

**BYLAWS  
OF  
V.I.C.C. HOMEOWNER'S ASSOCIATION, INC.**

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## **Article 1: Formation and Purpose**

The general functions of V.I.C.C. Homeowner's Association, Inc. (the "Association") in carrying out its purpose shall include but shall not be limited to the following:

- 1.1 Provide an organizational structure that supports the common interests of all homeowners in the Membership Area (as defined below) for the improvement, protection and maintenance of their properties, including serving as a qualified neighborhood organization pursuant to Article VI of Chapter 26 of the City Code of the City of Brownsville, and any successors thereto.
- 1.2 Foster a sense of community through actively seeking out and correcting anything that may negatively impact the common interests of all homeowners in the Membership Area.
- 1.3 Preserve and enhance a sense of community among homeowners in the Membership Area through keeping them informed about matters of interest to the Membership Area.
- 1.4 Maintain and enhance property values in the Membership Area.
- 1.5 Act as a liaison for the homeowners in the Membership Area with the City of Brownsville and with the management and developers of the Valley International Country Club and other facilities and properties in or around the Membership Area.
- 1.6 Promote awareness of covenants and restrictions on the property contained in the Membership Area.
- 1.7 Enhance homeowners' enjoyment of communal living through social, cultural and educational events.

All purposes of the Association are limited exclusively to those purposes as comply with the Association's tax exempt status under the Internal Revenue Code of 1986, as amended, or the corresponding provisions of any future federal tax laws (the "Code").

## **Article 2: Membership**

### **2.01 Members**

(a) **Members** Membership in the Association shall be limited to those persons (whether individuals or entities) owning real property in the membership area identified as properties beginning inside a line from Central Blvd. and FM 802 Westerly to the railroad, then Southerly to Wild Rose, Then Easterly to Central Blvd. and Northerly to the point of beginning (the "Membership Area"). Entities with purposes in accordance with the goals of the Association, which exclusively represent persons who own property in the Membership Area, shall be eligible for membership at the

discretion of the board of directors of the Association (the "Board of Directors"), provided such entity pays the required dues for the then current period.

(b) **Honorary Members.** The Board of Directors may grant honorary memberships in its discretion to individuals who have rendered distinguished service to the Association or the Membership Area. Honorary Members may attend and participate at meetings and may receive information from the Association. Honorary Members may not vote or serve as officers or directors of the Association.

(c) **Voting Members.** Persons meeting the membership eligibility criteria set forth in paragraph 2.01(a) above may be Voting Members of the Association. There is no maximum number of Voting Members permitted in this Association. A Member becomes a Voting Member by paying such annual dues as designated herein. A person owning more than one property is only eligible for one voting membership. There will be no more than one membership per household or home within the Membership Area such that multiple people within the same household, as generally understood, cannot have separate or multiple voting privileges. In the event an entity representing persons owning property within the Membership Area joins the Association pursuant to paragraph 2.01(a) above, such entity shall count as one Member (and shall only be entitled to vote if it represents at least one person who is eligible for membership but is not a Voting Member).

**2.02. Membership List.** The secretary of the Association shall use reasonable efforts to maintain an updated roll of Members and of entities representing the interests of groups of eligible property owners within the Membership Area, but it shall be the obligation of the individual Members to keep the Association informed of any changes in property ownership and contact information. The secretary of the Association shall maintain an updated roll of Voting Members and Honorary Members.

**2.03 Dues.** Each Voting Member shall pay annual dues in the amount of \$25 per calendar year, unless changed by a majority vote of the Board of Directors (provided that any increase shall apply as of the January 1 following such vote with respect to any Member who paid the then current year's dues prior to such vote). Dues shall not be prorated. Dues paid in any month are valid only for the remainder of that calendar year (and not for one year from the date of payment). Each calendar year, dues for such calendar year are due on or before the first meeting of the Association held during such calendar year. Honorary Members shall not be required to pay dues. Any Member who has not paid dues as specified herein for such calendar year shall not be entitled to vote or serve as an officer or director of the Association, but shall otherwise retain the benefits of Membership, including attending and participating in meetings and receiving information.

**2.04 Resignation.** Resignation of Members shall occur automatically at such time as the Member no longer owns property in the Membership Area.

2.05 **Place of Meetings.** Meetings of the Membership of the Association shall be held within the State of Texas at such place as is determined by the Board of Directors.

2.06 **Regular Meetings.** Regular meetings of the Membership shall be held at such time as shall be determined by the Board Members, provided that there shall be a minimum of two (2) meetings of the Association each year to be held at the time the Board of Directors determines so long as one meeting occurs in March and one meeting occurs in November. The March meeting will be the annual meeting. Notice of regular meetings shall be posted near the mail boxes on McFadden Drive and by any other method deemed advisable by the Board. Notification by mail may occur at the discretion of the Executive Committee.

2.07 **Quorum; Majority Vote.** At all meetings of the Membership five (5) per cent of Voting Members shall constitute a quorum for the transaction of business. The act of a majority of the Voting Members present at any meeting at which a quorum is present shall be the act of the Membership, except as otherwise specifically provided by statute or by the Articles of Incorporation or by these Bylaws. If a quorum is not present at a meeting of the Members, the directors present may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present.

### ***Article 3: Board of Directors***

3.01 **Management.** The business and affairs of the Association shall be managed by a Board of Directors. The Board of Directors shall have the power to delegate its authority over the day-to-day management of the Association to any officer or agent upon such terms as the Board of Directors shall determine.

3.02 **Number; Qualification; Election; Term.** The Board of Directors shall consist of ten (10) directors, or such other number as determined by a two-thirds vote of the Board of Directors from time to time, but no decrease in the number of directors shall have the effect of shortening the term of any incumbent director. Directors must be Voting Members (or an officer of a Voting Member that is an entity) but need not be residents of any particular state. The directors shall be elected at the annual meeting of the Membership for two year terms, except as provided in paragraph 3.06 - Vacancies. Each director elected shall hold office until such director's successor shall be elected and shall qualify.

#### **3.03 Election of Directors.**

(a) ***Staggered Terms; Number of Terms.*** The terms of the directors shall be staggered so that, each year, approximately half of the directors shall be elected. Directors may serve more than one term.

(b) **Nominations.** No later than October 15 each year, the president shall appoint a nominating committee of five Voting Members, including at least one director who is not up for reelection. The nominating committee shall elect from its members a chairperson, who must be a director who is not up for election in the following election. The nominating committee shall present a slate of candidates for any vacancies on the Board of Directors at the November Membership meeting. Any Member may also nominate candidates at such meeting. *When the number of candidates exceeds the number of positions to be filled* the nominating committee will then prepare written ballots listing all candidates nominated. The ballots shall also provide for write-in candidates.

(c) **Voting.** In the annual election, each Voting Member may vote for up to as many candidates as the number of directors to be elected. The candidates receiving the most votes shall be elected directors. A Voting Member may vote for fewer than the number of directors to be elected, but may not cast more than one vote for any particular candidate. *A motion for casting a unanimous ballot may be made at the January membership meeting when the number of candidates does not exceed the position to fill. Otherwise, ballots shall be mailed to the Voting Members by the February 1 immediately preceding the March meeting.* Ballots must be returned to the Association as specified on the ballot, and received no later than March 1 in order for the ballots to be counted in the election. The nominating committee shall open and tally the votes at the March meeting and announce the results at such meeting. The new Board of Directors shall be installed at the March meeting, and will immediately elect their officers, who shall hold their offices until the next annual meeting, or as otherwise provided herein.

3.04 **Chairperson.** At each annual meeting the Board of Directors shall elect a director to serve as Chairperson until the next annual meeting of the Board of Directors or until such person's successor is elected.

3.05 **Removal.** Any director may be removed either for or without cause at any special or annual meeting of the Membership or of the Board of Directors by the affirmative vote of two-thirds of the Voting Members or Directors, as the case may be, present in person at such meeting and entitled to vote for the election of such director if notice of intention to act upon such matter shall have been given in the notice calling such meeting.

3.06 **Vacancies.** Any vacancy occurring in the Board of Directors (by death, resignation, removal or otherwise) may be filled at a duly called meeting of the Board of Directors by an affirmative vote of a majority of the remaining directors even though less than a quorum of the Board of Directors is present. A director elected to fill a vacancy shall be elected for the unexpired term of such person's predecessor in office. A vacancy in the Board of Directors occurring because of an increase in the number of

directors shall be filled by election at an annual meeting or at a special meeting of members called for that purpose.

**3.07 Place of Meetings.** Meetings of the Board of Directors, regular or special, may be held either within or without the State of Texas.

**3.08 Regular Meetings.** The Board of Directors may by resolution state the time and place, either within or without the State of Texas, for the holding of additional regular meetings of the Board without other notice than such resolution.

**3.09 Special Meetings.** Special meetings of the Board of Directors may be called by (i) the President or (ii) the Chairperson or (iii) any four directors, in each case on at least three days' written notice to each director, either personally, by mail, by fax transmission or by e-mail transmission to each director to the address as shown by the records of the Association. The purpose of any special meeting shall be specified in a notice or waiver of notice.

**3.10 Meetings by Remote Communications.** A meeting of the Board of Directors or any committee designated by the Board of Directors may be held by means of remote electronic communications system, including video conferencing technology or the Internet only if each person entitled to participate in the meeting consents to the meeting being held by means of that system; and the system provides access to the meeting in a manner using a method by which each person participating in the meeting can communicate concurrently with each other participant.

**3.11 Quorum; Majority Vote.** At all meetings of the Board of Directors a majority of the number of directors fixed by these Bylaws shall constitute a quorum for the transaction of business. The act of a majority of the directors present at any meeting at which a quorum is present shall be the act of the Board of Directors, except as otherwise specifically provided by statute or by the Articles of Incorporation or by these Bylaws. If a quorum is not present at a meeting of the Board of Directors, the directors present may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present.

**3.12 Expenses Reimbursement.** Directors shall not receive reimbursement for expenses of attending meetings, nor shall they be compensated for their service.

**3.13 Procedure.** The Board of Directors shall keep regular minutes of its proceedings. The minutes shall be placed in the minute book of the Association.

**3.14 Action Without Meeting.** Any action required or permitted to be taken at a meeting of the Board of Directors may be taken without a meeting if consent in writing, setting forth the action so taken, is signed by all the members of the Board of Directors, either on one document or in multiple counterparts, all of which shall constitute one

consent. Such consent shall have the same force and effect as a unanimous vote at a meeting. The signed consent, or a signed copy, shall be placed in the minute book.

### 3.15 **Interested Directors and Officers.**

(a) If paragraph (b) below is satisfied, no contract or other transaction between the Association and any of its directors or officers (or any Association or firm in which any of them are directly or indirectly interested) shall be invalid solely because of this relationship or because of the presence of such director or officer at the meeting authorizing such contract or transaction, or his participation in such meeting or authorization.

(b) Paragraph (a) above shall apply only if:

(1) No contract, transaction or act shall be taken on behalf of the Association which would result in the denial of the Association's tax exemption under the Internal Revenue Code and its Regulations as they now exist or as they may be amended.

(2) The material facts of the relationship or interest of each such director or officer are known or disclosed to the Board of Directors and it nevertheless authorizes or ratifies the contract or transaction by a majority of the directors present, each such interested director to be counted in determining whether a quorum is present but not in calculating the majority necessary to carry the vote; or

(3) The contract or transaction is fair to the Association as of the time it is authorized or ratified by the Board of Directors or a committee of the Board of Directors.

3.16 **Duties.** The Board of Directors, pursuant to applicable law (the "Act") shall present at the annual meeting of the Board of Directors a report, verified by the President and Treasurer or by a majority of the directors, showing in appropriate detail the following: (a) the assets and liabilities of the Association as of the end of the fiscal year immediately preceding the annual meeting, (b) the principal changes in assets and liabilities, during the year immediately preceding the date of the report; (c) the revenue or receipts of the Association, both unrestricted and restricted to particular purposes, for the year immediately preceding the date of the report; (d) the expenses or disbursements of the Association, for both general and restricted purposes, during the year immediately preceding the date of the report. The annual report of directors shall be filed as prescribed by the Act, if required, and also filed with the records of the Association. The Board of Directors shall also be responsible for making such filings as may be required or recommended for the purpose of maintaining the Association's status with any applicable government entities.

3.17 **Committees.** The Board of Directors, by resolution adopted by a majority of the Board of Directors in office, may designate and appoint one or more committees, including an executive committee, each of which shall consist of two or more directors, which committees, to the extent provided by said resolution shall have and exercise the authority of the Board of Directors in the management of the Association. However, no such committee shall have the authority of the Board of Directors in reference to amending, altering, or repealing through the by-laws the election, appointment or removal of any member of any such committee or any director or officer of the Association; amending the Articles of Incorporation; adopting a plan of merger or adopting a plan of consolidation with another Association; authorizing the sales, lease, exchange or mortgage of all or substantially all of the property and assets of the Association; or amending, altering or repealing any resolution of the Board of Directors which by its terms provides that it shall not be amended, altered or repealed by such committee.

#### ***Article 4: Notice***

4.01 **Method.** Whenever by statute or the Articles of Incorporation or these Bylaws, notice is required to be given to directors or Members and no provision is made as to how the notice shall be given, it shall not be construed to mean personal notice, but any such notice may be given (a) in writing, by mail, postage prepaid, addressed to the director at the address appearing on the books of the Association, or (b) in any other method permitted by law. Any notice required or permitted to be given by mail shall be deemed given at the time when the same is thus deposited in the United States mail.

4.02 **Waiver.** Whenever, by statute or the Articles of Incorporation or these Bylaws, notice is required to be given to directors or Members, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated in such notice, shall be equivalent to the giving of such notice. Attendance of a director or Member at a meeting shall constitute a waiver of notice of such meeting, except where a director or Member attends for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

#### ***Article 5: Officers and Agents***

##### **5.01 Number; Qualification; Election; Term.**

(a) The Association shall have: (1) a president, a vice-president, a secretary and a treasurer, and (2) such other officers and assistant officers and agents as the Board of Directors may deem necessary. These officers must be Texas residents.

(b) The officers listed in paragraph 5.01(a)(1) above shall be directors of the Association. Any other officers or agents need not be a director or a resident of Texas.

(c) Officers named in paragraph 5.01(a)(1) shall be elected by the Board of Directors on the expiration of an officer's term or whenever a vacancy exists. Officers and agents named in paragraph 5.01(a)(2) may be elected by the Board of Directors at any meeting.

(d) Unless otherwise specified by the Board of Directors at the time of election or appointment, each officer's and agent's term shall end at the first meeting of directors after the annual meeting of the Members. Each officer or agent shall serve until the end of such officer's or agent's term or, if earlier, such officer's or agent's death, resignation or removal.

(e) Any two or more offices may be held by the same person, provided that no person may hold more than one of the offices listed in paragraph 5.01(a)(1).

**5.02 Removal.** Any officer or agent elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interests of the Association will be served thereby. Such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

**5.03 Vacancies.** Any vacancy occurring in any office of the Association (by death, resignation, removal or otherwise) may be filled by the Board of Directors.

**5.04 Authority.** Officers and agents shall have such authority and perform such duties in the management of the Association as are provided in these Bylaws or as may be determined by resolution of the Board of Directors not inconsistent with these Bylaws.

**5.05 Compensation.** The compensation of officers and agents shall be fixed from time to time by the Board of Directors, provided that no officer listed in paragraph 5.01(a)(1) shall receive any compensation.

**5.06 President.** The president shall be the principal executive officer of the Association. The president shall have general and active management of the business and affairs of the Association. The president shall see that all orders and resolutions of the Board of Directors are carried into effect. The president shall perform such other duties and have such other authority and powers as the Board of Directors may from time to time prescribe. The president may sign, with the secretary or any other proper officer of the Association authorized by the Board of Directors, any deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors have authorized to be executed, except in cases where the signing and execution thereof shall be

expressly delegated by the Board of Directors or by these Bylaws or by statute to some other officer or agent of the Association; and in general the president shall perform all duties incident to the office of president and such other duties as may be prescribed by the Board of Directors from time to time.

**5.07 Vice President.** In the absence of the president or in the event of the president's inability or refusal to act, the vice president, or in the event there be more than one vice president, the vice presidents in order of election shall perform the duties of the president. Any vice president shall perform such other duties as from time to time may be assigned to such vice president by the president or the Board of Directors.

**5.08 Secretary.**

(a) The secretary shall attend all meetings of the Board of Directors and record all votes and the minutes of all proceedings in a book to be kept for that purpose and shall perform like duties for the executive committee when required.

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

(c) The secretary shall keep in safe custody the seal of the Association and, when authorized by the Board of Directors or the executive committee, affix the same to any instrument requiring it and when so affixed, it shall be attested by the secretary's signature or by the signature of the treasurer or an assistant secretary.

(d) The secretary shall be under the supervision of the Board of Directors. 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.

**5.09 Treasurer.**

(a) The treasurer shall have the custody of the corporate funds and securities, if any, and shall keep full and accurate accounts of receipts and disbursements of the Association and shall deposit all moneys and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors.

(b) The Treasurer shall disburse the funds of the Association as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, and shall render to the president and directors, at the regular meetings of the Board of Directors, or whenever they may require it, an account of all his transactions as treasurer and of the financial condition of the Association.

(c) 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 6: Office***

6.01 **Registered Office and Agent.** Until the Board of Directors otherwise determines, the registered office of the Association shall be maintained in Brownsville, Texas and the registered agent shall be the registered office and agent named in the most recent filing with the Secretary of State, or such other office and agent as may be designated from time to time by the Board of Directors in the manner provided by law. Such registered office need not be identical to the principal place of business of the Association.

6.02 **Other Offices.** The Association may also have offices at such other places both within and without the State of Texas as the Board of Directors may from time to time determine.

## ***Article 7: Investments***

The Association shall have the right to retain all or any part of any securities or property acquired by it in whatever manner, and to invest and reinvest any funds held by it, according to the judgment of the Board of Directors, without being restricted to the class of investments which a director is or may be permitted by law to make or any similar restriction, provided, however, that no action shall be taken by or on behalf of the Association if such action is a prohibited transaction or would result in the denial of the tax-exemption under Section 503, Section 507 or other applicable provision of the Internal Revenue Code and its Regulations as they now exist or as they may be amended.

## ***Article 8: Exempt Activities***

Notwithstanding any other provision of these Bylaws, no director, officer, employee, or representative of this Association shall take any action or carry on any activity by or on behalf of the Association not permitted to be taken or carried on by an organization exempt under the applicable provisions of the Internal Revenue Code and its Regulations as they now exist or as they may be amended, or by an organization contributions to which are deductible under such Code and Regulations as they now exist or as they may be amended.

## ***Article 9: General Provisions***

9.01 **Books and Records.** The Association shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its Board of Directors.

9.02 **Annual Statement.** The Board of Directors shall prepare before each annual meeting a full and clear statement of the business and condition of the Association, including a reasonably detailed balance sheet, income statement, and surplus statement, all prepared in conformity with generally accepted accounting principles applied on a consistent basis.

9.03 **Checks and Notes.** All checks or demands for money and notes of the Association shall be signed by such officer or officers or such other person or persons as the Board of Directors may from time to time designate.

9.04 **Fiscal Year.** The fiscal year of the Association shall be fixed by resolution of the Board of Directors, and unless otherwise fixed shall end December 31.

9.05 **Seal.** The Association seal shall contain the name of the Association and the name of the state of incorporation. The seal may be used by impressing it or reproducing a facsimile of it, or otherwise.

9.06 **Resignation.** Any director, officer or agent may resign by giving written notice to the president or the secretary. The resignation shall take effect at the time specified therein, or immediately if no time is specified therein. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

9.07 **Amendment of Bylaws.** These Bylaws replace in their entirety all existing bylaws, constitutions or similar governing documents of the Association, excluding only the Articles of Incorporation. The power to alter, amend or repeal these Bylaws, or to adopt new Bylaws for the Association, shall be vested in the directors present at any regular meeting or at any special meeting, if at least three (3) days written notice is given of an intention to alter, amend, or repeal these Bylaws or the adoption of new bylaws at such meeting. The affirmative vote of at least 2/3rds of the directors present at a meeting is required for any such alteration, amendment or repeal to be adopted.

9.08 **Construction.** Whenever the context so requires, the masculine shall include the feminine and neuter, and the singular shall include the plural, and conversely. If any portion of these Bylaws shall be invalid or inoperative, then, so far as is reasonable and possible:

(a) The remainder of these Bylaws shall be considered valid and operative; and

(b) Effect shall be given to the intent manifested by the portion held invalid or inoperative.

9.09 **Indemnification.**

(a) To the extent allowed or allowable by law, the Association shall indemnify a director, officer, committee member, employee, or agent of the Association who was, is, or may be named defendant or respondent in any proceeding as a result of such person's actions or omissions within the scope of such person's official capacity in the Association. For the purposes of this paragraph 9.09, an agent includes one who is or was serving at the request of the Association as a director, officer, partner, venturer, proprietor, trustee, partnership, joint venture, sole proprietorship, trust, employee benefit plan, or other enterprise. However, the Association shall indemnify a person only if such person acted in good faith and reasonably believed that the conduct was in the Association's best interests. In a case of a criminal proceeding, the person may be indemnified only if such person had no reasonable cause to believe that the conduct was unlawful. The Association shall not indemnify a person who is found liable to the Association or is found liable to another on the basis of improperly receiving a personal benefit. A person is conclusively considered to have been found liable in relation to any claim, issue, or matter if the person has been adjudged liable by a court of competent jurisdiction and all appeals have been exhausted.

(b) The termination of a proceeding by judgment, order, settlement, conviction, or on a plea of *nolo contendere* or its equivalent does not necessarily preclude indemnification by the Association.

(c) The Association shall pay or reimburse expenses incurred by a director, officer, committee member, employee, or agent of the Association in connection with the person's appearance as a witness or other participation in a proceeding involving or affecting the Association when the person is not a named defendant or respondent in the proceeding.

(d) In addition to the situations otherwise described in this paragraph 9.09, the Association may indemnify a director, officer, committee member, employee or agent of the Association to the extent permitted by law. However, the Association shall not indemnify any person in any situation in which indemnification is prohibited by the terms of paragraph 9.09(a) above.

(e) Before the final disposition of a proceeding, the Association may pay indemnification expenses permitted by the Bylaws and authorized by the Association. However, the Association shall not pay indemnification expenses to a person before the final disposition of a proceeding if the person is a named defendant or respondent in any proceeding brought by the Association, or the person is alleged to have improperly received a personal benefit or committed other willful or intentional misconduct.

(f) If the Association may indemnify a person under these Bylaws, the person may be indemnified against judgments, penalties, including excise and similar taxes, fines, settlements, and reasonable expenses (including attorney's fees) actually incurred in connection with the proceeding. However, if the proceeding was brought by

or on behalf of the Association, the indemnification is limited to reasonable expenses actually incurred by the person in connection with the proceeding.

(g) Before the Association may pay any indemnification expenses (including attorney's fees), the Association shall specifically determine that indemnification is permissible, authorize indemnification, and determine that expenses to be reimbursed are reasonable, except as provided in paragraph (h) below. The Association may make these determinations and decisions by any one of the following procedures:

(i) Majority vote of a quorum consisting of directors who, at the time of the vote, are not named defendants or respondents in the proceedings,

(ii) If such a quorum cannot be obtained, by a majority vote of a committee of the Board of Directors, designated to act in the matter by a majority vote of all directors, consisting solely of two or more directors who at the time of the vote are not named defendants or respondents in the proceeding,

(iii) Determination by special legal counsel selected by the Board of Directors by vote as provided in paragraph 9.09(g)(i) or (ii), or if such a quorum cannot be obtained and such a committee cannot be established, by a majority vote of all directors.

(h) The Association shall authorize indemnification and determine that expenses to be reimbursed are reasonable in the same manner that it determines whether indemnification is permissible. If the determination that indemnification is permissible is made by special legal counsel, authorization of indemnification and determination of reasonableness of expenses shall be made in the manner specified by paragraph 9.09(g)(iii), above, governing the selection of special legal counsel.

(i) The Association shall pay indemnification expenses before final disposition of a proceeding only after the Association determines that the facts then known would not preclude indemnification and the Association receives a written affirmation and undertaking from the person to be indemnified. The determination that the facts then known to those making the determination would not preclude indemnification and authorization of payment shall be made in the same manner as a determination that indemnification is permissible under paragraph 9.09(g), above. The person's written affirmation shall state that he or she has met the standard of conduct necessary for indemnification under the Bylaws. The written undertaking shall provide for repayment of the amount paid or reimbursed by the Association if it is ultimately determined that the person has not met the requirements for indemnification. The undertaking shall be an unlimited general obligation of the person, but it need not be



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