BYLAWS OF GNOME FOUNDATION

Initially Adopted on March 16, 2001. As Amended on April 5, 2002. As Amended on November 11, 2005. As Amended on October 22, 2007. As Amended on October 31, 2012. As Amended on August 24, 2019.

ARTICLE I: NAME

The name of the Corporation shall be GNOME Foundation (the "**Corporation**"), a California Nonprofit Public Benefit Corporation.

ARTICLE II: OFFICES

Section 2.1: Principal Office

The principal office for the transaction of business of the Corporation shall be determined and may be changed from time to time by the Board of Directors (the "**Board**").

Section 2.2: Other Offices

The Board may at any time establish branch or subordinate offices at any place or places where the Corporation is qualified to do business.

ARTICLE III: OBJECTIVES

The objectives of the Corporation shall be as stated in the Articles of Incorporation. Specifically, the objectives shall include charitable and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "**Internal Revenue Code**"), or the corresponding provision of any future United States internal revenue law.

ARTICLE IV: NONPARTISAN ACTIVITIES

The Corporation has been formed under the California Nonprofit Public Benefit Corporation Law (the "**CNPBCL**") for the purposes described above, and it shall be nonprofit and nonpartisan. No substantial part of the activities of the Corporation shall consist of lobbying or propaganda, or otherwise attempting to influence legislation, except as provided in Section 501(h) of the Internal Revenue Code, and the Corporation shall not participate or intervene in (including publishing or distributing statements) any political campaign on behalf of any candidate for public office except as provided in Section 501(h) of the Internal Revenue Code.

The Corporation shall not, except in an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the purposes described above.

ARTICLE V: DEDICATION OF ASSETS

The properties and assets of the Corporation are irrevocably dedicated to charitable and educational purposes meeting the requirements for exemption provided by Section 214 of the California Revenue and Taxation Code. No part of the net income or assets of the Corporation, on dissolution or otherwise, shall inure to the benefit of any private person or individual, or any member or Director of the Corporation. On liquidation or dissolution of the Corporation, all properties and assets and obligations shall be distributed and paid over to a nonprofit fund, foundation or Corporation which is organized and operated exclusively for charitable and educational purposes meeting the requirements for exemption provided by Section 214 of the California Revenue and Taxation Code, and which has established its tax-exempt status under Section 501(c)(3) of the Internal Revenue Code.

ARTICLE VI: MEMBERSHIP

Section 6.1: Voting Members and Qualification

Initially, there shall be one class of voting members of the Corporation. Membership will be determined on a case-by-case basis, at the sole discretion of the Board and Membership Committee. Any contributor to GNOME shall be eligible for membership. A "contributor" shall be defined as any individual who has contributed to a non-trivial improvement of the GNOME Project, such as code, documentation, translations, maintenance of project-wide resources, or other non-trivial activities which benefit the GNOME Project. Large amounts of advocacy or bug reporting may qualify one as a contributor, provided that such contributions are significantly above the level expected of an ordinary user. Contributions made in the course of employment will be considered and will be ascribed to the individuals involved, rather than accruing to all employees of a "contributing" corporation.

Section 6.2: Other Classes of Membership

The Board may, from time to time, establish another class or classes of members, with or without voting rights. The privileges, rights and duties of such other class or classes of members shall be as provided by the Board, subject to the terms of the Bylaws, as amended from time to time. The Board may thereby confer some or all of the rights of the members upon any person or persons.

If such person or persons do not have the right to vote for either:

1. the election of a Director or Directors, on a disposition of all or substantially all of the assets of this corporation, on a merger, on a dissolution or
2. the selection of delegates who possess any such voting rights or
3. changes to the corporation's Articles of Incorporation or Bylaws,

such person shall not be a member within the meaning of Section 5056 of the Nonprofit Corporation Law of the State of California.

Section 6.3: Honorary Nonmember Affiliates

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

Section 6.4: Term

The term of membership shall be two (2) years.

Section 6.5: Admission and Removal

Admission or removal from membership shall be by the vote of a majority of the Directors then in office.

Section 6.6: Fees, Dues and Assessments

The Board may determine from time to time an initial membership fee, and set such other fees, dues and assessments for membership in the corporation as the Board, in its discretion, from time to time determines.

Section 6.7: Termination of Membership

The membership of any member shall terminate upon the occurrence of any one or more of the following:

1. **Resignation**. Any member may resign from the Corporation in writing filed with the Secretary of the Corporation. Such resignation shall become effective upon receipt thereof.

2. **Expiration and Disqualification**. A membership issued for a period of time shall expire when such period of time has elapsed unless the membership is renewed. In the case of membership classifications for which qualification requirements are established, membership of a member shall terminate upon the determination of the Board or Membership Committee that the member no longer meets the qualification requirements for membership in the Corporation.

3. **Removal or Suspension**. Membership shall terminate upon the determination of the Board or Membership Committee after a hearing duly held in accordance with this Section 6.7.3, that the member has failed in a material respect to

observe the rules of conduct promulgated from time to time by the Board and applicable to members, or otherwise has failed in some material respect to merit continued membership privileges in the Corporation. In the event of a removal or suspension of a member, the following procedures shall be implemented:

a) A notice shall be sent by electronic mail and prepaid, first-class, certified or registered mail to the most recent address of the member, if known to the Corporation, setting forth the removal or suspension and the reason for that removal or suspension. Such notice shall be sent at least fifteen (15) days before the proposed effective date of the removal or suspension.

b) The member being expelled or suspended shall be given an opportunity to be heard, either orally or in writing, at a hearing to be held no fewer than five (5) days before the removal. The hearing shall be held by the Board or Membership Committee. Any such hearing may be held by conference telephone or similar communications equipment, so long as all participants in the hearing can hear one another. The notice to the member of their proposed removal or suspension shall state that such member is entitled, upon request, to such hearing, shall state that a date, time and place of hearing will be established upon receipt of such a request, and shall state, that in the absence of such request, the effective date of the proposed suspension or removal.

c) Following the hearing, the Board, or Membership committee, as the case may be, shall decide whether the member should in fact be expelled, suspended, or sanctioned in some other way. The decision of the Board or Membership Committee, as the case may be, shall be final, subject to any challenge brought pursuant to this section.

d) A member may bring an action challenging a removal or suspension of membership, including any claim alleging defective notice, within one year after the date of the removal or suspension.

Section 6.8: Reinstatement

Suspended or expelled members may be reinstated at the discretion of the Board.

Section 6.9: Property Rights

No member shall have any right or interest in any of the property or assets of this Corporation.

Section 6.10: Nonliability

No member shall be personally liable for the debts, liabilities, or obligations of this Corporation.

Section 6.11: Non-transferability

No member may transfer for value or otherwise a membership or any right arising therefrom, and all rights of membership shall cease upon the member's death or dissolution of this Corporation.

ARTICLE VII: MEMBERSHIP MEETINGS

Section 7.1: Place of Meeting

All meetings of members shall be held either at the principal office of the Corporation or at any other place within or without the State of California, which may be designated by the Board pursuant to the authority hereinafter granted to the said Board, or by the written consent of all members entitled to vote thereat, given either before or after the meeting and filed with the Secretary of the Corporation.

Section 7.2: Annual Meetings

The annual meetings of members of the Corporation shall be held at any time and place determined by the resolution of the Board. Directors may be elected and other proper business may be transacted at the annual meeting of members.

Section 7.3: Special Meetings

Special meetings of members, for any lawful purpose, may be called at any time by the President or by the Board. Furthermore, special meetings of the members for any lawful purpose may be called by, upon request in writing by at least ten percent of the membership, or at least five percent of the membership in accordance with Article XVI, stating the business to be transacted at the special meeting, mailed to the principal office of the Corporation, or delivered to the Chair of the Board, the President, the Vice President or Secretary. It shall be the duty of the President to cause notice to be given, within seven (7) days from receipt of such a request, to be held no more than twenty (20) days after the receipt of such a request.

Section 7.4: Notice of Meetings

A notice of each annual meeting, and special meeting shall be given by the President or, in case of their failure or refusal, by any other officer or any Director; shall specify the place, time, day and hour of the meeting or the date on which the ballot shall be returned, if applicable; and in the case of special meetings, the nature of the business to be transacted thereat. Such notice shall be given in writing to every member of the Corporation who, on the record date for notice of the meeting, is entitled to vote thereat. Such notice shall be given either personally or by sending a copy thereof by first-class mail or by telephone communication, including a voice messaging system or other system or technology designed to record and communicate messages, telegraph,

facsimile, electronic mail, or other electronic means, either directly to the member or to a person at the member's office who would reasonably be expected to communicate such notice promptly to the member at least thirty (30) days prior to the date fixed for such meeting in the case of an annual meeting and at least ten (10) days in the case of all other meetings.

Section 7.5: Election of Directors

Directors may be elected at the annual meeting as described herein or otherwise by eletronic mail and electronic voting. Notice of such electronic mail or electronic voting shall be given by the President or by anyone duly appointed with the authority to do so by the Directors in accordance with Section 8.3. Such notice shall be sent promptly to the membership at least thirty (30) days prior to the last day on which votes may be submitted.

Section 7.6: Adjourned Meetings

Any members' meeting, annual or special, whether or not a quorum is present, may be adjourned from time to time by the vote of a majority of the members, but in the absence of a quorum no other business may be transacted at any such meeting. No meeting may be adjourned for more than forty-five (45) days. It shall not be necessary to give any such notice of the time and place of the adjourned meeting or of the business to be transacted thereat, other than by an announcement at the meeting at which such adjournment is taken. If after the adjournment a new record date is fixed for notice or voting, a notice of the adjourned meeting shall be given to each member who, on the record date for notice of the meeting, is entitled to vote at the meeting.

Section 7.7: Quorum

At any meeting of the members, those attending in person shall constitute a quorum, except when a larger quorum is required by law, by the Articles of Organization or by these Bylaws.

Section 7.8: Voting

Each voting member in good standing is entitled to one vote on each matter submitted to a vote of the members. Voting shall be by voice vote, unless the Chair of the meeting at which such vote takes place directs such voting to be by ballot. No single vote shall be split into fractional votes.

Section 7.9: Action Without Meeting by Written Ballot

Any action which may be taken at any regular or special meeting of members may be taken without a meeting if the Corporation distributes a written ballot to every member entitled to vote on the matter. Such ballot shall set forth the proposed action,

provide an opportunity to specify approval or disapproval of any proposal, and provide a reasonable time within which to return the ballot to the corporation. Approval by written ballot shall be valid only when the number of votes cast by ballot within the time period specified equals or exceeds a quorum of the members, and the number of approvals equals or exceeds the number of votes that would be required to approve at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

Section 7.10: Quorum for Referenda

Any member of the Corporation may propose a referendum. Such request for a referendum must be endorsed by 10% of the Membership. The overall referendum process shall be conducted by the Membership and Elections Committee, as authorized by the Directors pursuant to Article IX.

Section 7.11: Record Date

The Board may fix, in advance, a record date for the purpose of determining the members entitled to notice of and to vote at any meeting of members, give consent to corporate action in writing without a meeting, receive any report, receive any allotment of rights, or exercise rights in respect to any change in membership rights or liabilities. Only members of record on the record date are entitled to notice of and to vote at any such meeting, give consent without a meeting, receive any reports, receive allotment of rights, or exercise the rights, as the case may be, notwithstanding any transfer of memberships on the books of the corporation after the record date, except as otherwise provided in the Articles of Incorporation or these Bylaws. The Board shall fix, in advance, record dates as follows:

1. **Notice**. The record date for determination of the members entitled to notice of any meeting of members shall not be more than ninety (90) nor less than ten (10) days before the date of the meeting. If no record date is fixed, members at the close of business on the business day preceding the day on which notice is given or, if notice is waived, at the close of business on the business day preceding the day on which the meeting is held are entitled to notice of a meeting of members shall apply to any adjournment of the meeting unless the Board fixes a new record date for the adjourned meeting.

2. **Vote**. The record date for the purpose of determining the members entitled to vote at a meeting of members shall not be more than sixty (60) days before the date of the meeting. Such record date shall also apply in the case of an adjournment of the meeting unless the Board fixes a new record date for the adjourned meeting. If no record date is fixed, members on the day of the meeting who are otherwise eligible to vote are entitled to vote at the meeting of members or, in the case of an adjourned meeting, members on the day of the adjourned meeting who are otherwise eligible to vote are entitled to vote at the adjourned meeting of members.

3. **Written Ballots**. The record date for the purpose of determining members entitled to cast written ballots shall not be more than sixty (60) days before the day on which the first written ballot is mailed or solicited. If no record date is fixed, members on the day of the first written ballot is mailed or solicited who are otherwise eligible to vote are entitled to cast written ballots.

Section 7.12: Conduct of Meetings

Meetings of members shall be presided over by the President of the Corporation, or in their absence, by the Chair of the Corporation, or in their absence, by a Chair chosen by a majority of the members present. The Secretary of the Corporation shall act as the secretary of all meetings of members, provided that in their absence the presiding officer shall appoint another member to act as Acting Secretary of the meeting.

ARTICLE VIII: DIRECTORS

Section 8.1: Powers

1. **General corporate powers**. Subject to the provisions of the CNPBCL and any other applicable laws, the business and affairs of the Corporation shall be managed, and all corporate powers shall be exercised, by or under the direction of the Board.

2. **Specific powers**. Without prejudice to these general powers, and subject to the same limitations, the Board shall have power to:

    a) Select and remove all officers, agents and employees of the Corporation; prescribe any powers and duties for them that are consistent with law, with the Articles of Incorporation and with these bylaws; and fix their compensation.

    b) Change the principal executive office or the principal business office from one location to another; cause the Corporation to be qualified to do business in any other state, territory, dependency or country and conduct business within or outside the State of California; and designate any place within or outside the State of California for the holding of any members' meeting or meetings, including annual meetings.

    c) Adopt, make and use a corporate seal and alter the form of the seal.

    d) Borrow money and incur indebtedness on behalf of the Corporation and cause to be executed and delivered for the Corporation's purposes, in the corporate name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations and other evidences of debt and securities.

Section 8.2: Number and Qualification of Directors

1. The Directors shall fix their number at an annual meeting. At any special or regular meeting, the Directors then in office may increase the number of Directors and elect new Directors to complete the number so fixed; or they may decrease the number of Directors, but only to eliminate vacancies existing by reason of the death, resignation, removal or disqualification of one or more Directors.

2. A Director shall be a Member.

3. The number of Directors on October 31, 2012 is seven (7).

4. No organization, corporation or similar entity, or any affiliate thereof, shall hold, directly or indirectly, more than 40% of the Board seats, regardless of election results. In the event that any election of directors results in a single entity representing greater than 40% of the Board, than the nominee representing that entity receiving the least number of votes, shall be replaced by the nominee receiving the greatest number of votes who was not elected to the Board. In the event that the resignation or removal of a director results in a single entity representing greater than 40% of the Board, the Board shall as soon as practicable, appoint a new director not representing that entity to serve until the next election of directors. For the purposes of this section, "affiliate" shall mean representatives who are employees, officers, or members of the Board of Directors of an entity; who have a significant consulting relationship with an entity; or who own at least 1% of the equity or debt, or derivatives thereof, of an entity.

Section 8.3: Election and Term of Office of Directors

1. For the purpose of staggering the Directors' terms of office with one-half (1/2) of the Board of Directors eligible for election or replacement every two (2) years, the Board of Directors shall divide the Directors serving at the time of the adoption of these bylaws, and any additional Directors appointed at such time, into two (2) classes as nearly equal in number as possible, as follows:

    a) For the initial terms after the adoption of these Amended and Restated Bylaws, each such class shall be appointed to a term of one (1) or two (2) years

    b) At the conclusion of such initial terms set forth in Section 8.3.1(a) of these bylaws, each Director's subsequent term (and for each subsequent term thereafter) shall be for a period of two (2) years and until the election and qualification of a successor, or until such Director's death, resignation, or removal.

    c) In the event of an increase or decrease in the number of Directors, additional Directors may be elected to terms of one (1) or two (2) years as may be necessary to maintain equality in numbers among classes of Directors.

2. Directors shall be elected by the membership in accordance with the rules set forth on `http://foundation.gnome.org/electionrules.html`.

3. Each Director shall serve until their successor is duly elected and qualified or until their earlier death, resignation or removal. No reduction of the authorized number of Directors shall have the effect of removing any Director before that Director's term of office expires.

Section 8.4: Vacancy

1. **Events causing vacancy**. A vacancy or vacancies in the Board shall be deemed to exist on the occurrence of the following:

   a) The death, resignation or removal of any Director.

   b) The declaration by resolution of the Board of a vacancy of the office of a Director who has been declared of unsound mind by an order of court or convicted of a felony or has been found by final order or judgment of any court to have breached a duty under Article 3 of Chapter 2 of the CNPBCL.

   c) The increase of the authorized number of Directors.

2. **Resignations**. Except as provided in this paragraph, any Director may resign, which resignation shall be effective on giving written notice to the Chair of the Board, the president, the secretary or the Board of Directors, unless the notice specifies a later time for the resignation to become effective. If the resignation of a Director is effective at a future time, the Board of Directors may elect a successor to take office when the resignation becomes effective. No Director may resign when the Corporation would then be left without a duly elected Director or Directors in charge of its affairs.

3. **Removals**. A Director may be removed for cause. In the event such removal, the following procedures shall be implemented:

   a) A notice shall be sent by electronic mail and by prepaid, first-class, certified or registered mail to the most recent address of the member, if known by the Corporation, setting forth the removal and the reason for that removal. Such notice shall be sent at least seven (7) days before the proposed effective date of the removal.

   b) The Director being removed shall be given an opportunity to be heard, either orally or in writing, at a hearing to be held no fewer than five (5) days before the removal. The hearing shall be held by the Board. The notice to the Director of their proposed removal shall state that such member is entitled, upon request, to such hearing, shall state that a date, time and place of hearing will be established upon receipt of such a request, and shall state, that in the absence of such request, the effective date of the proposed removal.

c) Following the hearing, the Board shall decide whether the Director should in fact be expelled, suspended, or sanctioned in some other way. The decision of the Board shall be final.

4. **Filling vacancies**. Vacancies on the Board may be filled by a majority of the Directors then in office, whether or not less than a quorum, or by a sole remaining Director. Each director so elected shall serve until end of the term of the class of Directors to which the Director has been so elected and until such Director's successor is elected and qualified.

5. **No vacancy on reduction of number of Directors**. No reduction of the authorized number of Directors shall have the effect of removing any Director before that Director's term of office expires.

6. **Restriction on interested Directors**. Not more than forty-nine percent (49%) of the persons serving on the Board at any time may be interested persons. An interested person is

   a) any person being compensated by the Corporation for services rendered to it in the previous twelve (12) months, whether as a full-time or part-time employee, independent contractor or otherwise, excluding any reasonable compensation paid to a Director as Director; and

   b) any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law or father-in-law of any such person. However, any violation of the provisions of this paragraph shall not affect the validity or enforceability of any transaction entered into by the Corporation.

7. The Board shall have and may exercise all its powers notwithstanding the instance of one or more vacancies.

Section 8.5: Place of Meeting; Meetings by Telephone

Regular meetings of the Board may be held at any place within or outside the State of California that has been designated from time to time by resolution of the Board or in the notice of the meeting. In the absence of such designation, regular meetings shall be held at the principal executive office of the Corporation. Special meetings of the Board shall be held at any place within or outside the State of California that has been designated in the notice of the meeting or, if not stated in the notice, or if there is no notice, at the principal executive office of the Corporation. Notwithstanding the above provisions of this Section 8.5, a regular or special meeting of the Board may be held at any place consented to in writing by all the Board members, either before or after the meeting. If consents are given, they shall be filed with the minutes of the meeting. Any meeting, regular or special, may be held by conference telephone or similar communication equipment, so long as all Directors participating in the meeting can communicate with one another, and all such Directors shall be deemed to be present in person at such meeting.

Section 8.6: Annual Meeting

At such time and place fixed by the Board, the Board shall hold a regular annual meeting for the purpose of organization, election of officers and the transaction of other business.

Section 8.7: Other Regular Meetings

Regular meetings of the Board shall be held on a quarterly basis following the annual meeting of the Corporation. Such regular meetings may be held without notice.

Section 8.8: Special Meetings

1. **Authority to call**. Special meetings of the Board for any purpose may be called at any time by the Chair of the Board or any two (2) Directors.

2. **Notice**.

    a) **Manner of giving**. Notice of the time and place of special meetings shall be given to each Director by one of the following methods:

        i. by personal delivery;

        ii. by first-class mail, postage prepaid;

        iii. by telephone communication, including a voice messaging system or other system or technology designed to record and communicate messages, telegraph, facsimile, electronic mail, or other electronic means, either directly to the Director or to a person at the Director's office who would reasonably be expected to communicate such notice promptly to the Director. All such notices shall be given or sent to the Director's address or telephone number as shown on the records of the Corporation.

    b) **Time requirements**. Notices sent by first-class mail shall be deposited into a United States mailbox at least four (4) days before the time set for the meeting. Notices given by personal delivery or by telephone shall be delivered at least forty-eight (48) hours before the time set for the meeting.

    c) **Notice contents**. The notice shall state the time and place for the meeting. However, it need not specify the purpose of the meeting, or the place of the meeting if it is to be held at the principal executive office of the Corporation.

Section 8.9: Quorum

A majority of the authorized number of Directors shall constitute a quorum for the transaction of business, except to adjourn as provided in Section 8.11 of this Article VIII. Every action taken or decision made by a majority of the Directors present at a meeting duly held at which a quorum is present shall be regarded as the act of the

Board, subject to the provisions of the CNPBCL, especially those provisions relating to:

1. approval of contracts or transactions in which a Director has a direct or indirect material financial interest,
2. creation of and appointment to committees of the Board and
3. indemnification of Directors.

A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of Directors, if any action taken is approved by at least a majority of the required quorum for that meeting.

Section 8.10: Waiver of Notice

The transactions of any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if

1. a quorum is present and
2. either before or after the meeting, each of the Directors not present signs a written waiver of notice, a consent to holding the meeting or an approval of the minutes.

The waiver of notice or consent need not specify the purpose of the meeting. All waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meeting. Notice of a meeting shall also be deemed given to any Director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

Section 8.11: Adjournment

A majority of the Directors present, whether or not constituting a quorum, may adjourn any meeting to another time and place.

Section 8.12: Notice of Adjournment

Notice of the time and place of holding an adjourned meeting need not be given, unless the meeting is adjourned for more than twenty-four (24) hours, in which case personal notice of the time and place shall be given before the time of the adjourned meeting to the Directors who were not present at the time of adjournment.

Section 8.13: Action Without Meeting

Any action required or permitted to be taken by the Board may be taken without a meeting if **all** members of the Board, individually or collectively, consent in writing to the action; provided, however, that the consent of any Director who has a material financial interest in a transaction to which the Corporation is a party and who is an "interested Director" as defined in Section 5233 of the California Corporations Code shall not be required for approval of that transaction. Such action by written consent shall have the same force and effect as a unanimous vote of the Board. Such written consent or consents shall be filed with the minutes of the proceedings of the Board.

Section 8.14: Fees and Compensation

Directors as such shall not receive any compensation for their services, but by resolution of the Board, expenses of attendance, if any, may be allowed for attendance at regular or special meetings of the Board; but nothing herein contained shall be construed to preclude any Director from serving the Corporation in any other capacity and receiving compensation for this.

ARTICLE IX: COMMITTEES

Section 9.1: Committees of the Board

The Board, by resolution adopted by a majority of the Directors then in office, provided a quorum is present, may create or remove one or more committees, to serve at the pleasure of the Board. Appointments to committees of the Board shall be by majority vote of the Directors then in office. The Board may appoint one or more alternate members of any such committee, who may replace any absent member at any meeting of the committee.

Section 9.2: Meetings and Action of Committees

Meetings and actions of committees of the Board shall be governed by, held and taken in accordance with the provisions of these bylaws concerning meetings and other Board actions, except that the time for regular meetings of such committees and the calling of special meetings of such committees may be determined either by Board resolution or, if there is none, by resolution of the committee of the Board. Minutes of each meeting of any committee of the Board shall be kept and shall be filed with the corporate records. The Board may adopt rules for the government of any committee, provided they are consistent with these bylaws, or in the absence of rules adopted by the Board, the committee may adopt such rules.

Section 9.3: Term of Office

Each member of a committee shall continue as such until the next annual meeting of the Board of the Corporation and until their successor is appointed, unless the committee shall be sooner terminated, or unless such member be removed from such committee, or unless such member shall cease to qualify as a member thereof.

Section 9.4: Vacancies

Vacancies in the membership of any committee may be filled by appointments made in the manner as provided in the case of the original appointments.

Section 9.5: Quorum

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

Section 9.6: Rules

Each committee may adopt rules for its own government not inconsistent with these bylaws or with rules adopted by the Board.

Section 9.7: Limitations

No committee may:

1. fill any vacancies on the Board or on any committee;
2. fix compensation of the Directors for serving on the Board or on any committee;
3. amend or repeal bylaws or adopt new bylaws;
4. amend or repeal any resolution of the Board which by its express terms is not so amendable or repealable;
5. appoint any committees of the Board or the members thereof;
6. expend corporate funds to support a nominee for Director after there are more people nominated for Director than can be elected;
7. approve any transaction:
    a) to which the Corporation is a party and one or more Directors have a material financial interest; or
    b) between the Corporation and one or more of its Directors or between the Corporation or any person in which one or more of its Directors have a material financial interest.

ARTICLE X: OFFICERS

Section 10.1: Officers

The officers of the Corporation shall be a Chair of the Board (if appointed by the Board), a President, one or more Vice Presidents (the number thereof to be determined by the Board), a Secretary, a Treasurer and such other officers as may be elected in accordance with the provisions of this Article X. Except insofar as their duties may conflict, any two or more offices may be held by the same person, except that neither the Secretary nor the Treasurer may serve concurrently as the President or Chair of the Board.

Section 10.2: Election and Term of Office

The officers of the Corporation, except such officers as may be appointed in accordance with the provisions of Section 10.3 or Section 10.5 of this Article X, shall be chosen annually by the Board, and each shall hold their office until they shall resign or shall be removed or otherwise disqualified to serve, or their successor shall be elected and qualified, subject to the rights, if any, of an officer under any contract of employment. New offices may be created and filled at any meeting of the Board. Each officer shall hold office until that officer's successor shall have been duly elected and shall have qualified.

Section 10.3: Subordinate Officers

The Board may appoint such other officers, including one or more assistant secretaries and one or more assistant treasurers, as it shall deem desirable, each such officer to have the authority and perform the duties prescribed from time to time by the Board and to hold office until they shall resign or shall be removed or otherwise disqualified to serve.

Section 10.4: Removal and Resignation

1. **Removal**. Any officer, other than the President, may be removed with or without cause. In the event such removal, the following procedures shall be implemented:

    a) A notice shall be sent by electronic mail and by prepaid, first-class, certified or registered mail to the most recent address of the officer if known by the Corporation, setting forth the removal and the reason for that removal. Such notice shall be sent at least seven (7) days before the proposed effective date of the removal.

    b) The officer being removed shall be given an opportunity to be heard, either orally or in writing, at a hearing to be held no fewer than five (5) days before the removal. The hearing shall be held by the Board. The notice

to the Officer of their proposed removal shall state that such member is entitled, upon request, to such hearing, shall state that a date, time and place of hearing will be established upon receipt of such a request, and shall state, that in the absence of such request, the effective date of the proposed removal.

c) Following the hearing, the Board shall decide whether the Officer should in fact be expelled, suspended, or sanctioned in some other way. The decision of the Board shall be final.

2. **Resignation**. Any officer may resign at any time by giving written notice to the Board or to the president or to the secretary of the Corporation. Any 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 resignation shall be without prejudice to the rights, if any, of the Corporation under any contract to which the officer is a party.

Section 10.5: Vacancies

A vacancy in any office, because of death, resignation, removal, disqualification or otherwise, may be filled by the Board for the unexpired portion of the term.

Section 10.6: Chair of the Board

The Chair of the Board, if there be such an officer, shall preside at all meetings of the Board of Directors and perform such other duties as the Directors may assign.

Section 10.7: President

The President shall act as the chief executive officer of the Corporation if no chief executive officer or executive director has been appointed by the Board and shall in general supervise and control all of the business and affairs of the Corporation. The President shall also act as the Chair if none has been appointed. The President may sign, with the secretary or any other proper officer of the Corporation authorized by the Board, any deeds, mortgages, bonds, contracts or other instruments that the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be specially designated by the Board or by these bylaws or by statute to some other officer or agent of the Corporation; and in general they shall perform all duties incident to the office of president and such other duties as may be prescribed from time to time by the Board.

Section 10.8: Vice President

In the absence of the president, or in the event of their inability or refusal to act, the vice president (or, if there be more than one vice president, the first vice president)

shall perform the duties of the president, and when so acting shall have all the powers and be subject to all the restrictions upon the president. The vice president shall have such other powers and perform such other duties as may be prescribed from time to time by the Board.

Section 10.9: Treasurer

The Treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and accounts of the Corporation's properties and transactions. The Treasurer shall send or cause to be given to the Directors such financial statements and reports as are required to be given by law, by these bylaws or by the Board. The books of account shall be open to inspection by any Director at all reasonable times.

The Treasurer shall deposit, or cause to be deposited, all money and other valuables in the name and to the credit of the Corporation with such depositories as the Board may designate, shall disburse the Corporation's funds as the Board may order, shall render to the president, Chair of the Board and the Board, when requested, an account of all transactions as Treasurer and of the financial condition of the Corporation and shall have such other powers and perform such other duties as the Board or these bylaws may prescribe.

If required by the Board, the Treasurer shall give the Corporation a bond, in the amount and with the surety or sureties specified by the Board, for faithful performance of the duties of the office and for restoration to the Corporation of all of its books, papers, vouchers, money and other property of every kind in the possession or under the control of the Treasurer on their death, resignation, retirement or removal from office.

Section 10.10: Secretary

The Secretary shall keep or cause to be kept the minutes of the meetings of the Board of Directors in one or more books provided for that purpose, see that all notices are duly given in accordance with the provisions of these bylaws or as required by law, be custodian of the corporate records and of the seal of the Corporation, see that the seal of the Corporation is affixed to all documents, the execution of which on behalf of the Corporation under its seal is duly authorized in accordance with the provisions of these bylaws, and in general perform all duties incident to the office of secretary and such other duties as pertain to the office or as prescribed from time to time by the Board of Directors.

Section 10.11: Assistant Treasurers and Assistant Secretaries

If required by the Board, the assistant treasurers shall give bonds for the faithful discharge of their duties, in such sums and with such sureties as the Board shall determine. The assistant treasurers and assistant secretaries, in general, shall perform such duties as shall be assigned to them by the treasurer or the secretary or by the president or the Board.

ARTICLE XI: INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES AND OTHER AGENTS

Section 11.1: Definitions

For the purpose of this Article XI:

1. "agent" means any person who is or was a Director, officer, employee, committee member or other agent of the Corporation; or is or was serving at the request of the Corporation as a Director, officer, employee or other agent of another foreign or domestic Corporation, partnership, joint venture, trust or other enterprise; or was a Director, officer, employee or other agent of a foreign or domestic Corporation that was a predecessor Corporation of the Corporation or of another enterprise at the request of the predecessor Corporation.

2. "proceeding" means any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative; and

3. "expenses" includes, without limitation, all attorneys' fees, costs and any other expenses incurred in the defense of any claims or proceedings against an agent by reason of their position or relationship as agent and all attorneys' fees, costs and other expenses incurred in establishing a right to indemnification under this Article XI.

Section 11.2: Successful Defense by Agent

To the extent that an agent of the Corporation has been successful on the merits in the defense of any proceeding referred to in this Article XI, or in the defense of any claim, issue or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection with the claim. If an agent either settles any such claim or sustains a judgment rendered against them, then the provisions of Sections 3 through 5 below shall determine whether the agent is entitled to indemnification.

Section 11.3: Actions Brought by Persons Other than the Corporation

Subject to the required findings to be made pursuant to Section 11.5 below, the Corporation shall indemnify any person who was or is a party, or is threatened to be made a party, to any proceeding, other than an action brought by, or on behalf of, the Corporation, or by an officer, Director or person granted related status by the Attorney General, or by the Attorney General on the ground that the defendant Director was or is engaging in self-dealing within the meaning of California Corporations Code Section 5233, or by the Attorney General or a person granted related status by the Attorney

General for any breach of duty relating to assets held in charitable trust, by reason of the fact that such person is or was an agent of the Corporation, for all expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with the proceeding.

Section 11.4: Actions Brought by or on Behalf of the Corporation

1. **Claims settled out of court**. If any agent settles or otherwise disposes of a threatened or pending action brought by or on behalf of the Corporation, with or without court approval, the agent shall receive no indemnification for either amounts paid pursuant to the terms of the settlement or other disposition or for any expenses incurred in defending against the proceeding.

2. **Claims and suits awarded against agent**. The Corporation shall indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action brought by or on behalf of the Corporation, by reason of the fact that the person is or was an agent of the Corporation, for all expenses actually and reasonably incurred in connection with the defense of that action, provided that both of the following are met:

   a) The determination of good faith conduct required by Section 11.5 below must be made in the manner provided for in that section; and

   b) Upon application, the court in which the action was brought must determine that, in view of all of the circumstances of the case, the agent should be entitled to indemnity for the expenses incurred.

   If the agent is found to be so entitled, the court shall determine the appropriate amount of expenses to be reimbursed.

Section 11.5: Determination of Agent's Good Faith Conduct

The indemnification granted to an agent in Sections 11.3 and 11.4 above is conditioned on the following:

1. **Required standard of conduct**. The agent seeking reimbursement must be found, in the manner provided below, to have acted in good faith, in a manner they believed to be in the best interest of the Corporation, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use in similar circumstances. The termination of any proceeding by judgment, order, settlement, conviction, or on a plea of *nolo contendere* or its equivalent, shall not, in itself, create a presumption that the person did not act in good faith or in a manner which they reasonably believed to be in the best interest of the Corporation or that they had reasonable cause to believe that their conduct was unlawful. In the case of a criminal proceeding, the person must have had no reasonable cause to believe that their conduct was unlawful.

2. **Manner of determination of good faith conduct**. The determination that the agent did act in a manner complying with paragraph a above shall be made by:

   a) the Board, by a majority vote of a quorum consisting of Directors who are not parties to the proceeding; or

   b) the court in which the proceeding is or was pending.

   Such determination may be made on application brought by the Corporation or the agent or the attorney or other person rendering a defense to the agent, whether or not the application by the agent, attorney or other person is opposed by the Corporation.

Section 11.6: Limitations

No indemnification or advance shall be made under this Article XI, except as provided in Section 11.2 or 11.5.2 above, in any circumstance when it appears:

1. That the indemnification or advance would be inconsistent with a provision of the Articles of Incorporation, a resolution of the Board or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in connection with which the expenses were incurred, or other amounts were paid, which prohibits or otherwise limits indemnification; or

2. That the indemnification would be inconsistent with any condition expressly provided by a court in approving a settlement.

Section 11.7: Advance of Expenses

Expenses incurred in defending any proceeding may be advanced by the Corporation before the final disposition of the proceeding, on receipt of an undertaking by or on behalf of the agent to repay the amount of the advance unless it is determined ultimately that the agent is entitled to be indemnified as authorized in this Article XI.

Section 11.8: Contractual Rights of Non-Directors and Non-Officers

Nothing contained in this Article XI shall affect any right to indemnification to which persons other than Directors and officers of the Corporation, or any subsidiary hereof, may be entitled by contract or otherwise.

Section 11.9: Insurance

The Board may adopt a resolution authorizing the purchase and maintenance of insurance on behalf of any agent of the Corporation against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such, whether or not the Corporation would have the power to indemnify the agent against

that liability under the provisions of this Article XI; provided, however, that the Corporation shall not have the power to purchase and maintain such insurance to indemnify any agent of the Corporation for a violation of Section 5233 of the California Corporations Code.

Section 11.10: Fiduciaries of Corporate Employee Benefit Plan

This Article XI does not apply to any proceeding against any trustee, investment manager or other fiduciary of an employee benefit plan in that person's capacity as such, even though that person may also be an agent of the Corporation as defined in Section 11.1.1 of this Article XI. Nothing contained in this Article XI shall limit any right to indemnification to which such a trustee, investment manager or other fiduciary may be entitled by contract or otherwise, which shall be enforceable to the extent permitted by applicable law.

ARTICLE XII: RECORDS AND REPORTS

Section 12.1: Maintenance and Inspection of Articles and Bylaws

The Corporation shall keep at its principal executive office, or if its principal executive office is not in the State of California, at its principal business office in such state, the original or a copy of the Articles of Incorporation and bylaws as amended to date.

Section 12.2: Maintenance and Inspection of Other Corporate Records

The accounting books, records and minutes of proceedings of the Board and any committee(s) of the Board shall be kept at such place or places designated by the Board, or, in the absence of such designation, at the principal executive office of the Corporation. The minutes shall be kept in written or typed form, and the accounting books and records shall be kept either in written or typed form or in any other form capable of being converted into written, typed or printed form.

ARTICLE XIII: INSPECTION BY DIRECTORS

Every Director shall have the absolute right at any reasonable time to inspect all books, records and documents of every kind and the physical properties of the Corporation and each of its subsidiary Corporations. This inspection by a Director may be made in person or by an agent or attorney, and the right of inspection includes the right to copy and make extracts of documents.

Section 13.1: Annual Report

An annual report shall be sent to the Directors within one hundred twenty (120) days of the close of the Corporation's fiscal year, containing the following information in

reasonable detail:

1. The assets and liabilities, including the trust funds, of the Corporation as of the end of the fiscal year.
2. The principal changes in assets and liabilities, including trust funds, during the fiscal year.
3. The revenue or receipts of the Corporation, both unrestricted and restricted to particular purposes, for the fiscal year.
4. The expenses or disbursements of the Corporation, for both general and restricted purposes, during the fiscal year.
5. Any information required by California Corporations Code Section 6322.

ARTICLE XIV: CONTRACTS, CHECKS AND GIFTS

Section 14.1: Contracts

The Board, except as otherwise provided in these bylaws, may authorize any officer or officers, or any agent or agents, to enter into any contract or execute any instrument in the name and on behalf of the Corporation, and such authority may be general or confined to specific instances; and unless so authorized by the Board, no officer, agent or employee shall have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or in any amount.

Section 14.2: Checks, Drafts, Etc

All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness, issued in the name of or payable to the Corporation, shall be signed or endorsed by such person or persons and in such manner as, from time to time, shall be determined by resolution of the Board. In the absence of such determination by the Board, such instruments shall be signed by the treasurer or an assistant treasurer and countersigned by the president or a vice president of the Corporation.

Section 14.3: Gifts

The Board of Directors may accept on behalf of the Corporation any contribution, gift, bequest or devise for the general purposes or for any specific purpose of the Corporation.

ARTICLE XV: FISCAL YEAR

The fiscal year of the Corporation shall begin on the first day of October and end on the last day of September in each year.

ARTICLE XVI: CONSTRUCTION AND DEFINITION

Unless the context requires otherwise, the general provisions, rules of construction and definitions in the CNPBCL shall govern the construction of these bylaws. Without limiting the generality of the above, the masculine gender includes the feminine and neuter, the singular number includes the plural, the plural number includes the singular, and the term "person" includes both the Corporation and a natural person.

ARTICLE XVII: AMENDMENTS

Any member can propose the adoption, amendment or repealing of the Bylaws. In the event of such a proposal, the following procedures shall be implemented:

1. The members shall be provided with the reasonable means to comment upon and/or object to any such proposal for twenty one (21) days
2. The proposal shall be sent to the membership and shall be posted on `http://foundation.gnome.org` by the Board
3. In the event that five percent or more of the members object to the proposal, a special meeting of the members shall be convened in accordance with the provisions of Article VII, and the proposal shall be voted upon
4. In the event that five percent or more of the members do not object to the proposal, then the proposal shall be adopted by the Board to the extent permitted by CNPBCL Section 5150(a).

ARTICLE XVIII: MISCELLANEOUS PROVISIONS

Section 18.1: Representation of Shares of Other Corporations

The president, or such other officers as the Board may select for that purpose, are authorized to vote, represent and exercise on behalf of the Corporation all rights incident to any and all voting securities of any other Corporations standing in the name of the Corporation. The authority herein granted to said officers to vote or represent on behalf of the Corporation any and all voting securities held by the Corporation in any other Corporations may be exercised either by such officers in person or by any person authorized to do so by proxy or power of attorney duly executed by such officer.

Section 18.2: Inspection of Bylaws

These bylaws, as amended or otherwise altered to date, certified by the secretary shall be open to inspection by the Directors at all reasonable times during office hours.