

BYLAWS
OF
METRO AREA RUNNING CLUB, INC.

(D/B/A MARC)
(a Georgia nonprofit corporation)

Effective as of January 1, 2013

References herein to the “Articles of Incorporation” are to the articles of incorporation of Metro Area Running Club, Inc.” (d/b/a MARC), a Georgia nonprofit corporation (the “Club”), as the same may be amended or restated from time to time.

ARTICLE 1
Offices

1.1 Registered Office and Agent. The Club shall continuously maintain a registered office in the State of Georgia that may be the same as any of its places of business and a registered agent whose business office is identical with the registered office.

1.2 Principal Office. The principal office of the Club shall be at such place, located in or out of the State of Georgia, as shall be determined from time to time by the Club’s board of directors (the “Board of Directors” and each member thereof, a “Director”) and designated in the annual registration filed with the Secretary of State of Georgia pursuant to Section 14-3-1622 of the Georgia Nonprofit Corporation Code, as amended (the “GNCC”).

1.3 Other Offices. In addition to its registered office and principal office, the Club may have offices at such other places located in or out of the State of Georgia as the Board of Directors may from time to time determine and the business of the Club may require or make desirable. The Board of Directors may designate any of the Club’s offices as its principal office.

ARTICLE 2
Purposes and Powers

2.1 Nonprofit Corporation. The Club shall be organized and operated as a nonprofit corporation under the provisions of the GNCC.

2.2 Governing Instruments. The Club shall be governed by its Articles of Incorporation and these Bylaws.

2.3 Purposes. The Club is organized to provide a structured organization for the purpose of promoting running as a sport and healthy lifestyle within our community. In furtherance of its purpose, the Club may engage in any of the following:

(i) host, sponsor or participate in group runs, fun runs, training runs and programs on the road, trail and/or track,

(ii) host, sponsor or participate in education lectures about topics of interest for runners,

- (iii) provide awards for Club members or others,
- (iv) host, sponsor or participate in social events for members,
- (v) participate in community activities,
- (vi) publicize by appropriate means, the benefits of running as a means of physical fitness to improve the health status of people in our community, and
- (vii) any and all such other activities, events or things as may be conducive to the encouragement of running and fitness.

2.4 Powers. Subject to the limitations set forth in **Sections 2.3** above and **4.1(c)** below, the Club shall have all powers necessary to carry out its purposes, including but not limited to, all powers now or hereinafter enumerated in the GNCC. Except as otherwise permitted by the GNCC, the Club shall not make any “distribution” (as such term is defined in Section 14-3-140(9) of the GNCC) to its members, directors or officers.

2.5 Affiliations. The Club shall initially be a chapter of the Road Runners Club Of America (RRCA), and so long as such affiliation continues, all measures adopted by the RRCA will be considered by the Board of Directors. So long as the RRCA chapter affiliation continues, this Club will submit a portion of the annual Member dues to the RRCA as membership in that body shall require.

ARTICLE 3 Members

3.1 Number and Dues. The Club shall have one class of Members.

Dues for each Member shall be determined each year by the Board of Directors.

3.2 Requirements for Membership. Individuals and entities meeting the requirements established by the Board of Directors shall be eligible for membership in this Club. Individuals and entities that apply for and are accepted into membership by the Club are referred to herein as the “Members”.

The Members of the Club shall initially consist of such persons as: (1) complete an annual application for membership on the form established by the Board of Directors, which includes agreeing to follow the Club’s code of conduct, (2) sign a waiver of liability for participation in all Club activities, (3) have paid in full all dues established by the Board of Directors., and (4) meet such other reasonable criteria as may be established by the Board of Directors in accordance with law.

The Directors may establish any additional criteria for Membership and may, from time to time, admit additional Members of the Club or remove existing Members as they may see fit.

The Club shall not discriminate on the basis of race, religion, creed, color, national origin, gender, sexual orientation, disability, physical condition, veteran status, age or other protected status under applicable law.

3.3 Annual Meetings. The annual meeting of the Members shall be held each year at such time and place as the Board of Directors shall determine.

3.4 Special Meetings. Special meetings of the entire Membership may be called by the Board of Directors or at the written request of ten percent 10% of the Membership. At least five days' prior written notice stating the time, place and purpose of any special meeting shall be given to the Members entitled to participate.

3.5 Quorum. A majority of all Directors and the lesser of not less than ten (10) members or five percent (5%) of Members eligible to vote, present at a duly convened, shall constitute a quorum for the transaction of business at a meeting.

3.6 Voting. Each Member shall be entitled to one (1) vote, in person, by ballot or by mail/electronic means. Unless otherwise required by these Bylaws, the manner of voting on any matter, may be by voice vote, show of hands, or by ballot, as determined by the Members present, or by mail or electronic means if determined by the Board of Directors and a ballot is sent with notice of the question(s) to be voted upon. At any time that there shall be a sole Member of the Club, the sole Member shall act by written statement of the action, which shall be filed with the Secretary.

3.7 Termination of Membership. The membership of each Member of the Club will terminate upon the member's death, resignation, expulsion, or failure to pay dues as required by the Board. Unless otherwise determined by the Board of Directors, each member's membership will immediately terminate if his or her membership dues have not been paid prior to the beginning of each fiscal year.

3.8 Expulsion from Membership. Any Member may be expelled, suspended or terminated with or without cause upon the affirmative vote of at least two-thirds of all the Directors if, in the discretion of the Board as indicated by such vote, such suspension or expulsion would be in the best interests of the Club. Nothing in these Bylaws shall be construed as granting to any member a continued membership or expectation of membership in the Club.

3.9 Honorary Members. The Board of Directors may create such additional classes of "membership," such as contributing members or honorary members, as they see fit, but such person or entity, as applicable, shall not have the right of Members under the GNCC.

3.10 Transfers. No Member may transfer a membership or any rights arising therefrom. For the purposes of this Section 3.9, "transfer" shall include any direct or indirect transfer, assignment or conveyance (including, without limitation, by way of merger, change of control, operation of law, etc.).

ARTICLE 4 Board of Directors

4.1 Power and Authority.

(a) With the exception of such powers as are given the Members pursuant to the Articles of Incorporation, these Bylaws, the GNCC, or otherwise, all corporate powers of the Club conferred by the Articles of Incorporation, these Bylaws, the GNCC, or otherwise, shall be

exercised by or under the authority of, and the business and affairs of the Club shall be managed by or under the direction, and subject to the oversight, of the Board of Directors.

(b) By majority vote of the Directors then in office, the Board of Directors may adopt such rules and regulations for the conduct of its business and the business and affairs of the Club as the Board deems advisable, and may, in the execution of its powers, delegate certain of its authority and responsibility to, or seek advice from, one or more committees as provided in **Article 6** below.

(c) Notwithstanding any other provision of these Bylaws or the Articles of Incorporation:

(i) the Board of Directors shall not permit any part of the net earnings, capital or other property of the Club to inure to the benefit of, or be distributable to its members, Directors, officers or other private persons, except that the Club shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in the Articles of Incorporation and these Bylaws;

(ii) no substantial part of the activities of the Club shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Club shall not participate in, or intervene in any political campaign (including the publishing or distribution of statements) on behalf of or in opposition to any candidate for public office;

(iii) the Club shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under Section 501(c)(3) of the Code or (b) by a corporation to which contributions are deductible under Section 170(c)(2) of the Code; and

(iv) the affairs of the Club at all times shall be conducted in such a manner as to assure the Club's status as an organization qualifying for exemption from tax pursuant to Section 501(c)(3).

4.2 Number, Election and Term of Office. The number of Directors shall initially be three (3). Each member shall have one (1) vote for each Director position. The number of Directors shall be no more than eight (8). The number of Directors may be increased or decreased by a vote of a majority of the Board of Directors, but in no event shall the number of Directors be less than one (1). The Term of Office for each Director shall be April 1 through March 31. Each Director will serve until the later of one (1) year or until his or her successor is appointed, subject however, to prior death, resignation, disqualification, or removal. Directors may serve up to a maximum of ten (10) consecutive years on the Board. Nominations of candidates for election to the Board of Directors herein may be made by any Director or Member.

4.3 Resignation. Any Director may resign at any time by delivering notice in writing or by electronic transmission to the Board of Directors or to the President or Secretary. Such resignation shall take effect at the later of receipt and any such time specified in the notice.

4.4 Removal of Directors. Any individual Director may be removed from office, with or without cause, by a vote of a majority of the Members at a meeting called pursuant to **Sections 3.2 or 3.3**, provided that notice of such meeting is provided that states that the purpose, or one of

the purposes, of the meeting is the removal of the Director. Directors may also be removed with or without cause by a vote of 2/3rds of the Board of Directors.

Cause for removal exists (without limiting other causes for removal) whenever a Director:

- (a) fails to attend three (3) regular meetings of the Board of Directors during any year, notwithstanding that he or she otherwise qualifies for office;
- (b) is convicted of a felony;
- (c) has committed a material breach of his or her fiduciary duty; or
- (d) ceases to be a member in good standing of the Club while in office as a Director.

4.5 **Vacancies**. Any vacancy in the Board of Directors arising at any time and from any cause may be filled by a vote of a majority of the Directors remaining in office. A vacancy or vacancies in the Board of Directors shall be deemed to exist in case of the death, resignation, retirement or removal of any Director, or if there are newly created directorships resulting from any increase in the authorized number of Directors.

4.6 **Compensation and Expenses**. No Director of the Club shall receive, directly or indirectly, any salary, compensation, or emolument from the Club in any capacity, unless authorized by the concurring vote of a majority of all Directors then in office or (notwithstanding any quorum requirement of these Bylaws) by the concurring vote of all disinterested Directors, provided, however, the reasonable expenses of Directors actually incurred in the performance of his or her duties may be paid or reimbursed by the Club.

4.7 **Qualification of Directors**. All Directors shall be 18 years of age or older and Members of the Club, but need not be residents of the State of Georgia. No person appointed to serve as a Director shall assume such office and commence such service unless and until such persons shall be duly qualified therefor. Such a Director-elect shall not be deemed to be duly qualified to assume the office of and serve as a Director if such assumption or service by the person would violate, or would cause the Club to be in violation of, any applicable federal or state law or regulation. No member of the Club who is an owner of or serves in an official capacity with or holds the position of officer or director of any Club competitor shall serve as a Director of the Club.

4.8 **Voting Rights; Right to Hold Office**. Each member of the Board of Directors shall have the right to vote on any issue that may properly come before any meeting of the Board of Directors and shall have the right to hold any office in the Club to which he or she may be appointed, except to the extent these Bylaws provide otherwise.

ARTICLE 5

Meetings and Action of the Board of Directors

5.1 **Place of Meetings**. Meetings of the Board of Directors may be held at any place in or out of the State of Georgia as set forth in the notice calling such meeting or in the event of a meeting held pursuant to waiver of notice, as may be set forth in the waiver, or if no place is so specified, at the principal office of the Club.

5.2 **Regular Meetings**. A regular annual meeting of the Board of Directors shall be held each year at the time and place determined by the Board of the Directors for the purpose of

electing officers and for the transaction of such other business as may properly come before the Board. Such other regular meetings of the Board of Directors may be held from time to time at such times and places as the Board of Directors may designate by resolution, without notice of the date, time, place and purpose of the meeting.

5.3 Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the President or one-half of the Directors in office at that time. Unless waived as contemplated in **Section 7.2**, notice of the date, time, place, but not the purpose, of any special meeting of the Board of Directors shall be given to each Director either by mail not less than five (5) days before the time of the meeting, by telephone, telegram, facsimile transmission or other electronic transmission not less than twenty-four hours before the time of the meeting, or on such shorter notice as the person or persons calling such meeting may deem necessary or appropriate in the circumstances. All special meetings of the Board of Directors shall be closed meetings.

5.4 Purpose of Meetings; Notice. In the case of any meeting of the Board of Directors at which an amendment to these Bylaws or to the Articles of Incorporation is to be considered, notice of the meeting shall include the proposed amendment.

5.5 Failure to Give Notice. If the Secretary refuses or neglects for more than forty-eight (48) hours after receipt of a request to provide notice of any meeting to the Directors, or if the office of the Secretary is vacant, or if the Secretary is not available to provide the notice or is incapacitated, the notice may be given by or caused to be given by any officer or the Board of Directors.

5.6 Waiver. Waiver of notice of all meetings of the Board of Directors shall be governed by **Section 7.2** of these Bylaws.

5.7 Quorum. At meetings of the Board of Directors, a majority of the Directors then in office shall be necessary to constitute a quorum for the transaction of business.

5.8 Vote Required for Action. Except as otherwise provided in these Bylaws, the act of a majority of the Directors present at the meeting at which a quorum is present shall be the act of the Board of Directors. Adoption, amendment, and repeal of a bylaw is provided for in **Article 12** of these Bylaws. Vacancies in the Board of Directors may be filled as provided in **Section 4.5** of these Bylaws.

5.9 Action by Directors Without a Meeting. Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting if one or more consents in writing or by electronic transmission describing the action taken and which shall be signed by all the Directors, or all the members of the committee, as the case may be, and delivered to the Club for inclusion in the minutes or filing with the corporate records. Such filing shall be in paper form if the minutes are maintained in paper form or shall be in electronic form if the minutes are maintained in electronic form. Such consent shall have the same force and effect as a unanimous vote of the Board of Directors or the committee.

5.10 Participation by Conference Telephone. Directors, or members of any committee designated by the Board of Directors, may participate in and hold a meeting of the Board of Directors or any such committee by means of conference telephone or similar communications

equipment by means of which all persons participating in the meeting can simultaneously hear each other during the meeting. Participation in such a meeting shall constitute presence in person at the meeting, except where a Director participates in the meeting and, at the beginning of the meeting or promptly upon beginning participation, objects to holding the meeting or transacting business at the meeting and does not subsequently vote for or assent to any action taken at the meeting.

5.11 Adjournments. A meeting of the Board of Directors, regardless of whether a quorum is present, may be adjourned by a majority of the Directors present to reconvene at a specific time and place. It shall not be necessary to give notice of the reconvened meeting or of the business to be transacted, other than by announcement at the meeting which was adjourned. At any such reconvened meeting at which a quorum is present, any business may be transacted which could have been transacted at a meeting which was adjourned.

5.12 Rules. The Board of Directors may adopt rules and regulations that are not inconsistent with law or these Bylaws for the conduct of their meetings and the management of the affairs of the Club.

ARTICLE 6 Committees

6.1 Committees and Task Forces. The Board of Directors has the authority to create committees and task forces, appoint Committee Chairs, and dissolve committees and task forces as it deems appropriate to carry out the purpose of the Club. The Board will define the duties and deliverables for all committees and task forces and outline the performance expectations for all members of a committee or task force. All committee and task force members serve for one year or a term as defined by the Board of Directors. The Board is kept informed of the activities and progress of all committees and task forces, and the Board has oversight duties in regard to the final outcome and approval, acceptance or rejection, or ratification of the actions of a committee or task force.

6.2 Term of Appointment. Each Committee Chair shall serve at the pleasure of the Board of Directors.

6.3 Vacancies. Vacancies in the position of a Committee Chair may be filled by appointments made in the same manner as provided in the case of the original appointments.

6.4 Committee Members. All Committee Members shall be selected by the Committee Chair and shall serve on the Committee at the pleasure of the Board of Directors and Committee Chair.

6.5 Quorum. Unless otherwise provided in the resolution of the Board of Directors designating a committee, a majority of the whole committee shall constitute a quorum; and the act of a majority of members present at a meeting at which a quorum is present shall be the act of the committee.

6.6 Rules. Each committee may adopt rules for its own government, so long as such rules are not inconsistent with these Bylaws or with rules adopted by the Board of Directors.

ARTICLE 7 Notice and Waiver

7.1 Notices. Whenever written notice is required by law, the Articles of Incorporation, or these Bylaws to be given to any person or entity, such notice, subject to the limitations set forth in the GNCC and these Bylaws, may be given by mail, addressed to such person at such person's or entity's address as it appears on the records of the Club, with postage thereon prepaid, and such notice shall be deemed to be effective at the time when the same shall be deposited in the United States mail. Written notice may also be given in person or by electronic transmission or private carrier. Notice given by electronic transmission shall be deemed effective: (a) if by facsimile telecommunication, when transmitted to a telephone number at which the person or entity has consented to receive notice; (b) if by e-mail, when transmitted to an e-mail address at which the person or entity has consented to receive notice; (c) if by posting on an electronic network together with separate notice to the person or entity of such specific posting, upon the later of (i) such posting or (ii) the giving of such separate notice; or (d) if by any other form of electronic transmission, when transmitted.

7.2 Waiver of Notice. A person or entity may waive any notice of a meeting either before or after the date and time stated in the notice. Such waiver must be in writing, signed by the person or on behalf of the entity entitled to the notice or by electronic transmission, and delivered to the Club for inclusion in the minutes or filing with the corporate records. A person's or entity's attendance at or participation in a meeting shall constitute a waiver of any required notice to him, her or it of the meeting unless such person at the beginning of the meeting (or promptly upon his or her arrival) objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

ARTICLE 8 Officers

8.1 Number and Qualifications. The Board of Directors may elect from its membership a President, a Vice President, a Secretary, and a Treasurer. The Board of Directors may from time to time create and establish the duties of such other officers or assistant officers as it deems necessary for the efficient management of the Club, but the Club shall not be required to have at any time any officers other than a President, Vice President, Secretary, and Treasurer. Any two or more offices may be held by the same person. No member of the Club who is an owner of or serves in an official capacity with or holds the position of officer or director of any Club competitor shall serve as an Officer of the Club.

8.2 Election and Term of Office; Term Limits. All officers of the Club shall be elected by the Board of Directors and shall serve for the term specified by the Board or until their successors have been elected and qualified, or until their earlier death, resignation, removal, retirement, or disqualification.

8.3 Other Agents/Officers. The Board of Directors may appoint from time to time such agents and/or officers as it may deem necessary or desirable, each of whom shall hold office during the pleasure of the Board of Directors and shall have such authority and perform such duties and shall receive such reasonable compensation, if any, as the Board of Directors may from time to time determine.

8.4 Resignation. Any officer of the Club may resign at any time by delivering notice in writing or by electronic transmission to the Board of Directors. Such resignation shall take effect at the later of receipt and any such time specified in the notice. A resignation need not be accepted to be effective. If any person serving as an officer resigns or is removed as a Director, such person shall be deemed to have resigned automatically from all of his or her offices with the Club.

8.5 Removal. All officers of the Club serve at the will of the Board of Directors and may be removed at any time, with or without cause, at any regular or special meeting of the Board of Directors, by the affirmative vote of a majority of the Directors then in office if notice of the purpose of acting upon such removal shall have been given in the notice calling such meeting. Any officer or agent not a Director that is elected or appointed by the Board of Directors may be removed by the Board of Directors at any time, with or without cause.

8.6 Vacancies. Any vacancy of an office occasioned by the death, resignation, removal or the expiration of an appointment may be filled for the unexpired term at any meeting of the Board of Directors by the affirmative vote of a majority of the Directors then in office. Each officer so elected shall hold office until the election and qualification of such Director's successor.

8.7 President. The President shall preside at all meetings of the Board of Directors. The President shall be an ex officio member of all committees of the Board of Directors and shall have such other duties and have such other authority and powers as the Board of Directors may from time to time prescribe. The President shall perform these and such other duties and have such other authority and powers as the Board of Directors may from time to time prescribe. The President shall also be authorized to sign checks, drafts, and other orders for the payment of money.

8.8 Vice President. The Vice President shall, in the absence of the President or in the event of his or her disability, inability or refusal to act, perform the duties of the President with the full powers of, and subject to the restrictions upon, the President, and have such other authority and powers as the Board of Directors may from time to time prescribe or as the President may from time to time delegate.

8.9 Secretary.

(a) The Secretary shall attend all meetings of the Board of Directors and Members, shall record, or cause to be recorded, all votes, actions and the minutes of all proceedings in a book to be kept for that purpose, and shall perform, or cause to be performed, like duties for the Board and other committees when required.

(b) The Secretary shall give, or cause to be given, notice of all meetings of the Board of Directors and Members.

(c) The Secretary shall perform such other duties and have such other authority and powers as the Board of Directors may from time to time prescribe, or as the President may from time to time delegate.

8.10 Treasurer.

(a) The Treasurer shall have the custody of the corporate funds and securities, shall keep, or shall cause to be kept, full and accurate accounts of receipts and disbursements of the

Club, and shall deposit, or cause to be deposited, all monies and other valuables in the name and to the credit of the Club into depositories designated by the Board of Directors.

(b) The Treasurer shall disburse, or cause to be disbursed, the funds of the Club as ordered by the Board of Directors, and shall prepare, or cause to be prepared, financial statements at such intervals as the Board of Directors shall direct. The Treasurer shall also be authorized to sign checks, drafts, and other orders for the payment of money.

(c) If required by the Board of Directors, the Treasurer shall give the Club a bond (in such form, in such sum, and with such surety or sureties as shall be satisfactory to the Board) for the faithful performance of the duties of Treasurer and for the restoration to the Club, in case of the Treasurer's death, resignation, retirement, or removal from office, of all books, papers, vouchers, money, and other property of whatever kind in the Treasurer's possession or under the Treasurer's control belonging to the Club.

(d) The Treasurer shall perform such other duties and have such other authority and powers as the Board of Directors may from time to time prescribe.

ARTICLE 9

Contracts, Checks, Deposits, Funds and Budgets

9.1 Contracts. The Board of Directors may authorize any officer or officers, agent or agents of the Club, in addition to the officers so authorized by these Bylaws, to enter into any contract or execute and deliver any instrument in the name and on behalf of the Club. Such authority must be in writing and may be general or confined to specific instances.

9.2 Checks, Drafts, Notes, Etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Club shall be signed by such officer or officers, agent or agents, of the Club and in such other manner as may from time to time be determined by resolution of the Board of Directors. In the absence of such determination by the Board of Directors, such instruments shall be signed by the Treasurer (or an Assistant Treasurer) and countersigned by the President or the Secretary.

9.3 Deposits. All funds of the Club shall be deposited from time to time to the credit of the Club in such federally-insured banks, trust companies, or other depositories as the Board of Directors may select.

9.4 Gifts. The Board of Directors may accept on behalf of the Club any contribution, gift, bequest, or devise for the general purposes or for any special purpose of the Club and which shall not be for the personal enrichment of any member of the Board.

9.5 Budget. The Board of Directors shall review and approve an annual operating budget for the Club.

ARTICLE 10

Indemnification and Insurance

10.1 Definitions. As used in this Article 10, the term:

(a) “Club” includes any domestic or foreign predecessor entity of the Club in a merger or other transaction in which the predecessor’s existence ceased upon consummation of the transaction.

(b) “Director” or “Officer” means an individual who is or was a member of the Board of Directors or an officer elected by the Board of Directors, respectively, or who, while a member of the Board of Directors or an officer of the Club, is or was serving at the Club’s request as a director, officer, partner, member, manager, trustee, employee or agent of another domestic or foreign nonprofit or business corporation, partnership, limited liability company, joint venture, or other entity. “Director” or “Officer” includes, unless the context otherwise requires, the estate or personal representative of a Director or Officer.

(c) “Disinterested Director” or “Disinterested Officer” means a Director or Officer, respectively, who at the time of an evaluation referred to in **Section 10.5(b)** is not: (i) a Party to the Proceeding; or (ii) an individual having a familial, financial, professional or employment relationship with the person whose advance for Expenses is the subject of the decision being made with respect to the Proceeding, which relationship would, in the circumstances, reasonably be expected to exert an influence on the Director’s or Officer’s judgment when voting on the decision being made.

(d) “Expenses” includes attorney’s fees.

(e) “Liability” means the obligation to pay a judgment, settlement, penalty, fine, and reasonable Expenses incurred with respect to a Proceeding.

(f) “Official capacity” means: (i) when used with respect to a Director, the office of director in a corporation; and (ii) when used with respect to an Officer, as contemplated in GNCC Section 14-3-856, the office in a corporation held by the officer. “Official capacity” does not include service for any other domestic or foreign corporation or any partnership, joint venture, or other entity.

(g) “Party” includes an individual who was, is, or is threatened to be made a named defendant or respondent in a Proceeding.

(h) “Proceeding” means any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative, arbitrative or investigative and whether formal or informal.

(i) “Reviewing Party” shall mean the person or persons making the determination as to reasonableness of Expenses pursuant to **Section 10.5** of this **Article 10**, and shall not include a court making any determination under this **Article 10** or otherwise.

10.2 Basic Indemnification Arrangement. The Club shall indemnify to the fullest extent permitted by the GNCC, any individual who is a Party to a Proceeding because he or she is or was a Director or Officer against Liability incurred in the Proceeding if such individual (a) conducted himself or herself in good faith; and (b) reasonably believed: (i) in the case of conduct in his or her Official Capacity, that his or her conduct was in the best interests of the Club; (ii) in all other cases, that his or her conduct was at least not opposed to the best interests of the Club; and (iii) in the case of any criminal proceeding, he or she had no reasonable cause to believe his or her

conduct was unlawful; *provided, however*, that the Club shall not indemnify a Director or Officer under this **Article 10** for any Liability incurred in a Proceeding in which the Director or Officer is adjudged liable to the Club or is subjected to injunctive relief in favor of the Club for: (i) any appropriation, in violation of his or her duties, of any business opportunity of the Club; (ii) acts or omissions which involve intentional misconduct or a knowing violation of law; (iii) the types of liability set forth in GNCC Section 14-3-831; or (iv) any transaction from which he or she received an improper personal benefit.

10.3 Advances for Expenses.

(a) The Club shall, before final disposition of a Proceeding, advance funds to pay for or reimburse the reasonable Expenses incurred by a Director or Officer who is a Party to a Proceeding because he or she is a Director or Officer if he or she delivers to the Club: (i) a written affirmation of his or her good faith belief that he or she has met the relevant standard of conduct described in GNCC Section 14-3-851(a) or that the Proceeding involves conduct for which liability has been eliminated under a provision of the Articles of Incorporation pursuant to GNCC Section 14-3-202(b)(4); and (ii) his or her written undertaking (meeting the qualifications set forth below in **Section 10.3(b)**) to repay any funds advanced if it is ultimately determined that he or she is not entitled to indemnification under this **Article 10** or the GNCC.

(b) The undertaking required by **Section 10.3(a)(ii)** above must be an unlimited general obligation of the proposed indemnitee but need not be secured and shall be accepted without reference to the financial ability of the proposed indemnitee to make repayment.

10.4 Court-Ordered Indemnification and Advances for Expenses. A Director or Officer who is a Party to a Proceeding shall have the rights to court-ordered indemnification and advances for expenses as provided in the GNCC.

10.5 Determination of Reasonableness of Expenses.

(a) The Club acknowledges that indemnification of, and advancement of expenses to, a Director or Officer under **Section 10.2** has been pre-authorized by the Club as permitted by GNCC Section 14-3-858(a), and that no determination need be made for a specific Proceeding that advances of expenses to the Director or Officer is permissible in the circumstances because he or she has met a particular standard of conduct. Nevertheless, except as set forth in **Section 10.5(b)** below, an evaluation as to reasonableness of the Expenses of a Director or Officer for a specific Proceeding shall be made as follows: (i) if there are two or more Disinterested Directors, by the Board of Directors by a majority vote of all Disinterested Directors (a majority of whom shall for such purpose constitute a quorum) or by a majority of the members of a committee of two or more Disinterested Directors appointed by such a vote; or (ii) if there are fewer than two Disinterested Directors, by the Board of Directors (in which determination Directors who do not qualify as Disinterested Directors may participate).

(b) Notwithstanding the requirement under **Section 10.5(a)** that the Reviewing Party evaluate the reasonableness of Expenses claimed by the proposed indemnitee, any Expenses claimed by the proposed indemnitee shall be deemed reasonable if the Reviewing Party fails to make the evaluation required by **Section 10.5(a)** within sixty days following the later of: (i) the Club's

receipt of the affirmative undertaking required by **Section 10.3(a)**; or (ii) the Club's receipt of invoices for specific Expenses to be reimbursed or advanced.

10.6 Indemnification of Employees and Agents. The Club may indemnify and advance Expenses under this **Article 10** to an employee or agent of the Club who is not a Director or Officer to the same extent and subject to the same conditions that a Georgia nonprofit corporation could indemnify and advance Expenses to a Director, or to any lesser extent (or greater extent if permitted by law) determined by the Board of Directors, in each case consistent with public policy and subject to the limitations set forth in GNCC Section 14-3-856(a)(2).

10.7 Liability Insurance. The Club may purchase and maintain insurance on behalf of an individual who is a Director, Officer, employee or agent of the Club or who, while a Director, Officer, employee or agent of the Club, serves at the Club's request as a director, officer, partner, member, manager, trustee, employee or agent of another domestic or foreign nonprofit or business, Club, partnership, limited liability company, joint venture, trust, employee benefit plan or other entity against Liability asserted against or incurred by him or her in that capacity or arising from his or her status as a Director, Officer, employee, or agent, regardless of whether the Club would have power to indemnify or advance Expenses to him or her against the same Liability under this **Article 10** or the GNCC.

10.8 Witness Fees. Nothing in this **Article 10** shall limit the Club's power to pay or reimburse Expenses incurred by a person in connection with his or her appearance as a witness in a Proceeding at a time when he or she is not a Party.

10.9 No Duplication of Payments; Nonexclusive. The Club shall not be liable under this **Article 10** to make any payment to a person hereunder to the extent such person has otherwise actually received payment (under any insurance policy, agreement or otherwise) of the amounts otherwise payable hereunder. The rights of a Director or Officer hereunder shall be in addition to any other rights with respect to indemnification, advancement of expenses or otherwise that he or she may have under contract or the GNCC or otherwise.

10.10 Subrogation. In the event of payment under this **Article 10**, the Club shall be subrogated to the extent of such payment to all of the rights of recovery of the indemnitee, who shall execute all papers required and shall do everything that may be necessary to secure such rights, including the execution of such documents necessary to enable the Club effectively to bring suit to enforce such rights.

10.11 Contract Rights. The right to indemnification and advancement of Expenses conferred hereunder to Directors and Officers shall be a contract right and shall not be affected adversely to any Director or Officer by any amendment of these Bylaws with respect to any action or inaction occurring prior to such amendment; *provided, however*, that this provision shall not confer upon any indemnitee or potential indemnitee (in his or her capacity as such) the right to consent or object to any subsequent amendment of these Bylaws.

10.12 Amendments. Pursuant to GNCC Section 14-3-858(f), the provisions of Part 5, Article 8 of the GNCC are hereby incorporated by this reference into these Bylaws. It is the intent of the Club to indemnify and advance Expenses to its Directors and Officers to the full extent permitted by the GNCC, as amended from time to time. To the extent that the GNCC is hereafter

amended to permit a Georgia business corporation to provide to its directors or officers greater rights to indemnification or advancement of Expenses than those specifically set forth hereinabove, this **Article 10** shall be deemed amended to require such greater indemnification or more liberal advancement of Expenses to the Club's Directors and Officers, in each case consistent with the GNCC as so amended from time to time. No amendment, modification or rescission of this **Article 10**, or any provision hereof, the effect of which would diminish the rights to indemnification or advancement of Expenses as set forth herein shall be effective as to any person with respect to any action taken or omitted by such person prior to such amendment, modification or rescission.

ARTICLE 11 **Miscellaneous**

11.1 Books and Records. The Club shall maintain books and records of account and minutes of the proceedings of its Board of Directors and committees having any of the authority of the Board of Directors, executed consents evidencing all actions taken by the Board of Directors without a meeting, and waivers of notice of all meetings of the Board of Directors and its committees. The Club shall also maintain minutes of all Member meetings. In addition, the Club shall keep copies of all records required to be kept under Georgia law.

11.2 Fiscal Year. The fiscal year of the Club is January 1 to December 31.

11.3 Internal Revenue Code. All references in these Bylaws to sections of the Code shall be considered references to the Internal Revenue Code of 1986, as from time to time amended, and to the corresponding provisions of any applicable future United States Internal Revenue law.

11.4 Relation to Articles of Incorporation. These Bylaws are subject to, and governed by, the Articles of Incorporation.

11.5 Electronic Transmission. For purposes of these Bylaws, "electronic transmission" or "electronically transmitted" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process. Electronic transmissions include, but are not limited to, telegraphs, telegrams, cablegrams, teletypes, e-mail and facsimile transmissions.

11.6 Savings Clause. Failure of literal or complete compliance with the provisions of these Bylaws with respect to dates, times and notice, or the sending or receipt of the same, or errors in phraseology of notice, do not invalidate the actions or proceedings of the Members at any meeting, as long as the Members judge (by majority vote at the meeting) that no substantial injury to the rights of Members has occurred.

ARTICLE 12 **Amendments**

12.1 Power to Amend Bylaws. The Board of Directors shall have the power to alter, amend or repeal these Bylaws and to adopt new Bylaws.

12.2 Conditions. Action by the Board of Directors with respect to these Bylaws shall be taken by the affirmative vote of a majority of the Directors then in office.