

**AMENDED AND RESTATED BY-LAWS  
OF  
ADAPTIVE SPORTS FOUNDATION, INC.<sup>1</sup>**

**ARTICLE I – MEMBERSHIP**

The Corporation shall have no members.

**ARTICLE II – BOARD OF DIRECTORS & COMMITTEES**

- A. The Board of Directors shall have the responsibility of the general management of and authority over the property, business and affairs of the Foundation. It is authorized to apply for and receive funds from any and all sources, and may appropriate those funds as it sees fit to effectuate the policies and any objectives of the Foundation.
- B. The Board of Directors shall consist of not less than seven (7) or more than twenty-four (24) members. All officers shall automatically be members of the Board of Directors. If any Foundation employee<sup>2</sup> serves as an officer of the Board, then he or she will serve as a non-voting members of the Board with terms based upon their employment with the Foundation. Vacancies occurring on the Board may be filled by election.
- C. An annual meeting of the Board of Directors shall be held on or about January 15<sup>th</sup> for the purpose of electing officers and for the transaction of such other business as may properly come before it. In addition, the Board shall meet from time to time as may be necessary to conduct the business of the Foundation.

The Chair or any three (3) Directors may call special meetings of the entire Board of Directors by giving at least seven (7) days written notice thereof to the entire Board.

- D. A quorum for the Directors' meeting shall consist of a majority of the elected directors.
- E. There will be four "classes" established among the Directors. The Directors will be assigned a class by the Executive Committee. Effective June 30<sup>th</sup> of each year therefore, the services of all members of one class, in annual rotation (i.e., Class I,

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<sup>1</sup> In these by-laws references to the "Corporation" or the "Foundation" are references to the Adaptive Sports Foundation, Inc.

<sup>2</sup> In these by-laws the terms "employee", "employed" and similar terms refer only to persons receiving compensation for services and not to volunteers.

Class II, etc.) shall terminate. Retiring directors may, however, be re-elected by the Board.

All new members hereafter shall serve four (4) years from their date of original appointment, and shall be eligible for re-election to additional terms.

F. Any person having previously served as a member of the Board of Directors may be designated as a “Life Member” of the Adaptive Sports Foundation. Such members shall have all privileges of Board of Directors members except they shall not vote.

G. Committees of the Board.

(i) A committee of the Board is one that shall have authority to bind the corporation and shall be comprised solely of Directors. By resolution of the Board at a meeting at which a quorum is present the Board may establish and appoint other committees of the Board consisting of at least three Directors with such powers and duties as the Board may prescribe. The members of such committees shall be appointed by the Chair, subject to the approval of the Board on an annual basis.

(ii) The Corporation shall have an Executive Committee, chaired by the Board Chair and including the chair of each other Committee of the Board, the Treasurer and such other members as the Chair will invite to serve on such Committee with the approval of the Board.

(iii) The Corporation shall have an Audit Committee comprised at least three (3) directors each of whom is an Independent Director as defined in Article VIII section 3. The members of the Audit Committee shall be appointed by the Chair, subject to the approval of the Board on an annual basis. The Audit Committee will annually review or retain the independent auditor and upon completion of the audit review the results of the audit and any related management letter with the independent auditor.

In addition, the Audit Committee shall:

- (a) review with the independent auditor the scope and planning of the audit prior to the audit's commencement;

- (b) upon completion of the audit, review and discuss with the independent auditor:
  - any material risks and weaknesses in internal controls identified by the auditor;
  - any restrictions placed on the scope of the auditor's activities or access to requested information;
  - any significant disagreements between the auditor and management; and
  - the adequacy of the corporation's accounting and financial reporting processes.
- (c) annually consider the performance and independence of the auditor; and
- (d) report on the Committee's activities to the Board.

H. Committees of the Corporation

- (i) The Board by resolution may appoint from time to time any number of persons as advisors of the Corporation to act as a committee or committees of the Corporation. No such committee shall have the authority to bind the Board. Each advisor shall hold office at the pleasure of the Board and shall have only the obligations as the Board may from time to time determine.
- (ii) No advisor to the Corporation shall receive, directly or indirectly, any salary or compensation for any service rendered to the Corporation as a member of a committee of the Corporation, except that the Board may authorize reimbursement of expenditures reasonably incurred on behalf of activities for the benefit of the Corporation.

**ARTICLE III – OFFICERS**

- A. The officers of the Foundation shall consist of the Chair, Vice President, a Treasurer, a Secretary and such other officers as the Board of Directors may, from time to time, designate and appoint. They shall be elected at the first meeting of the Board and each annual meeting thereof thereafter.
- B. The **Chair** shall preside at all meetings of the Board of Directors, and, in his or her absence either (i) the Vice Chair or (ii) if no Vice Chair has been duly elected or he or she is absent, another officer of Board who is not an employee of the Foundation, shall preside.
- C. The **Secretary** shall have custody of the official records of the Foundation and shall perform such other duties as may from time to time be assigned to such officer.

- D. The **Treasurer** shall perform all duties and fulfill all obligations customarily appertaining to that office, and shall give bond for the faithful discharge of his/her duties if and when required by the Board of Directors. The books and accounts of the Foundation shall be open to inspection by each member of the Board of Directors.

#### **ARTICLE IV – FISCAL MANAGEMENT**

- A. **Fiscal Year.** The Board of Directors shall have the power to fix, and from time to time change, the fiscal year of the Foundation. Until otherwise fixed by the Board, the fiscal year of the Foundation shall commence on July 1.
- B. **Execution of Notes, Contracts, Etc.** The Chair, Vice President and Treasurer are each authorized to execute notes, contracts and checks involving amounts not in excess of Three Thousand (\$3,000.00) Dollars. If in excess of Three Thousand (\$3,000.00) Dollars then notes, contracts and checks shall not be binding by the Foundation unless authorized by the Board of Directors or Executive Committee of the Board of Directors. Checks issued by the ASF over \$3,000.00 must have dual signatures consisting of any combination of the Chair, Vice President or Treasurer.
- C. **Annual Audit.** The Board of Directors shall cause to secure an annual audit with appropriate balance sheets, revenue and expense accounts and other statements by a Certified Public Accountant and otherwise in accordance with Article II.G(ii).

#### **ARTICLE V – PARLIAMENTARY PROCEDURE**

**Robert's Rule of Order.** In all matters not specifically covered by these By-Laws, the conduct of the business of the Foundation shall be governed by the latest edition of Robert's Rules of Order.

#### **ARTICLE VI – AMENDMENT OF BY-LAWS**

- A. **By the Board of Directors.** The Board of Directors may amend or repeal the By-Laws at any regular or special meeting of the Board.
- B. **Effective Date.** Each amendment of the By-Laws, unless otherwise provided at the time of adoption, shall become effective on the date of adoption.

#### **ARTICLE VII – DISSOLUTION**

Upon dissolution of the corporation, assets shall be distributed for one or more exempt purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code, or shall be distributed to the federal government, or to a state or local government for a

public purpose. Any such assets not so disposed of shall be disposed of by the court of general jurisdiction of the country in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations, as said court shall determine which are organized and operated exclusively for such purposes.

## **ARTICLE VIII--DEFINITIONS**

- A. **Affiliate**. An affiliate of the Corporation is a person or entity that is directly or indirectly through one or more intermediaries, controlled by, or in control of the Corporation.
- B. **Financial Interest**. A person has a Financial Interest if such person would receive an economic benefit, directly or indirectly, from any transaction, agreement, compensation agreement, including direct or indirect remuneration as well as gifts or favors that are not insubstantial or other arrangement involving the Corporation.
- C. **Independent Director**. A member of the Board of Directors (the “Board”) who:
- (i) Has not been an employee or Key Person of the Corporation or an Affiliate of the Corporation within the last three (3) years;
  - (ii) Does not have a Relative who has been a Key Person of the Corporation or an Affiliate of the Corporation within the last three (3) years;
  - (iii) Has not received and does not have a Relative who has received more than \$10,000 in compensation directly from the Corporation or an Affiliate of the Corporation in any of the last three (3) years (not including reasonable compensation or reimbursement for services as a Director, as set by the Corporation);
  - (iv) Does not have a substantial Financial Interest in and is an employee of, and does not have a Relative who has a substantial Financial Interest in or is an Officer of, any entity that has provided payments, property or services to, or received payments, property or services from, the Corporation or an Affiliate of the Corporation if the amount paid by the Corporation to the entity or received by the Corporation from the entity for such property or services, in any of the last three fiscal years, exceeded:
    - the lesser of \$10,000 or 2% of such entity’s consolidated gross revenues if the entity’s consolidated gross revenue was less than \$500,000;
    - \$25,000 if the entity’s consolidated gross revenue was \$500,000 or more but less than \$10,000,000; or
    - \$100,000 if the entity’s consolidated gross revenue was \$10 million or more;(for the purposes of this subparagraph (d), “payment” does not include charitable contributions, dues or fees paid to the Corporation for services which the Corporation performs as part of its nonprofit purposes, or payments made by the corporation at fixed or non-negotiable rates or amounts for services received; provided, however, that such services by and to the corporation are available to individual members of the public on

the same terms and such services received by the corporation are not available from another source);

- (v) Is not in an employment relationship under control or direction of any Related Party and does not receive payments subject to approval of a Related Party;
- (vi) Is not and does not have a Relative who is a current owner, whether wholly or partially, director, officer or employee of the Corporation's outside auditor or who has worked on the Corporation's audit at any time during the past three (3) years; or
- (vii) Does not approve a transaction providing economic benefits to any Related Party who in turn has approved or will approve a transaction providing economic benefits to the Director.

D. Key Person. A Key Person is a person who (a) has responsibilities, or exercises powers or influence over the Corporation as a whole similar to the responsibilities, powers, or influence of directors and officers; (b) manages the Corporation, or a segment of the Corporation that represents a substantial portion of the activities, assets, income or expenses of the Corporation; or (c) alone or with others controls or determines a substantial portion of the Corporation's capital expenditures or operating budget.

E. Related Party. Persons who may be considered a Related Party of the Corporation or an Affiliate of the Corporation under this Policy include:

- (i) Directors, Officers, or Key Persons of the Corporation or an Affiliate of the Corporation;
- (ii) Relatives of Directors, Officers, or Key Persons;
- (iii) any entity in which a person in (i) or (ii) has a 35% or greater ownership or beneficial interest or, in the case of a partnership or professional corporation, a direct or indirect ownership interest in excess of 5%;
- (iv) Founders of the Corporation;
- (v) Substantial contributors to the Corporation (within the current fiscal year or the past five fiscal years);
- (vi) Persons owning a controlling interest (through votes or value) in the Corporation;
- (vii) Any non-stock entity controlled by one or more Key Persons.

F. Relative. A Relative is a spouse or domestic partner (as defined in section 2994-A of the New York Public Health Law), ancestor, child (whether natural or adopted),

grandchild, great grandchild, sibling (whether whole or half blood), or spouse or domestic partner of a child (whether natural or adopted); grandchild, great grandchild or sibling (whether whole or half blood).

Dated: October 10, 2018

Attest:



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Thomas Ryan, Secretary

**A true copy as duly adopted by the Board of Directors, unamended.**