

BY- LAWS
OF
NORTH ANDOVER BOOSTER CLUB, INC.

SECTION 1. NAME AND PURPOSE.

1.1 Name

The name of this corporation shall be NORTH ANDOVER BOOSTER CLUB, INC. The corporation is a non-profit, charitable organization.

1.2 Purpose and Aim

To serve the youth of North Andover by providing opportunities in athletics

SECTION 2. MEMBERS

2.1 Qualification

Any resident of North Andover or any parent of a child who is a resident in North Andover and who is enrolled or is to be enrolled in one or more of the corporation's programs.

2.2 Powers and Rights

In addition to the right to elect officers as provided in Section 4.2 and such other powers and rights as are vested in them by law, the Articles of Organization or these By-Laws, the members shall have such other powers and rights as the Directors may designate.

2.3 Annual Meeting

The members shall meet annually in January.

2.4 Regular Meetings

Regular meetings of the members may be held at such places within the United States and at such times as the members determine.

2.5 Special Meetings

Special meetings of the members may be held at any time and at any place within the United States. Special meetings of the members may be called by the Directors or upon written request of at least ten (10%) percent of the smallest quorum of members required for a vote upon a matter at the annual meeting of members.

2.6 Notice of Meetings

A written notice of each meeting of members, stating the place, date and time and the purposes of the meeting shall be given prior to the meeting to each member entitled to vote thereat and to each other member who, by law, the Articles of Organization or by these By-Laws, is entitled to notice, by leaving such notice with him or at his residence or usual place of business, or by mailing it, postage prepaid, addressed to such member at his address as it appears in the records of the corporation, or by Electronic Mail (email). Whenever notice of a meeting is required, such notice need not be given to any member if a written waiver of notice, executed before or after the meeting, is filed with the records of the meeting.

2.7 Quorum

At any meeting of the members a majority of the members then present at the meeting (whether present in person or duly represented) and entitled to vote on action proposed at the meeting shall constitute a quorum, except when a larger quorum is required by law, by the Articles of Organization or by these By-Laws. Any meeting may be adjourned to such date or dates not more than 90 days after the first session of the meeting by a majority of the votes cast upon the question, whether or not a quorum is present, and the meeting may be held as adjourned without further notice.

2.8 Action by Writing (Electronic-Vote)

Any action required or permitted to be taken at any meeting of the members may be taken without a meeting if a written entitled to vote on matter consent to the action in writing and the written consents are filed with the records of the meetings of the members. Such consents shall be treated for all purposes as a vote at a meeting.

SECTION 3. BOARD OF DIRECTORS

3.1 Powers

The affairs of the corporation shall be managed by the Directors who may exercise all the powers of the corporation.

3.2 Definitions

3.2.1 Board of Directors: The Board of Directors shall consist of the following elected officers: the President, Vice President, Second Vice President, Treasurer, former Presidents, Secretary, Delegates at Large, Commissioners, and Purchasing Agent.

3.2.2 Executive Board: The Executive Board shall be a subset of the Board of Directors and shall consist of the following officers: the President, Vice President, Second Vice President, Treasurer, and Secretary. The Executive Board positions will be elected at the annual elections as determined in section 4.2.

3.2.3 Athletic Sports: The Athletic Sports under the coverage of the NORTH ANDOVER BOOSTER CLUB, INC shall be defined as:

Boys Volleyball	(Fall)
Field Hockey	(Fall)
Cheerleading	(Fall)
Football	(Fall)
Flag Football	(Fall)
Boys Basketball	(Winter)
Girls Basketball	(Winter)
Wrestling	(Winter)
Golf	(Spring)
Girls Volleyball	(Winter)
Softball	(Spring/Summer)

Athletic Sports may be added or eliminated by majority vote of the Directors. Consideration for addition or elimination must be submitted to the Directors 30 days prior to voting.

3.3 Committees

Except as provided by law, the Articles of Organization or these By-Laws, the Directors may elect from their numbers, or may authorize the President to appoint from their numbers, one or more committees and may delegate to any such committee or committees any or all of their powers. Unless the Directors otherwise determine, committees shall conduct their affairs in the same manner as is provided in these By-Laws for the Directors.

3.4 Nominating Committee

The Nominating Committee shall consist of at least one member to be appointed by the President. The Nominating Committee shall submit the names of all official nominees to the members at least one week prior to elections of officers at the annual meeting.

3.5 Annual Meeting

The annual meeting of Directors shall be held each year immediately after and at the place of the annual meeting of the members at which the Board of Directors is elected. In the event the annual meeting is not held on such a date, a special meeting in lieu of the annual meeting may be held with all the force and effect of an annual meeting.

3.6 Regular and Special Meetings

The Directors shall meet at least six times per year and no more than twelve times per year. Regular meetings of the Directors may be held at such times and places as the Directors shall determine. Special meetings of the Directors may be held at any time and at any place when called by the Executive Board at other times throughout the year.

3.7 Notice of Meetings

Forty-eight hours' notice by mail, fax, telephone or word of mouth shall be given for an annual or special meeting unless shorter notice is adequate under the circumstances. Notice need not be given for a regular meeting. Whenever notice of a meeting is required, such notice need not be given to any Director if a written waiver of notice, executed before or after the meeting, is filed with the records of the meeting, or to any Director who attends the meeting without protesting prior thereto or at its commencement the lack of notice to such Director. Neither such notice nor waiver of notice need specify the purposes of the meeting, unless otherwise required by law, the Articles of Organization or the By-Laws.

3.8 Quorum

At any meeting of the Directors a majority of the Directors then in office shall constitute a quorum. Any meeting may be adjourned by a majority of the votes properly cast upon the question, whether or not a quorum is present, and the meeting may be held as adjourned without further notice.

3.9 Action by Vote

At any meeting at which a quorum is present, the action of the Directors on any matter brought before the meeting shall be decided by the vote of a majority of those present and voting, unless a different vote is required by law, the Articles of Organization, or these By-Laws.

3.10 Participation by Telephone at a Meeting

Unless otherwise provided by law or the Articles of Organization, Directors may participate in a meeting of the Directors by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time, and participation by such means shall constitute presence in person at a meeting for all purposes.

3.11 Action by Writing

Any action by the Directors may be taken without a meeting if a written consent thereto is signed by all the Directors and filed with the records of the Directors' meetings. Such consent shall be treated as a vote of the Directors for all purposes.

3.12 Vote of Interested Directors

A Director who is a member, stockholder, trustee, director, officer or employee of any firm, corporation or association with which the corporation contemplates contracting or transacting business shall disclose his or her relationship or interest to the other Directors acting upon or in reference to such contract or transaction. No Trustee so interested shall vote on such contract or transaction, but he or she may be counted for purposes of determining a quorum. The affirmative vote of a majority of the disinterested Directors shall be required before the corporation may enter into such contract or transaction.

In case the corporation enters into a contract or transacts business with any firm, corporation or association of which one or more of its Directors is a member, stockholder, trustee, director, officer, or employee, such contract or transaction shall not be invalidated or in any way affected by the fact that such Director or Directors have or may have interest therein which are or might be adverse to the interests of the corporation. No Director or Directors having disclosed such adverse interest shall be liable to the corporation or to any creditor of the corporation or to any other person for any loss incurred by it under or by reason of any such contract or transaction, nor shall any such Director or Directors be accountable for any gains or profits to be realized thereon.

3.13 Compensation

Directors shall not receive any salary for serving in the capacity as Director. Nothing contained herein shall be construed to preclude and Director from serving this corporation in any other capacity and receiving compensation therefore.

SECTION 4. OFFICERS AND AGENTS

4.1. Number and Qualification

The officers of the corporation shall be a President, Vice President, Second Vice President, Treasurer, Secretary, Delegates at Large, Commissioners, Purchasing Agent and such other officers as may from time to time be determined by the Directors. The Secretary shall be a resident of Massachusetts unless the corporation has a resident agent duly appointed for the purpose of service of process. A person may hold more than one office at the same time. Any officer may be required by the Directors to give bond for the faithful performance of his or her duties to the corporation in such amount and with such sureties as the Directors may determine.

4.2 Election

The President, Vice President, Second Vice President, Treasurer, and Secretary shall be elected by the members at their annual December meeting, or at a special meeting held in lieu thereof, by a majority of the members then present at the meeting (whether present in person or duly represented). Nominations for the above named Executive Board shall be made by the Nominating Committee as provided for in Section 3.4 and may also be made from the floor as designated by the President, at the annual meeting.

The Delegates at Large and Purchasing Agent shall be nominated by the President and approved by majority vote of the Directors at the annual January meeting held in lieu thereof. Other officers, if any, may be elected by the Directors at any time.

The Commissioners shall be voted on and approved in accordance with the guidelines in Section 4.9

4.3 Tenure

Except as provided by law, the Articles of Organization or these By-Laws, the President, Vice President, Second Vice President, Treasurer, Secretary, Delegates at Large, Commissioners and Purchasing Agent shall hold office until the annual January meeting or the special meeting held in lieu thereof, and thereafter until his/her successor is chosen and qualified. Other officers shall hold office until the next annual January meeting, or the special meeting held in lieu thereof, unless a shorter term is specified in the vote choosing or appointing them.

4.3.1 Term Limits

Term limits for the following positions and term limits are for consecutive years only and if a person moves to a different role, the clock will restart.

President:	3 years
1st Vice President:	4 years
2nd Vice President:	4 years
Secretary:	4 years
Treasurer:	4 years
All other Directors	Unlimited

4.3.2 Meeting Attendance Requirement

All members of NABC Board of Directors are required to attend a minimum of 5 meetings during the calendar year. If a member does not attend the minimum number of meetings or if a member misses 4 consecutive meetings that action will serve as notice of resignation of his/her position.

4.4 President

Unless otherwise determined by the Directors, the President shall be the chief executive office of the corporation and, subject to the control of the Directors, shall have general charge and supervision of the affairs of the corporation. The President shall act as chair of all meetings of the Board of Directors. It shall be the President's duty and he or she shall have the power to see that all orders and resolutions of the Directors are carried into effect. The President shall only vote as a member of the Board of Directors if his/her vote is required to break a tie vote. The President shall have such other duties and powers as the Directors shall determine.

4.5 Vice President and Second Vice President

The Vice President shall assist the President in the discharge of his/her duties, shall preside when called upon to do so by the President or in the absence of the President, and shall perform all other duties required of him/her by the By-Laws or by the expressed mandate of the Board of Directors. Should the Vice President be unable to discharge the above duties, the Second Vice President shall perform such duties.

4.6 Treasurer

The Treasurer shall be the chief financial officer and the chief accounting officer of the corporation. He or she shall have charge of all corporate investments and shall receive all bequests and donations designated by the Board of Directors. The Treasurer shall, subject to the orders and under the supervision of the Board of Directors, have the custody and care of securities, cash and valuable papers of the corporation. The Treasurer shall keep full and accurate accounts of receipts and disbursements in the books belonging to the corporation and shall deposit all moneys and other valuable effects in the name and to the credit of the corporation in such depositories as shall be designated by the Directors or, in the absence of such designation, in such depositories as he or she deem proper. The Treasurer shall render to the President and the Directors such statement of transactions and accounts as the President and Directors may from time to time require. The Treasurer shall perform such duties and have such powers additional to the foregoing as the Directors may designate.

4.7 Secretary

The Secretary shall record and maintain records of all proceedings of the Directors in a book or books kept for that purpose and shall have custody of the seal of the corporation. The Secretary shall perform such duties and have such powers additional to the foregoing

as the Directors shall designate. If the Secretary is absent from any meeting of the Directors, a temporary Secretary chosen at the meeting shall exercise the duties of the Secretary at the meeting.

4.8 Delegates at Large

There shall be no less than six and no more than twelve Delegates at Large. The Delegates at Large shall act as the eyes and ears of the corporation. The Delegates at Large shall perform such duties and have such powers additional to the foregoing as the Directors may designate. Such duties shall include web-management, fundraising, concessions and any other tasks that will support the Booster Club.

4.9 Commissioners

Each Commissioner shall be in responsible charge of the particular sporting activity for which he/she was elected and ensure that the guidelines promulgated by the Board for such sport are followed. The Commissioners shall perform such duties and have such powers additional to the foregoing as the Directors may designate.

4.9.1 Commissioner's Budget

Commissioners for each sport listed in section 3.2.3 must submit a budget to the Board prior to the start of their sport. Once the budget has been reviewed and voted on, any expense above five percent (5%) of the budget total expense will be brought back to the Board for consideration prior to purchase.

4.9.2 Minimum Play Time

The philosophy of the Booster Club is for the players to be physically active, learn about their particular sport, practice to get better, and have fun. With this in mind, the following guidelines regarding playing time should be used for each sport. The Booster Club also recognizes that schoolwork is a priority and no player should be obligated to place their sport above their studies.

For all in-town teams, if a player is making a reasonable effort to attend practice, games, and participate in the activity, the coaches should make every effort to allow for equal playing time. Commissioners will present to the Board their plans to monitor and enforce this guideline and what steps they will take if there is an issue brought to their attention.

4.9.3 Procedure for Appointment

1. At the conclusion of each respective sports season an email will be sent out by the President or his designee to the entire NABC (all NABC Board Members and parents) seeking interest in the Commissioner position. Individual Sport Seasons are identified in Section 3.2.3
2. Any person interested in becoming an NABC Commissioner will be required to submit a letter of interest and detail why they would be qualified.

3. The Executive Board will review all applicants and have an interview process.
4. The Executive Board will select an applicant and put that person's name forward to the entire NABC board at a monthly meeting for approval as Commissioner.
5. If the candidate receives the required amount of votes then they would be named Commissioner.
6. In the event of a sudden need for a Commissioner due to unforeseen circumstances the Executive Board can appoint a person (INTERIM-COMMISSIONER) for that season and open it up immediately following for all to have an opportunity to apply.
7. Commissioner positions are not a permanent position and need to be voted on for approval every year by the NABC board.

4.10 Purchasing Agent

The Purchasing Agent shall be responsible for maintaining the sporting equipment, purchasing new equipment, deciding whether equipment should be reused or repaired, and working with the Commissioners and team coaches in assessing equipment needs. The Purchasing Agent shall perform such duties and have such powers additional to the foregoing as the Directors may designate.

4.11 Other Officers

Other officers shall have such duties and powers as may be designated from time to time by the Directors.

4.12 Board of Director Voting

In accordance with Section 3.9, all members of the Board of Directors (whether present in person or duly represented) are eligible to vote, excluding the President (except in the case of a tie).

As provided in Section 4.1, a person may hold more than one office at the same time; however, his/her vote will count as only 1 vote.

Each Sport listed in Section 3.2.3 will have 1 vote, regardless of management structure (ie. Single/Co/Tri – Commissioners, Board, etc.).

SECTION 5. SPONSORS, BENEFACTORS, CONTRIBUTORS, ADVISORS, FRIENDS OF THE CORPORATION

The Directors may designate persons or groups of persons as sponsors, benefactors, contributors, advisors or friends of the corporation or such other title as they deem appropriate. Such persons shall serve in an honorary capacity and, except as the Directors shall otherwise designate, shall in such capacity have no right to notice of or to vote at any meeting, shall not be considered for purposes of establishing a quorum and shall have no other rights or responsibilities.

5.1 North Andover Booster Club Email

The North Andover Booster Club has the following Electronic Mail Policy. Any member of the Booster Club, sponsors, benefactors, contributors, advisors and friends of the corporation are required to abide by the policy.

The North Andover Booster club and its members shall abide by the North Andover Booster Club Electronic Mail policy when attached to any distribution list affiliated with any Booster Club organization or event.

North Andover Booster Club Email Policy

Sending messages to groups of parents or guardians via personal email account is a quick and effective method to convey a message. However, use of distribution lists should be used only when the message is relevant to North Andover Booster Club information for those on the distribution list.

Acceptable Use

The North Andover Booster Club email lists have been created to facilitate communication of The North Andover Booster Club information. All mail sent to members of the list should be related to this purpose.

Unacceptable Use

Email list members should refrain from using the distribution list for matters other than North Andover Booster Club business. The North Andover Booster Club is ultimately not responsible for email content on the distribution list. Members who engage in inappropriate use will be removed from the email distribution list.

It is unacceptable to use the email distribution list:

In furtherance of any illegal act, including violations of any state or federal criminal or civil laws or regulations;

To access, display, or share sexually explicit, obscene, or otherwise inappropriate materials, messages, or images; to send or display threatening or harassing messages, materials, or images, including, but not limited to, message, materials, or images of a sexual nature, racial, ethnic, sexual, religious, or gender-based slurs, or messages or images that offensively address someone's age, sex, sexual orientation, religion, race, ethnicity, national origin, disability, or political beliefs;

Access, display, or disseminate material that advocates violence or discrimination towards other people (hate literature);

For any personal or commercial purpose, including but not limited to, the offering, providing, leasing, or purchasing of products or services;

To gain, or attempt to gain, unauthorized access to the North Andover Booster Club network or to any other computer system through the network or go beyond authorized access. This includes attempting to log in through another person's account or access another person's files;

To intercept or attempt to intercept communications intended for other persons;

For any political purpose;

To libel or otherwise defame any person;

To violate any copyright laws or to infringe on any intellectual property rights;

To distribute chain letters;

to develop or use programs that harass other users or infiltrate a computer, computing system or network and/or damage or alter the software components of a computer, computing system or network; to establish unauthorized connections which create routing patterns that are inconsistent with the effective and shared use of the North Andover Booster Club's network;

For any use that causes interference with or disruption of the North Andover Booster Club's network;

For any use that causes interference with or the disruption of the North Andover Booster Club's network's users or resources

SECTION 6. CORI GUIDELINES

6.1 The North Andover Booster Club is registered under the provisions of M.G.L. c. 6, § 172 to receive CORI for the purpose of screening current and otherwise qualified prospective volunteers. A designated CORI official will be required to screen all potential volunteers to determine their suitability for having interactions with minors. Said CORI official will comply with the CORI regulations of Chapter 256 of the Act of 2010.

6.1.1 North Andover Booster Club CORI policy

This policy is applicable to the criminal history screening of prospective and current volunteers.

Where Criminal Offender Record Information (CORI) and other criminal history checks may be part of a general background check for volunteer work the following practices and procedures will be followed.

6.2. CONDUCTING CORI SCREENING

CORI checks will only be conducted as authorized by the DCJIS and MGL c. 6, §. 172,

and only after a CORI Acknowledgement Form has been completed.

If a new CORI check is to be made on a subject within a year of his/her signing of the CORI Acknowledgement Form, or at the start of a new sport, the subject shall be given seventy two (72) hours notice that a new CORI check will be conducted.

6.3 ACCESS TO CORI

All CORI obtained from the DCJIS is confidential, and access to the information must be limited to those individuals who have a “need to know”. This may include, but not be limited to, The North Andover Booster Club President, Commissioners of applicable sport, and, in some cases, North Andover Booster Club coaches charged with requesting CORI checks on assistants and helpers. The North Andover Booster Club must maintain and keep a current list of each individual authorized to have access to, or view, CORI. This list must be updated every six (6) months and is subject to inspection upon request by the DCJIS at any time.

6.4 CORI TRAINING

An informed review of a criminal record requires training. Accordingly, all personnel authorized to review or access CORI at the North Andover Booster Club will review, and will be thoroughly familiar with, the educational and relevant training materials regarding CORI laws and regulations made available by the DCJIS.

Additionally the North Andover Booster Club is an agency required by MGL c. 6, s. 171A to maintain a CORI Policy, all personnel authorized to conduct criminal history background checks and/or to review CORI information will review, and will be thoroughly familiar with, the educational and relevant training materials regarding CORI laws and regulations made available by the DCJIS.

6.5 USE OF CRIMINAL HISTORY IN BACKGROUND SCREENING

CORI used for volunteer purposes shall only be accessed for applicants who are applying for said volunteer position.

Unless otherwise provided by law, a criminal record will not automatically disqualify an applicant. Rather, determinations of suitability based on background checks will be made consistent with this policy and any applicable law or regulations.

6.6 VERIFYING A SUBJECT’S IDENTITY

If a criminal record is received from the DCJIS, the information is to be closely compared with the information on the CORI Acknowledgement Form and any other identifying information provided by the applicant to ensure the record belongs to the applicant.

If the information in the CORI record provided does not exactly match the identification information provided by the applicant, a determination is to be made by an individual authorized to make such determinations based on a comparison of the CORI record and

documents provided by the applicant.

6.7 INQUIRING ABOUT CRIMINAL HISTORY

In connection with any decision regarding volunteer opportunities, the subject shall be provided with a copy of the criminal history record, whether obtained from the DCJIS or from any other source, prior to questioning the subject about his or her criminal history. The source(s) of the criminal history record is also to be disclosed to the subject.

6.8 DETERMINING SUITABILITY

If a determination is made, based on the information as provided in section V of this policy, that the criminal record belongs to the subject, and the subject does not dispute the record's accuracy, then the determination of suitability for the position or license will be made. Unless otherwise provided by law, factors considered in determining suitability may include, but not be limited to, the following:

- . (a) Relevance of the record to the position sought;
- . (b) The nature of the work to be performed;
- . (c) Time since the conviction;
- . (d) Age of the candidate at the time of the offense;
- . (e) Seriousness and specific circumstances of the offense;
- . (f) The number of offenses;
- . (g) Whether the applicant has pending charges;
- . (h) Any relevant evidence of rehabilitation or lack thereof; and
- . (i) Any other relevant information, including information submitted by the candidate or requested by the organization.

The applicant is to be notified of the decision and the basis for it in a timely manner.

6.9 ADVERSE DECISIONS BASED ON CORI

If an authorized official is inclined to make an adverse decision based on the results of a criminal history background check, the applicant will be notified immediately. The subject shall be provided with a copy of the organization's CORI policy and a copy of the criminal history. The source(s) of the criminal history will also be revealed. The subject will then be provided with an opportunity to dispute the accuracy of the CORI record.

6.10 SECONDARY DISSEMINATION LOGS

All CORI obtained from the DCJIS is confidential and can only be disseminated as

authorized by law and regulation.

SECTION 7 RESIGNATION, REMOVAL AND VACANCIES

7.1 Resignation

Any member, Director or officer may resign at any time by delivering his/her resignation in writing to the President or Secretary. Such resignation shall be effective upon receipt unless specified to be effective at some other time.

As outlined in Section 4.3.2, if a member does not attend the minimum number of meetings (5 in a calendar year) or 4 consecutive meetings that action will serve as notice of resignation of his/her position.

7.2 Removal

A member or a Director may be removed with or without cause by a majority vote of the Directors then in office or by a majority vote of the members. An officer may be removed with or without cause by a vote of a majority of the Directors then in office. A member, Director or officer may be removed for cause only after reasonable notice opportunity to be heard before the body proposing to remove him/her.

7.3 Vacancies

Any vacancy in the Board of Directors, including a vacancy resulting from the enlargement of the Board, may be filled by the members by a majority vote or by the Directors by a majority vote of the Directors then in office. The Directors shall elect a successor if the office of the President, Vice President, Second Vice President, Treasurer, Secretary or Delegate at Large becomes vacant. The President shall nominate a successor if the office of Commissioner or Purchasing Agent becomes vacant, and the Directors shall approve such nomination by a majority vote of the Directors then in office. Each such successor shall hold office for the unexpired term or until a successor is chosen and qualified. The members and the Directors shall have and may exercise all their powers notwithstanding the existence of one or more vacancies in their number.

SECTION 8. EXECUTION OF PAPERS

Except as the Directors may generally or in particular cases authorize the execution thereof in some other manner, all deeds, leases, transfers, contracts, bonds, notes, checks, drafts and other obligations made, accepted or endorsed by the corporation shall be signed by the President or by the Treasurer.

SECTION 9. INDEMNIFICATION

The corporation shall, to the extent legally permissible, indemnify any person serving or who has served as a member, trustee, director or officer of the corporation or any of its subsidiaries, or who at the request of the corporation may serve or at any time has served as a member, trustee, director or officer of, or in a similar capacity with, another

organization or an employee benefit plan, against all liabilities and expenses (including counsel fees, judgments, fines, excise taxes, penalties, and amounts payable in settlements) reasonably incurred by or imposed upon such person in connection with any threatened, pending or completed action, suit or other proceeding, whether civil, criminal, administrative or investigative, in which such person may become involved by reason of serving or having served in such capacity (other than a proceeding voluntarily initiated by such person unless he or she is successful on the merits, the proceeding was authorized by the corporation or the proceeding seeks a declaratory judgment regarding his or her own conduct); provided that no indemnification shall be provided for any such person with respect to any matter as to which he or she shall have been finally adjudicated in any proceeding not to have acted in good faith in the reasonable belief that his or her action was in the best interests of the corporation or, to the extent such matter relates to service with respect to any employee benefit plan, in the best interests of participants or beneficiaries of such employee benefit plan; and provided, further, that as to any matter disposed of by a compromise payment by such person, pursuant to a consent decree or otherwise, the payment and indemnification thereof have been approved by the corporation, which approval shall not unreasonably be withheld, or by a court of competent jurisdiction. Such indemnification shall include payment by the corporation of expenses incurred in defending a civil or criminal action or proceeding in advance of the final disposition of such action or proceeding, upon receipt of an undertaking by the person indemnified to repay such payment if he or she shall be adjudicated to be not entitled to indemnification under this section which undertaking may be accepted without regard to the financial ability of such person to make repayment.

A person entitled to indemnification hereunder whose duties include service or responsibilities as a fiduciary with respect to a subsidiary or other organization shall be deemed to have acted in good faith in the reasonable belief that his action was in the best interests of the corporation if he acted in good faith in the reasonable belief that his action was in the best interests of such subsidiary or organization or of the participants or beneficiaries of, or other person with interests in, such subsidiary or organization to whom he had a fiduciary duty.

Where indemnification hereunder requires authorization or approval by the corporation, such authorization or approval shall be conclusively deemed to have been obtained, and in any case where a Director of the corporation approves the payment of indemnification, such Director shall be wholly protected, if:

(i) the payment has been approved or ratified (1) by a majority vote of a quorum of the Directors consisting of persons who are not at that time parties to the proceeding, or (2) by a majority vote of a committee of one or more Directors who are not at that time parties to the proceeding and are selected for this purpose by the full Board (in which select Directors who are parties may participate); or

(ii) the action is taken in reliance upon the opinion of independent legal counsel (who may be counsel to the corporation) appointed for the purpose by vote of the Directors or in the manner specified in clauses (1) or (2) of subparagraph (i); or

(iii) the payment is approved by a court of competent jurisdiction; or

(iv) the Directors have otherwise acted in accordance with the applicable legal standard of conduct.

Any indemnification or advance or expenses under this section shall be paid promptly, and in any event within 30 days, after the receipt by the corporation of a written request therefore from the person to be indemnified, unless with respect to the claim for indemnification the corporation shall have determined that the person is not entitled to indemnification. If the corporation denies the request or if payment is not made within such 30 day period, the person seeking to be indemnified may at any time thereafter seek to enforce his or her rights hereunder in a court of competent jurisdiction and, if successful in whole or in part, he or she shall be entitled also to indemnification for the expenses of prosecuting such action. Unless otherwise provided by law, the burden of proving that the person is not entitled to indemnification shall be on the corporation. The right of indemnification under this section shall be a contract right inuring to the benefit of the members, trustees, directors, officers and other persons entitled to be indemnified hereunder and no amendment or repeal of this section shall adversely affect any right of such member, trustee, director, officer or other person existing at the time of such amendment or repeal.

The indemnification provided hereunder shall inure to the benefit of the heirs, executors and administrators of a member, trustee, director, officer or other person entitled to indemnification hereunder. The indemnification provided hereunder may to the extent authorized by the corporation, apply to the members, trustees, directors, officers and other persons associated with constituent corporations that have been merged into or consolidated with the corporation who would have been entitled to indemnification hereunder had they served in such capacity with or at the request of the corporation.

The right of indemnification under this section shall be in addition to and not exclusive of all the rights to which such member, trustee, director, officer or other persons may be entitled. Nothing contained in this section shall affect any rights to indemnification hereunder, may be entitled by contract or otherwise by law.

SECTION 10. SEAL AND FISCAL YEAR

10.1 Corporate Seal

The Directors may adopt and alter the seal of the corporation.

10.2 Fiscal Year

The fiscal year of the corporation shall end on the last day of December in each year or such other date as the Directors may determine.

SECTION 11. AMENDMENT

These By-Laws may be altered, amended or repealed, in whole or in part, by an affirmative vote of a majority of the members present and voting at any meeting, the notice of which contains a statement of the proposed alteration or amendment. The Directors may also make, amend or repeal these By-Laws, except with respect to any provision thereof which by law, the Articles of Organization and these By-Laws requires action by the members, and shall give written notice of such action to the membership before the next meeting of members. Any such alteration, amendment or repeal by the Directors may then be altered, amended or repealed, in whole or in part, by the affirmative vote of a majority of the membership entitled to vote thereon.

Notwithstanding the above provisions of this Article, any amendment, alteration or repeal of a By-Law by the Directors as provided for in this Article shall be valid and given full force and effect unless and until acted upon by the membership.