and are unemployed for six months, excluding first-time membership applicants, provided that the affiliate also waives the affiliate dues. Dues free membership will be extended to those members serving in full-time active military duty for the length of their service, provided that the affiliate also waives the affiliate dues. Members under this class are Regular voting members.

**SECTION 6. Non-voting Membership.** The Association shall have the following non-voting membership classes which shall not represent regular membership in ISM nor entitle any member of such class to hold office in the Association, nor to serve as Chair of the Association's Committees:

- (a) *Student Members* are Regular non-voting members as described in Section 4 (b) of this article.

**SECTION 7. Admission of Members.** Admission of all applicants for membership in the Association shall be in accordance with the following procedures:

- (a) Application for membership shall be submitted on a paper application form, the Association's website or the ISM website.
- (b) Application shall then be submitted to the Board of Directors of this Association at each Board meeting for approval.
- (c) Upon approval by the Board of Directors, applicant shall become a regular member of the Association.

- (d) The applicant's contact information is entered into the ISM Minnesota database for download by ISM personnel. A welcome notice is sent via email from both the Association and ISM.
- (e) Unless otherwise known, membership is vested in the individual if that individual's company pays for it. In the event of a member's job status change, the member's membership may be transferred to a successor.

**SECTION 8. Denial of Membership.** An affiliated association has the right to deny Regular membership, as authorized in the ISM Bylaws, Article II, Section 1. The ISM Membership Department will consider an appeal by the applicant. Except for rare and extraordinary circumstances, the decision of the Membership Department concerning denial of Regular membership will be final and binding and will not be considered by the ISM Board of Directors.

**SECTION 9. Expulsion of Members.** The Association shall have the right to expel a member of any classification from membership in the Association for nonpayment of dues or for violation of the provisions of these Bylaws, the *ISM Bylaws*, the *ISM Policies*, the *ISM Policy Manual for Special Interest Groups and Forums*, the *ISM Standards of Conduct* or such other statements of policy as may be adopted by the Association or the ISM Board of Directors from time to time.

Expulsion for any reason other than nonpayment of dues shall occur only after the member has been advised of the proposed expulsion and the reasons therefore and has been given an opportunity to submit proof in support of continued membership in the Association. A member expelled from membership in the Association shall be given written notice of such expulsion and shall be advised in writing that he or she may appeal the action taken by the Association to ISM by filing a notice of intent to appeal to ISM.

Upon receipt of a timely filed notice of appeal, ISM shall consider the appeal and shall allow the expelled member the opportunity to submit proof in support of continued membership in the Association. The decision of ISM concerning expulsion of a non-voting member shall be final and binding.

**SECTION 10. Reinstatement.** A former member of the Association, whether a resigned or expelled member desiring reinstatement of membership, may be reinstated as a member of the Association upon showing proof of eligibility and paying all current year's dues [and an administration fee or similar charge which may be imposed by the Association from time to time].

The procedure for an appeal of an adverse determination to reinstate a former member shall be the same as provided in Section 7 of this Article, provided, however, an appeal to reinstate membership may not be taken in the same calendar year in which an appeal has been decided by ISM concerning the expulsion of the same member seeking reinstatement.

**SECTION 11. Resignation.** Any member of the Association may resign by filing a written resignation with the Association, but such resignation shall not release the member so resigning of the obligation to pay any dues or other charges theretofore accrued but unpaid.

## **ARTICLE V DUES AND ADMINISTRATIVE CHARGES**

**SECTION 1. Amount.** The amount of annual dues for regular members and each class of non-voting members of the Association shall be determined from time to time by the Board of Directors of the Association. Annual dues for regular members of the Association shall include an amount equal to the annual dues in effect from time to time for membership in ISM. The Association may deduct from payments to ISM amounts equivalent to dues for regular members whose qualifications for membership are set forth in Section 1 of Article IV on condition that the ISM Board of Directors has waived all ISM dues with respect to such members.

**SECTION 2. Payment.** Dues for regular and non-voting members in the Association shall be assessed on the member's anniversary date.

**SECTION 3. Nonpayment of Dues.** A member of the Association whose dues are sixty (60) days in arrears may be expelled from membership in the Association and ISM upon notice by the Association to such member, such expulsion to be effective upon the date of such notice. A member expelled from membership for nonpayment of dues may be reinstated upon full payment of all delinquent dues (plus payment of an administrative fee or similar other charge which may be required from time to time by the Association).

**SECTION 4. Schedule of Dues.** The Association shall notify each member of the Association two months before the anniversary date of the membership regarding the annual dues payable for the upcoming membership period. Membership dues are payable in advance. (The notification of dues described in this Section shall not preclude the Association from causing a change in the amount of any dues set forth on such calendar year provided such change is made effective on or after the date such change in dues is approved by the Association in accordance with these Bylaws).

## **ARTICLE VI BOARD OF DIRECTORS**

**SECTION 1. Authority and Responsibility.** The governing body of the Association shall be the Board of Directors. The Board of Directors shall have general charge, management and control of the affairs, funds and properties of the Association and, subject to the provisions of these Bylaws and any contrary statement of policy enacted by vote of the members of the Association, shall have authority to take such action in matters of policy and procedure as, in its judgment, will best promote the interests and welfare of the Association, including authority to promulgate, amend or rescind in whole or in part all statements of Association policy as they may exist from time to time.

**SECTION 2. Membership.** The Board of Directors shall consist of the President, First Vice-President, Second-Vice President, Secretary/Treasurer, Immediate Past President and up

to seven (7) directors. All members of the Board of Directors must be regular members of the Association and ISM. The Secretary/Treasurer who is a contractor is a nonvoting member. The President votes only in the case of a tie. All members are elected with the exception of the Immediate Past President and Secretary/Treasurer.

**SECTION 3. Election.** The Directors shall be elected by the regular members of the Association in the spring of each year to be announced on or before the April membership meeting.

**SECTION 4. Term of Office.** Directors shall be elected for a term of up to three (3) years. No director shall serve more than (2) consecutive three year terms. The officers of the Association are elected for a term of at least one year, and not to exceed (2) years.

**SECTION 5. Vacancies.**

- (a) Mid-year vacancies occurring in a Director position shall be filled for the unexpired term through appointment by the President with the approval of the Board of Directors until the vacancy can be filled at the next annual election.
- (b) In the event of a vacancy in the office of the President or the First Vice President, it will be filled through succession of the next officer in line. If, for any reason, it is not possible to fill a vacancy through succession, the Board of Directors shall by majority action appoint interim officers until the next election. If the vacancy occurs in the office of Second Vice President, the President shall appoint with Board approval a member to complete the term.
- (c) If a current Director chooses to run for one of the executive offices and the Director is in their final year of their Director's term the director position will be considered open and placed on the ballot. If a current Director chooses to run for one of the executive offices and the Director is not in their final year then the director's position will not be considered as open nor placed on the ballot. Should the Director win election to an executive position the director position will be filled per the vacancies section of these bylaws. In the event the director seeking an executive office loses the election or withdraws from the election, that individual will retain their director position for the remainder of the term.
- (d) Open Board of Director positions placed on the ballot will be filled by the individual receiving the greatest number of votes assuming the Director position with the longest term. If there are second or third vacancies on the Board of Directors, than the individuals with the second and third highest number of votes shall assume second and third longest terms respectively. If an alternative is not available, the position shall be filled by nomination of the President and approval of the Board.
- (e) As part of the annual elections, in the case of a tie vote for a Director position, the tie will be broken by an email vote of the members of the Board within seven



(7) business days following the election or at the next Board meeting, whichever comes first.

**SECTION 6. Meetings.** The Board of Directors will establish board meeting dates. Special meetings may be called at the discretion of the President or upon written request from a simple majority of the Board members. A quorum for Board and Executive Committee meetings shall be a simple majority.

**SECTION 7. Authority to Act Without a Meeting.** No action will be taken without a meeting.

**SECTION 8. Board Action by Conference Call.** Any one or more members of the Board of Directors or of any committee thereof may participate in a meeting of the Board of Directors or committee by means of a conference telephone or similar equipment which enable all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at such a meeting.

**SECTION 9. Quorum and Voting.** A simple majority of the Board of Directors is required for a quorum and for any official vote.

**SECTION 10. Ballot Requirements.** Any action that may be taken at a regular or special meeting of members may be taken without a meeting if a ballot is sent to each eligible member. Each ballot must set forth each proposed action and provide members with an opportunity to vote for or against the proposed action. Approval by ballot is valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

Solicitations for votes by ballot shall:

- (a) Indicate the number of responses needed to meet the quorum requirements.
- (b) State the percentage of approvals necessary to approve each matter (other than election of directors), and
- (c) Specify the time by which the ballot must be received by the corporation in order to be counted. A ballot may not be revoked.

## **ARTICLE VII OFFICERS**

**SECTION 1. Officers.** The officers of the Association shall be the President, First Vice-President, Second Vice-President, Secretary/Treasurer and Immediate Past President.

**SECTION 2. Duties of President.** The President shall be Chief Executive Officer and Chairman of the Board of Directors and shall exercise general supervision over the executive affairs of the Association. He or she shall preside at all meetings of the Association membership

and of the Board of Directors and shall be a member, ex-officio, of all Association committees except for the Nominating Committee. The President shall have, in addition, the duties made incumbent upon the office by any other provision of these Bylaws and which may be assigned by the Board of Directors.

Other duties include:

- (a) The President shall appoint all Committee chairs for his or her term of office with the exception of the Nominating Committee Chair.
- (b) The President shall sign all contracts and agreements authorized by the Board of Directors.
- (c) The President is a non-voting member of the Board of Directors except in the event of a tie vote. If a tie vote occurs, the President would then be responsible for casting the deciding vote.

**SECTION 3. Duties of Vice-Presidents.** The Vice-Presidents shall perform such duties as may be assigned from time to time by the President and the Board of Directors of the Association. In the absence or incapacity of the President to perform the duties of the office, the Vice-Presidents, in the order of their succession, shall perform the duties of the President.

**SECTION 4. Duties of Secretary/Treasurer.** The Business Manager of the Association shall serve as the Secretary and Treasurer of the corporation. The Business Manager shall be an independent contractor of the Association contracted by the Board of Directors.

The Secretary shall:

- (a) Be custodian of all official records and documents of the Association.
- (b) Coordinate and assist in Association activities upon direction of the President and the Board of Directors.
- (c) Record and maintain the minutes of all Board of Director meetings, membership meetings and any other official functions as directed by the President and the Board of Directors.
- (d) Attend all Board of Directors meetings and other meetings and events as contracted.
- (e) Be charged with the publication of official meeting notices and announcements.
- (f) Shall maintain the official database.

The Treasurer shall:

- (a) Receive all funds of the Association, keep accurate records of these funds, keep same in such banking institutions as designated by the Board of Directors and disburse the same as directed by said Board.

- (b) At the close of each Association fiscal year provide an account of the financial conditional of the Association in the form of a financial compilation completed by the Association's accounting firm. An audit may be performed by the Association's accounting firm if requested by the Board.
- (c) Prepare a monthly financial report for the Board of Directors, including an income statement and balance sheet. The report will be made available to the Association upon request.
- (d) Be prepared to report to the Board of Directors on all financial matters current and future.
- (e) Provide proof of a bond to the Board of Directors for faithful discharge of duties. The bond shall cover the Executive Board.
- (f) Keep all accounts and records pertaining to the Association's finances.
- (g) Provide a report to the Board of Directors of the annual financial review and make the report available to any Association member upon request.
- (h) Attend all Board of Directors meetings and all other meetings and events as contracted.

**SECTION 5. Immediate Past President.**

- (a) To be eligible for the office of Immediate Past President (IPP), a candidate must have been the President of the Association during the preceding Association fiscal year. The IPP must be, at the time of appointment and throughout the one-year term of this office, a regular voting member of the Association and ISM. Termination of such membership shall immediately disqualify the candidate or incumbent.
- (b) In the event of the temporary inability of the IPP to perform the duties of the office, resulting from illness or any other cause, the President shall immediately appoint an alternate to perform the duties of office until such time as the IPP shall be able to resume these duties and the Board revokes the authority of the alternate. The alternate must be a regular voting member of the Association and ISM. Termination of such membership shall immediately disqualify the candidate.
- (c) Duties of the Immediate Past President include active participation on the Executive Committee, Committee Chair for the Nominating Committee and other duties as assigned by the President.

**ARTICLE VIII  
MEETINGS OF THE ASSOCIATION MEMBERS**

**SECTION 1. MEMBERSHIP MEETINGS.** Membership meetings shall be held as determined by the Board of Directors.

**SECTION 2. Special Meetings.** Special meetings of the Association membership may be called by the Board of Directors or the members of the Association in accordance with the provisions set forth in the Non-Profit Corporation Act of the State of Minnesota, Section 317A.433.

**SECTION 3. Quorum.** At all meetings of the Association membership a quorum shall be the presence at such meeting of at least five percent (5%) of the total regular membership of the Association.

**SECTION 4. Voting.** On all questions or issues presented for a vote at membership meetings or any special meeting of the Association membership, each regular member whose dues are paid shall be entitled to cast one vote. Except as otherwise required by these Bylaws, all questions or issues presented to a vote of the Association membership shall be authorized by a simple majority of the votes cast at a meeting of the Association membership entitled to vote thereon.

**SECTION 5. Action by Association Membership Without a Meeting.** Except for the election of the Board, whenever any question or issue is presented to a vote of the members, such vote may be taken without a meeting by written consents (either by written or electronic transmission) setting forth the action so taken and signed by a majority of members casting a vote, provided the number of consents is equal to or greater than the quorum requirement under Section 3 of this Article for a meeting of the members.

**SECTION 6. Order of Business.** At any meeting of the Association membership, the order of business shall be as stated on the agenda for the meeting furnished with the notice of such meeting required by this Article.

**SECTION 7. Parliamentary Rules.** At all meetings of the Association, including the Board of Directors, Robert's Rules of Order will prevail when not in conflict with these Bylaws.

## **ARTICLE IX COMMITTEES**

**SECTION 1. Executive Committee.** The Executive Committee shall consist of the President, First Vice President, Second Vice President, Immediate Past President and the Secretary/Treasurer.

The Executive Committee shall:

- (a) Be presided over by the President who will call the meetings of the Executive Committee, designating the time, place and matters to be discussed and acted upon.
- (b) Be responsible for strategic planning, marketing, policy, program development, budget, volunteer leadership development and personnel matters.
- (c) Approval by the Board of Directors is required for new or revised strategic plans, policies and budgets.
- (d) The Executive Committee shall have the authority, as directed by the Board of Directors, to act on business and administrative matters in place and stead of the Board of

Directors, except those specifically reserved to the Board of Directors at their next regularly scheduled meeting.

**SECTION 2. Nominating Committee.** The Nominating Committee shall be formed by the Immediate Past President (IPP) the first of September of each year. The Committee shall consist of at least three members to include the IPP, the First Vice President and one additional member. The IPP will chair the committee.

Nominations for the Board of Director members and Officers will be solicited starting in September via web site and emails. Nominations must be received by January 15. Names will be forwarded to the Nominating Committee for consideration. The Nominating Committee has the option of considering for nomination members of the Association who have not applied for nomination through this process.

The Nominating Committee shall draft the slate of candidates by January 31 for presentation to the Board of Directors at the Board's February meeting.

Candidates for Officers and Directors must be regular members of ISM-Twin Cities, Inc.

The names of consenting nominees for the various offices shall be posted to the General Membership on the Association website no later than March 15 and ending April 1. Members will be notified by email no later than March 15 of the election posting. Voting will take place online March 15 and close April 1.

The Secretary/Treasurer will validate that voters are current members. The IPP will confirm results.

Election results will be posted on the website by April 15. Officers and Directors are introduced at the May meeting, but do not take office until July 1.

**SECTION 3. Standing Committees.** The following standing committees shall be established within the Association on an as needed basis and may include:

- (a) Education/Professional Development Committee
- (b) Membership Committee
- (c) Fall Conference Committee
- (d) Marketing Committee

The President of the Association shall appoint the chairs. Members of the Board of Directors are required to participate on one or more committees. Committee leaders, if they are not on the Board of Directors, may participate as non-voting members of the board.

The Board of Directors of the Association may authorize from time to time additional standing committees as deemed proper to conduct the affairs of the Association.

**SECTION 4. Special Committees.** The President, with the approval of the Board of Directors of the Association, shall appoint such other special committees, subcommittees or task forces as may be deemed necessary and which are not in conflict with other provisions of

these Bylaws. The duties of any such special committee shall be prescribed by the Board of Directors upon their appointment.

## **ARTICLE X FINANCES**

**SECTION 1. Fiscal Year.** The fiscal year of the Association shall begin on July 1 of each year and terminate on June 30 of the following year.

**SECTION 2. Appropriations.** Funds appropriated in the annual Association budget shall be allocated to each funded activity. "Funded activities" are defined as those elements of the annual Association budget for which there are anticipated expenses during the fiscal year such as membership dues to ISM, meetings, workshops, office expenses, officers' and directors' expenses and committee expenses. During the appropriation year, it shall be necessary for each funded activity to receive Board of Director's approval if it should become necessary to exceed its allocated amount in the annual budget.

## **ARTICLE XI DISSOLUTION**

**SECTION 1. Dissolution.** The Association may be dissolved upon adoption of a plan of dissolution and distribution of assets adopted by the Board of Directors and approved by the regular members of the Association in accordance with the Non-Profit Corporation Act of the State of Minnesota, as amended from time to time.

**SECTION 2. Dedication of Funds.** The Association shall use its funds only to accomplish the objectives and purposes specified in these Bylaws and no part of said funds shall inure or be distributed, to the members of the Association. On dissolution of the Association, any funds remaining shall be distributed to one or more regularly organized and qualified organizations engaged in the promotion or education of the supply management profession to be selected by the Board of Directors and regular members of the Association.

## **ARTICLE XII INDEMNIFICATION**

**SECTION 1. Litigation.** This Association shall indemnify any director or officer, made or threatened to be made, a party to an action or proceeding, whether civil or criminal, including an action by or in the right of any other Corporation of any type or kind, domestic or foreign or any partnership, joint venture, trust, employee benefit plan or other enterprise, which any director or officer of this Association served in any capacity at the request of this Association, by reason of the fact that he or she, his or her testator or intestate, was a director or officer of this Association or served such other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise in any capacity, against judgments, fines, amounts paid in settlement and reasonable expenses, including attorneys' fees, actually and necessarily incurred as a result of such action or proceeding or any appeal therein; provided, however, that no indemnification shall be made to or on behalf of any director or officer if a judgment or adjudication adverse to the director or officer establishes that his or her act was committed in bad faith or the result of active and deliberate dishonesty and were material to the cause of

action so adjudicated or that he or she personally gained in fact a financial profit or other advantage in which he or she is not legally entitled.

**SECTION 2. Authorization.** Any indemnification made pursuant to Section 1 of Article XII hereof, shall be made by this Association; if authorized in one of the following ways:

- (a) By the Board acting by a quorum consisting of directors who are not parties to such action or proceeding upon a finding that the director or officer has not violated the standard of conduct as set forth in Section 1 of Article XII hereof;  
or
- (b) If a quorum under subparagraph (a) above is not obtainable or even if obtainable, a quorum of disinterested directors so directs:
  - (1) by the Board upon the opinion in writing of independent legal counsel that indemnification is proper under the circumstances because the standard of conduct set forth in Section 1 of Article XII has not been violated by such director or officer or
  - (2) By the members upon a finding that the director or officer has not violated the standard of conduct set forth in Section 1 of Article XII.

**SECTION 3. Expenses Incurred.** The Association shall pay expenses incurred in defending a civil or criminal action or proceeding in advance of final disposition of such action or proceeding upon receipt of an undertaking by or on behalf of such director or officer to repay such amounts as and to the extent, the person receiving such advancement or allowance is ultimately found, not to be entitled to indemnification or, where indemnification is granted, to the extent the expenses so advanced by this Association exceed the indemnification to which he or she is entitled. If any action with respect to indemnification of directors and officers is taken, then this Association shall, not later than the next Annual Meeting, unless such meeting is held within three (3) months from the date of such action and, in any event within fifteen (15) months from the date of such action, mail to its members of record at the time entitled to vote for the election of directors a statement specifying the action taken.

**SECTION 4. Personal Liability.** The directors of this incorporated Association shall not be personally liable to the Association or its members for damages for any breach of duty in his or her capacity as such: provided, however, that this provision shall not limit or eliminate the liability of any director if a judgment or other final adjudication adverse to him or her establishes that his or her acts or omissions were in bad faith or involved intentional misconduct or a knowing violation of law or that he or she personally gained in fact a financial profit or other advantage to which he or she was not legally entitled or that his or her acts violated Section 719 of the Not-For-Profit Corporation Law Minnesota Statute 317A.257 or for any act or omission which occurred prior to the adoption of this provision.

### **ARTICLE XIII AMENDMENTS**

These Bylaws may be amended only by a vote of five percent (5%) of the regular members present and voting as set forth in Section 4 of Article VIII, such amendment(s) having been

proposed in writing and read at the previous regular meeting. Proposals and voting via email are acceptable.

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