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Proudly Serving Charitable Gambling Organizations Throughout Minnesota

RESTATED BY-LAWS OF ALLIED CHARITIES OF MINNESOTA

ARTICLE I

Members

1.01 **Eligibility for Membership.** The corporation shall have one class of members. Memberships shall be limited to those organizations properly licensed to conduct gambling activities in accordance with Minnesota Statutes, Chapter 349. All members must be admitted to membership by the Executive Director and have maintained their memberships in good standing by reason of payment of dues, fees, or assessments and otherwise to exercise their membership rights and privileges. Twice a year an updated membership list shall be presented to the Board of Directors as the official membership list.

(A) Each organization shall be permitted only one membership regardless of the number of gambling locations which it operates under its direction and control pursuant to its license.

(B) The Board of Directors may set a membership fee and provide that the payment of the membership fee shall be a condition for membership and for exercise of its voting and other membership rights.

1.02 **Non-Voting Membership.** Non-voting members shall meet the qualifications set by resolution of the Board of Directors, and pay dues, if any, according to a schedule established by the Board.

1.03 **Nondiscrimination.** No person or entity shall be excluded from membership, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program of this corporation by reason of race, color, national origin, sex, or age, provided that such person or entity has complied with the other eligibility requirements.

1.04 **Voting Rights.** Each voting member shall be entitled to one (1) vote on each matter submitted to a vote of the members at a meeting of the members duly called and held. At any members meeting, the member organization, which is in good standing, must designate its voting representative. Such representative shall register at the meeting and shall be identified by standing, or a means designated by the current Board of Directors. With respect to any dispute or challenge concerning voting rights of any particular member or its representative, the Directors in attendance at the meeting shall constitute to determine the matter and the decision of the committee shall be final and not subject to appeal.

1.05 **Proxies Prohibited.** There shall be no authorized proxy voting at any members meeting. This shall not be construed as a prohibition of delegate or representative voting on behalf of a member at any member's meeting by his or her actual presence at the meeting.

1.06 **Transfer of Membership.** Voting or non-voting membership subscriptions in this corporation are not transferable nor assignable without express prior consent of the Board of Directors.

1.07 **Interest in Property.** The members of this corporation shall not, as such, have any right, title, or interest in the real or personal property of the corporation.

1.08 **Termination of Membership.** A member may be suspended or expelled, for cause, by the vote of not less than three-fourths (3/4s) of the Directors present at a meeting of the Board of Directors at which a quorum is present, and provided that written notice of such proposed action has been duly given in the notice of the meeting and provided, further, that the member has been informed in writing of the charges preferred against them at least fourteen (14) days before the meeting. The member so charged shall be given a reasonable opportunity to be heard at such meeting provided that it is not in default on payment of its' membership fee to the corporation.

1.09 **Resignation.** Any member may resign their membership at any time by giving written notice to the Board of Directors or to the Secretary. Such resignation shall take effect at the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. Any member who resigns membership shall not be entitled to a refund of any dues or other payments made to this corporation.

ARTICLE II

Meetings Of The Members

2.01 **Annual Meeting.** The annual meeting of the members shall be held at the principal office of the corporation, or at any other location, as designated in the notice thereof, during the month of November, at a date and time to be determined by the Board of Directors.

2.02 **Special Meetings.** Special meetings of the members of this corporation may be called at any time by (A) the President, (B) the Board of Directors, (C) upon written request of twenty (20) percent of the voting members of this corporation. Anyone entitled to call a special meeting of the members may make a written request to the President to call the meeting, who shall thereafter give notice of the meeting, setting forth the time, place and purpose thereof, to be held no later than ninety (90) days after receiving the request. If the President fails to give notice of the meeting within thirty (30) days from the date on which the request is received by the President, the person or persons who requested the meeting may fix the time and place of the meeting and give notice thereof in the manner hereinafter provided. If a special meeting is demanded by the members, the meeting shall be held in the county where the registered office is located. The business transacted at the special meeting is limited to the purposes stated in the notice of the meeting.

2.03 **Place of Meetings.** The Board of Directors may designate a place at a location within the state of Minnesota, and, if possible but not required, to rotate the location among various regions in the state; and if no place is specified, the meeting shall be held in the county of the principal office of the corporation in the state, but if all the members shall meet at any time and place, and consent to the holding of the meeting, such meeting shall be valid without any call or notice, and at such meeting, any corporate action may be taken by the members, provided that there is a quorum present and a sufficient affirmative vote is received on the action.

2.04 **Notice of Meetings.** Written notice of each meeting of the members, stating the time and place thereof, shall be mailed, postage prepaid, not less than five (5) nor more than sixty (60) days before the meeting, excluding the day of the meeting, to each member of the corporation at the last known address of the member. Any member may waive notice of a meeting before, at or after the meeting, orally, in writing or by attendance. Attendance by a member at a meeting is deemed a waiver by the member unless an objection is proffered by such individual to the transaction of business because the meeting is not legally called or convened, or an objection is made before a vote on an item of business because the item may not legally be considered at the meeting and the member does not participate in the consideration of the item at that meeting.

2.05 **Adjournment of Meetings.** Any meeting may be adjourned from time to time to a specific day, on motion duly made, seconded, and carried by an affirmative majority vote of the members present at the meeting, provided there was a quorum present at the meeting and further provided that if the adjournment is for more than fourteen (14) days after the meeting, then a notice of the reconvened meeting shall be given as in the case of an original meeting.

2.06 **Members List for Meeting.** The Board of Directors shall fix a date not more than sixty (60) days before the date of a meeting of the members as a date for determination of the members entitled to notice of the meeting; whensoever the Board fails to set such a date, the date shall be the sixtieth day before the date of the meeting. After fixing a record date for the meeting, the Secretary shall prepare a list of the names (in alphabetical order) and addresses of each member entitled to vote at the meeting. Beginning two (2) business days after notice of the meeting is given, the list shall be available at the principal office of the corporation for inspection and copying on written demand by any member (or the agent or attorney of any member), at the member's expense, for the sole purpose of communication with other members concerning the meeting. The list shall be made available through the date of the meeting and at the meeting.

2.07 **Presiding Officer and Order of Business.** At regular meetings, the President and if absent, the Vice President, and in their absence the Treasurer, and in their absence a Regional Director starting with the First Region and moving numerically through the Twelfth Region will take charge of the meeting. The Secretary shall record the meeting, but if the Secretary is absent, the President, (or the person acting in the President's place) shall appoint a recording Secretary to record the minutes of the meeting. At each regular meeting, a full report of the business affairs, financial condition and revenue and disbursement statement for the fiscal year and report on the corporate projects and activities shall be presented. The order of business at the regular meeting and so far as applicable, at all other meetings shall be as follows:

- (A) Registration of members and determination of quorum.
- (B) Proof of notice of meeting and delivery to members.
- (C) Reading and disposition of unapproved minutes from prior meetings.
- (D) Reports of Board of Directors and/or its committees.
- (E) Reports of Officers and/or Executive Directors or managers as the case may be, including operations report of President and financial report by Treasurer.
- (F) Election of Directors (Regional and/or At-Large).
- (G) Disposition of unfinished business.
- (H) Presentation and disposition of new business.
- (I) Adjournment.

2.08 **Procedure Questions.** At any meeting, on questions of parliamentary procedure not covered by these By-Laws, Roberts Rules of Order as interpreted or modified by the presiding Officer shall be used.

2.09 **Voting and Quorums.** The presence of three (3) percent of the voting members shall constitute a quorum at any meeting thereof. The members present and entitled to vote at any meeting, although less than a quorum, may adjourn the meeting from time to time, but may take no other action. A majority of the total number of votes held by the members present and entitled to vote at any meeting which a quorum is present must be cast to transact business. When any meeting of the members is adjourned to another time and place, notice of the adjourned meeting need not be given other than by announcement at the meeting at which adjournment is taken.

2.10 **Written Ballot.** An action that may be taken at a regular or special meeting of members may be taken by a written ballot without a meeting in accordance with the procedure set forth in Minnesota Statutes Section 317A.447, as now enacted or hereinafter amended.

ARTICLE III

Board Of Directors

3.01 **Board Composition, Directors' Qualifications, and Elections.** The number of Directors shall be nineteen (19), consisting of twelve (12) Regional Directors and seven (7) At-Large Directors. Each Director shall be a member in good standing of an organization which is a member in this corporation, and in the case of Regional Directors, that has its principal place of business or registered office in that Director's region.

Election of Regional Directors. At the annual meeting of the members, the members shall elect one Regional Director to represent each region that has its Director's term expiring. Regions shall be designated as follows:

Region 1 will include Becker, Clay, Kittson, Mahnomen, Marshall, Norman, Ottertail, Pennington, Polk, Red Lake, Roseau, and Wilkin counties;

Region 2 will include Aitkin, Beltrami, Cass, Clearwater, Hubbard, Itasca, Koochiching, Lake of the Woods, and Wadena counties;

Region 3 will include Carlton, Chisago, Cook, Lake, Pine, and St. Louis counties;

Region 4 will include Big Stone, Douglas, Grant, Kandiyohi, McLeod, Meeker, Pope, Renville, Stevens, Swift, Todd, and Traverse counties;

Region 5 will include Sherburne, Stearns, and Wright counties;

Region 6 will include Brown, Chippewa, Cottonwood, Jackson, Lac Qui Parle, Lincoln, Lyon, Martin, Murray, Pipestone, Redwood, Rock, Watonwan, and Yellow Medicine counties;

Region 7 will include Benton, Crow Wing, Isanti, Kanabec, Mille Lacs, and Morrison counties;

Region 8 will include Carver and Hennepin counties;

Region 9 will include Blue Earth, Faribault, Le Sueur, Nicollet, Rice, Sibley, Steele, and Waseca counties;

Region 10 will include Dodge, Fillmore, Freeborn, Houston, Mower, Olmsted, Wabasha, and Winona counties;

Region 11 will include Anoka and Ramsey counties; and

Region 12 will include Dakota, Goodhue, Scott, and Washington counties.

Election of At-Large Directors. At-Large Directors shall be elected by an affirmative two-thirds (2/3rds) vote of the Regional Directors present at the first Board meeting after the annual meeting of the members. At this election, only Directors seated as Regional Directors (including those just elected at the members' annual meeting) shall comprise the Board.

3.02 **Regional Director Tenure.** Terms of service for the Regional Director shall be for three (3) years, to be determined in the following rotation of maturities and every three (3) years thereafter:

In Regions 1 – 7 – 8 – 9 04, 07, 10, 13

In Regions 3 – 5 – 11 – 12 05, 08, 11, 14

In Regions 2 – 4 – 6 – 10 06, 09, 12, 15

Once elected, the Regional Director shall hold office for their term until the end of the annual meeting of the members in the year that term expires, or until their death, resignation, or removal as hereinafter provided.

3.03 **Director At-Large Tenure.** Once elected, the Director At-Large shall hold office for a one (1) year term that expires at the end of the next annual meeting of the members, or until their death, resignation, or removal as hereinafter provided.

3.04 **Resignation.** Any Director of the corporation may resign at any time by giving written notice to the President or the Secretary of this corporation. The resignation of any Director shall take effect at the time, if any, specified therein or, if no time is specified therein, upon receipt thereof by the Officer to whom the notice is given; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

3.05 **Removals and Vacancies.** The Board of Directors may at any time remove with or without cause any Director by 2/3rds vote of those present. Any vacancy occurring because of the death, resignation, or removal of a Director shall be filled by the Board in the case of At-Large Directors, or through election at a special meeting of the voting members for that purpose in the case of a Regional Director, for the vacant seat's then-remaining term. If a Regional Director vacancy occurs the Board may chose to elect an additional At-Large Director to serve until the next annual meeting of the members instead of calling a special meeting of the members. Any Director who misses three (3) consecutive meetings without appropriate notice shall automatically be considered removed.

3.06 **Compensation.** The Directors, as such, shall not receive any stated salaries for their services. Other expenses of attendance, if any, may be allowed for attendance at the meetings; but nothing herein contained shall be construed to preclude a Director from serving the corporation in any other capacity and receiving compensation for services in some other capacity.

3.07 **Voting Rights.** Each Director shall be entitled to one vote upon matters brought up for a vote at a meeting of the Board of Directors.

3.08 **Proxies.** There shall be no authorized proxy or delegated voting at a Board of Directors meeting.

ARTICLE IV

Meetings Of The Board And Authority Of Committees Of The Board

4.01 **Regular Meetings.** Regular meetings of the Board of Directors may be held at such time and place as shall from time to time be determined by resolution of the Board. After the time and place of such regular meetings have been so determined, no notice of such regular meetings need be given. Meetings may be held elsewhere, or at alternative times, if the notice of the meeting clearly provides so. Notice of any change in the place or time of holding of any regular meeting, or of any adjournment of a regular meeting to reconvene at a different place, shall be given personally, by mail (postage prepaid), or telephone (including facsimile communication), not less than two (2) days before the meeting, excluding the day of the meeting, to all Directors who were absent at time such action to schedule the meeting was taken.

4.02 **Special Meetings.** Special meetings of the Board of Directors for any purpose or purposes shall be called by the President or at the written request of any Director. Such request shall state the purpose(s) of the proposed meeting. The President of this corporation shall give notice of all special meetings to each Director, stating the time and place thereof, and the purposes for which such meeting is convened, by mail (postage prepaid), not less than five (5) nor more than sixty (60) days before the meeting, excluding the day of the meeting, to the Director's last known address, or by personally delivering or telephoning the Director such notice, no later than two (2) days prior to the day of the meeting. The business transacted at all special meetings of Directors shall be confined to the subject(s) stated in the notice and to matters germane thereto, unless all Directors of the corporation are present at such meeting and consent to the transaction of other business. .

4.03 **Quorum.** A majority of the number of Board of Directors seats which are not vacant shall be necessary to constitute a quorum for the transaction of business, and the act of a majority of the Directors present at such meeting shall be the act of the Board, except where otherwise provided by statute or these By-Laws.

4.04 **Proxies.** There shall be no authorized proxy or delegated voting at a Board of Directors meeting.

4.05 **Procedure Questions.** At any meeting, on questions of parliamentary procedure not covered by these By-Laws, Roberts Rules of order as interpreted or modified by the presiding Officer shall be used.

4.06 **Committees of the Board.** The Board of Directors may act by and through such committees as may be specified in resolutions adopted by a majority of the members of the Board of Directors. Each such committee shall have the duties and responsibilities as are granted to it from time to time by the Board of Directors, and shall at all times be subject to the control and direction of the Board of Directors. Committee members need not be Directors. Every reference in this Article to meetings of the Board shall also apply to meetings of the committees.

4.07 **Place of Meetings.** The Board of Directors may hold the meeting at such place or places within or without the State of Minnesota, as it may from time to time determine, and if no indication as to place, it shall be at the registered office of the corporation.

4.08 **Date and Time of Meetings.** All meetings shall be held at a reasonable hour of the day or evening as shall be agreed upon by an affirmative majority vote of the Directors present at a meeting at which a quorum is present. In absence of such action by the Board, it shall be held on day (other than Saturday, Sunday, or a holiday) and during daytime hours.

4.09 **Action in Writing (Action without Meeting).** Any action permitted to be taken at a meeting of the Directors may be taken by written action signed by all of the Directors entitled to vote on the action. Upon signature of the last required Director, immediate notice of the action and effective date shall be made to all Directors.

4.10 **Waiver of Notice.** A Director may waive notice of a meeting of the Board, and such waiver is effective whether given in writing, orally, or by attendance. Attendance by a Director at a meeting is a waiver of notice of that meeting, unless the Director objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened and does not participate in the meeting.

ARTICLE V

Officers

5.01 **Officers.** The Officers of this corporation shall consist of, at a minimum, a President, a Secretary, and a Treasurer, all of whom shall be chosen by the Board of Directors. Directors shall fill the offices of President, Secretary, and Treasurer.

5.02 **Method of Selection.** Officers shall be elected by the Directors present following the election of At-Large Directors at the first Board meeting after the annual meeting of the members.

5.03 **Officer Tenure, Removal, and Vacancy.** The term of office of each of the Officers of this corporation shall be for one (1) year or until the election of successors. A presidential term shall consist of no more than four (4) consecutive terms. Any Officer may be removed at any time prior to the expiration of his or her term by an affirmative vote of the majority of the Directors. Any vacancy occurring in an executive office shall be filled by the Board of Directors.

5.04 **President.** The President shall have general active management of the business of the corporation when present, preside at meetings of the Board or of the corporation's nonvoting members, if any; see that orders and resolutions of the Board are carried into effect; sign and deliver in the name of this corporation deeds, mortgages, bonds, contracts, or other instruments pertaining to the business of the corporation, except in cases in which the authority to sign and deliver is required by law to be exercised by another person or is expressly delegated by this corporation's organizational documents or by the Board to another Officer or agent of the corporation; maintain records of and, when necessary, certify proceedings of the Board; and perform other duties prescribed by the Board.

5.05 **Secretary.** The Secretary shall keep the corporation's records and minutes, fulfill the usual duties required by such office, and perform such other duties and exercise such other powers as may from time to time be imposed upon that position by resolution of the Board.

5.06 **Treasurer.** The Treasurer shall keep accurate financial records for the corporation, deposit money, drafts, and checks in the name of and to the credit of the corporation in the banks and depositories designated by the Board; endorse for deposit notes, checks, and draft received by the corporation as ordered by the Board, making proper vouchers for the deposit; disburse corporate funds and issue checks and drafts in the name of the corporation, as ordered by the Board; and upon request, provide the President and the Board an account of transactions by the Treasurer and of the financial condition of the corporation.

ARTICLE VI

Conflict Of Interest/Indemnification

6.01 **Director Conflicts of Interest.** This corporation shall not enter into any contact or transaction with (A) one or more of its Directors, Officers, or a member of the immediate family of its Director or Officer, (B) a Director or Officer of a related organization, or a member of the immediate family of a Director or Officer of a related organization, or (C) an organization in or of which the corporation's Director or Officer, or member of the immediate family of its Director or Officer, is a Director, Officer, legal representative or has a material financial interest; unless the material facts as to the contract or transaction and as to the interest of the Director(s) or Officer(s) are fully disclosed or known to the Board of Directors, and the Board of Directors authorizes, approves, or ratifies the contract or transaction in good faith by the affirmative vote of a majority of the Directors (not counting any vote that the interested Director or Officer might otherwise have, and not counting the interested Director or Officer in determining the presence of a quorum.) In light of the preceding sentence's mandate, the Board of Directors shall adopt a policy specifying procedures to be followed by the corporation to approve any transactions where a conflict exists. However, failure to comply with this Section shall not invalidate any contract or transaction to which this corporation is a party.

6.02 **Conflicts of Interest: Definitions.** For purposes of the prior section, "immediate family" encompasses the following individuals: spouses, domestic-partners-in-fact, parents, children, children's spouses or children's domestic-partners-in-fact, siblings, or spouses or domestic-partners-in-fact of siblings. "Domestic-partner-in-fact" is used with respect to those designated as the intended life partner of an individual or otherwise identified as being related to that individual through long term ties of love, affection, responsibility, and commitment common to those undertaken in marriage recognized by the State, regardless of whether such relationship is defined by or otherwise recognized by any government authority. Per Minnesota law, "material financial interest" encompasses, but is not limited to, an individual's relationship to an organization with respect to which rights of the individual exist, whether or not yet vested, for payment of dividends, profit sharing, compensation, reimbursement of expenses, repayment of obligations or other liabilities, from the organization, but for purposes of the prior section "material financial interest" does not include fixing the compensation of the Director or fixing the compensation of another Director as a Director, Officer, employee, or agent of the corporation, even though the first Director is also receiving compensation from the corporation.

6.03 **Conflict of Interest Policy.** The need for a conflict of interest policy that staff members, Officers, and Directors shall adhere to is established by the immediately two preceding Sections of this Article. Such policy shall be established and annually reviewed by the Board of Directors. At a minimum, such policy shall require the certification by all individuals who are subject to it, and along with the same, shall provide on at least an annual basis to the Secretary of this corporation a list of all organizations and individuals who comprise their “immediate family” or with whom they have a “material financial interest” as such terms are defined in the preceding Article’s section 6.02.

6.04 **Insurance.** This corporation may, to the full extent permitted by applicable law from time to time in effect, purchase and maintain insurance on behalf of any person who is or was a Director, Officer, employee, or member of a committee of this corporation against any liability asserted against such person and incurred by such person in any such capacity

6.05 **Indemnification: Coverage.** To the full extent permitted by applicable law and subject to the procedural limitations noted in Attachment A which is included and made a part of these By-Laws, this corporation shall indemnify each person made or threatened to be made a party to any threatened, pending or completed civil, criminal, administrative, arbitration, or investigative proceeding, including a proceeding by or in the right of this corporation, against the expenditures enumerated in Attachment A, by reason of the former or present capacity of the person as:

(A) A Director, Officer, employee, or member of a committee of this corporation, or

(B) A governor, Director, Officer, partner, trustee, employee or agent of another organization (including employee benefit plans), who while a Director, Officer, employee, or member of a committee of this corporation, is or was serving another organization at the request of this corporation, or whose duties as a Director, Officer, employee, or member of a committee of this corporation involve or involved such service to another organization.

ARTICLE VII

Miscellaneous

7.01 **Fiscal Year.** The fiscal year of the corporation shall be from January 1st to December 31st.

7.02 **Meetings Solely by Means of “Remote” Communications and/or Participation by “Remote” Communication.** Any meeting among Directors or a committee of the Board of Directors may be conducted solely by one or more means of remote communication, if all so participate by such means, the same notice is given of the meeting as is required for those not undertaken by remote communications, and a quorum is present; for any other meeting, and Director or committee member may participate by conference telephone, or if the Board so authorizes, by other means of remote communication. Remote communications are those made via electronic communication, conference telephone, video conference, the internet, or other means by which persons not physically present in the same location may communicate with each other on a substantially simultaneous basis. Participation in a meeting by that means constitutes presence at the meeting.

7.03 **Amendment.** These By-Laws may be amended by a vote to do so by two-thirds (2/3rds) of all Directors then seated. Proper notice of the proposed amendment must precede the Board meeting at which the amendment will be considered and must include the substance of the proposed amendment. The power of the Directors to amend the By-Laws shall be subject to the power of the voting members to subsequently revoke or otherwise override any amendment enacted by the Board under this Section, but no other power to amend the By-Laws shall reside with the voting members.

7.04 **Books and Records.** The corporation shall keep at its registered office correct and complete copies of its Articles and By-Laws, accounting records, financial statements, audit reports, minutes of meetings of the Board, members and committees, and in addition, a list of all current and non-voting members, Directors and Officers with their most recently-provided post office addresses.

7.05 **Inspection.** Upon written request, a member, or the agent or attorney of a member, may inspect all such items, books and records for any proper purpose at any reasonable time. The corporation shall give the member a financial statement showing financial results of all operations and transactions affecting income and surplus during its last annual accounting period and a balance sheet containing a summary of its assets and liabilities as of the closing date of the accounting period.

ATTACHMENT A, BY-LAWS

A.0 **Indemnification Expenditures**. Indemnification is mandatory, if, with respect to the acts or omissions of the person complained of in the proceeding, the person:

- 1) has not been indemnified by another organization or employee benefit plan for the same liability described in the preceding paragraph with respect to the same acts or omissions;
- 2) acted in good faith;
- 3) received no improper personal benefit and section 317A.255 of Minnesota Statutes, as now enacted or hereinafter amended, regarding conflicts of interest, has been satisfied;
- 4) in the case of a criminal proceeding, did not have reasonable cause to believe the conduct was unlawful; and
- 5) in the case of acts or omissions occurring by a Director, Officer, employee, or member of a committee of this corporation acting in such official capacity, reasonably believed that the conduct was in the best interests of this corporation, or in the case of acts or omissions occurring by a Director, Officer, employee, or member of a committee of this corporation that involve or involved such service to another organization, reasonably believed that the conduct was not opposed to the best interests of this corporation.

A.0.1 **Indemnification: Eligibility, Advances, and Ancillary Recovery**. Any indemnification realized other than under these By-Laws shall apply as a credit against the indemnification provided herein.

A.1 **Determination of Eligibility**. Determination of eligibility for indemnification payments or advances shall be made in accord with section 317A.521, subd. 6 of Minnesota Statutes, as now enacted or hereinafter amended. In essence, same provides that whether a person is entitled to payment or reimbursement of expenses in advance of the final disposition of the relevant proceedings shall be made:

A.1.1 by the Board by a majority of a quorum; Directors who are at the time parties to the proceeding are not counted for determining a majority or the presence of a quorum;

A.1.2 if a quorum under A.1.1 cannot be obtained, by a majority of a committee of the Board, consisting solely of two or more Directors not at time parties to the proceeding, duly designated to act in the manner by a majority of the full Board including Directors who are parties;

A.1.3 if a determination is not made under A.1.1 or A.1.2, by special legal counsel, selected either by a majority of the Board or a committee by vote constituted under A.1.1 or A.1.2, respectively, or, if the requisite quorum of the full Board cannot be obtained and the committee cannot be established, by a majority of the full Board including Directors who are parties;

A.1.4 if a determination is not made under A.1.1 - A.1.3 preceding, by members with voting rights, other than members who are parties to the proceeding; or

A.1.5 if an adverse determination is made under A.1.1 – A.1.4 preceding, or A.2 following, or if no determination is made within sixty (60) days after the termination of a proceeding or after a request for an advance of expenses, by a court in this state, which may be the court in which the proceeding involving the person's liability took place, upon application of the person and notice the court requires.

A.2 Determination of Eligibility for Certain Parties. With respect to a person who is not, and was not at the time of the acts or omissions complained of in the proceedings, a Director, Officer, or person having, directly or indirectly, the power to direct or cause the direction of the management or policies of the corporation, the determination whether indemnification of this person is required because the criteria in Section A.0 of this Article has been satisfied and whether this person is entitled to payment or reimbursement of expenses in advance of the final disposition of a proceeding under 317A.521, subd. 3 of Minnesota Statutes may be made by an annually appointed committee of the Board, having at least one member who is a Director (said committee shall report at least annually to the Board concerning its actions.)

A.3 **Limitation on Advances.** Advances of expenses incurred which are payable under Sections of this Attachment as limits on the By-Laws of the corporation shall not be made prior to a final disposition of a proceeding unless same are paid from insurance policies held by the corporation.