

**BYLAWS**  
**OF**  
**U.S. KIMBERLEY PROCESS AUTHORITY INSTITUTE**  
**(formed under the Delaware General Corporation Law)**

**ARTICLE I**

**OFFICES**

**SECTION 1.01        PRINCIPAL OFFICE.**

The principal office for the transaction of the business of the U.S. KIMBERLY PROCESS AUTHORITY INSTITUTE (the "Corporation") shall be located within or without the State of Delaware, at such place as the board of directors of the Corporation (the "Board of Directors") shall from time to time designate. The Board of Directors may change the principal office from one location to another. Any change of this location shall be noted by the secretary on these bylaws (the "Bylaws") opposite this section, or this section may be amended to state the new location.

**SECTION 1.02.        OTHER OFFICES.**

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

**ARTICLE II**

**OBJECTIVES AND PURPOSES**

The specific and primary purpose of the Corporation is to act in furtherance of the common business interests of, and to improve business conditions among, participants in the U.S. diamond industry, all within the meaning of an in accordance with the exempt purposes set forth in Section 501(c)(6) of the Code, by designing, controlling and issuing Kimberly Process Certificates for use when exporting rough diamonds from the United States, such certificates to be issued in compliance with the provisions of the Kimberly Process, United Nations mandates and laws and regulations of the United States applicable to such export. As used herein, the term "Code" refers to the Internal Revenue Code of 1986, as amended. Reference to a particular section of the Code refers to corresponding provisions of any future United States internal revenue law and reference to the "Kimberly Process" is to the international certification scheme for exports and imports of rough diamonds established through a series of multi-national meetings during the years 2000 through 2002.

### **ARTICLE III**

#### **NON-PROFIT ACTIVITIES**

The Corporation is a nonprofit corporation and is not organized for the private gain of any person. It is organized under the Delaware General Corporation Law applicable to nonstock corporations. This 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 below.

### **ARTICLE IV**

#### **DEDICATION OF ASSETS**

The property of the Corporation is irrevocably dedicated to the uses described in Section 501(c)(6) of the Code. No part of the net earnings or assets of the Corporation shall ever inure to the benefit of any Director, officer or member of the Corporation or to the benefit of any private individual whatsoever (except that reasonable compensation may be paid for services rendered to or for the Corporation affecting one or more of its purposes). Upon the dissolution or winding up of the Corporation, after paying or adequately providing for the debts and obligations thereof, any remaining assets shall be distributed for one or more exempt purposes within the meaning of Section 501(c)(6) of the Code.

### **ARTICLE V**

#### **MEMBERS**

The Corporation shall have no members. The Board of Directors shall exercise the rights that members would otherwise have under the Delaware General Corporation Law applicable to nonstock corporations or any other applicable law.

### **ARTICLE VI**

#### **DIRECTORS**

##### **SECTION 6.01. POWERS**

6.01 (a) Corporate powers. Subject to the provisions of the Delaware General Corporation Law and any limitations in the Certificate of Incorporation and these Bylaws, 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 of Directors (members of the Board of Directors are sometimes hereinafter referred to as "Directors"). Without prejudice to these general powers, and subject to the same limitations, the Directors shall have the power to:

- (i) 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 Certificate of Incorporation and with these Bylaws; fix their compensation; and require from them security for faithful service.

- (ii) Conduct, manage and control the affairs and business of the Corporation, and make such rules and regulations therefor not inconsistent with law, with the Certificate of Incorporation or with these Bylaws, as they may deem best.
- (iii) Change the principal executive office or the principal business office in the State of Delaware 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 Delaware; and designate any place within or outside the State of Delaware for the holding of any meeting or meetings. including annual meetings.
- (iv) Adopt, make and use a corporate seal; and alter the form of the seal.
- (v) 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.

6.01 (b) Voting and other rights. Any action which would by operation of law or otherwise require a vote of members shall require only a vote of the Directors. All rights which would, by operation of law or otherwise, vest in the members shall vest in the Directors.

#### **SECTION 6.02. NUMBER AND QUALIFICATION OF DIRECTORS**

The authorized number of Directors shall be not less than three (3) nor more than ten (10), the exact number to be fixed from time to time by a majority of the then authorized and acting Directors. The initial authorized number of Directors of the Corporation shall be three (3) until changed by the Directors. No reduction of the authorized number of Directors shall have the effect of removing any Director prior to the expiration of said Director's term of office, unless a Director is affirmatively removed as hereinafter provided. Directors need not be residents of the State of Delaware; however, directors shall be qualified through their experience as officers or employees of organizations engaged in (i) the diamond trade, (ii) the distribution or retail sale of diamonds or diamond jewelry, (iii) the export or import of diamonds, or (iii) the furtherance of the business interests of the diamond industry, such as trade associations, service providers or financiers.

#### **SECTION 6.03. ELECTION AND TERM OF OFFICE OF DIRECTORS**

Directors shall be elected at each annual meeting of the Board of Directors to hold office until the next annual meeting by plurality vote of the Directors in office immediately preceding the election; however, if an annual meeting is not held or the Directors are not elected at an annual meeting, they may be elected at any special meeting of the Board of Directors held for that purpose by plurality vote of the Directors in office immediately preceding the election. Each Director, including a Director elected to fill a vacancy or elected at a special meeting, shall hold office until expiration of the term for which elected and until a successor has been elected and qualified.

#### **SECTION 6.04. VACANCIES**

6.04 (a) Events causing vacancy. A vacancy or vacancies in the Board of Directors shall be deemed to exist on the occurrence of the following: (i) the death or resignation of any Director; (ii) the declaration

by resolution of the Board of Directors of a vacancy of the office of a Director who has been declared of unsound mind by a final 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 the Delaware General Corporate Law; (iii) the vote of a majority of the Directors then in office to remove a Director; (iv) an increase in the authorized number of Directors; or (v) the failure to elect the number of Directors to be elected at a meeting at which any Director or Directors are to be elected.

6.04 (b) Resignations. Except as provided in this paragraph, any Director may resign, which resignation shall be effective on giving written notice to the chairman 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 as of the date when the resignation becomes effective.

6.04 (c) Vacancies filled by Directors. Vacancies in the Board of Directors may be filled by the affirmative vote of a majority of the remaining Directors then in office, though less than a quorum, or by the sole remaining Director. Each Director elected to fill a vacancy shall hold office until the expiration of the term for which elected and until a successor has been elected and qualified.

6.04 (d) 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.

#### **SECTION 6.05. PLACE OF MEETINGS; MEETINGS BY TELEPHONE**

Regular meetings of the Board of Directors may be held at any place within or outside the State of Delaware that has been designated from time to time by resolution of the board. 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 Delaware 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 6.05, a regular or special meeting of the Board of Directors may be held at any place consented to in writing by all Directors, 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, electronic video screen communication or similar communication equipment, as 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, subject to any requirements of law.

#### **SECTION 6.06. ANNUAL MEETING**

An annual meeting of the Board of Directors shall be held for the purpose of organization, election of Directors and officers and the transaction of other business. Notice of this meeting shall not be required.

#### **SECTION 6.07. OTHER REGULAR MEETINGS**

Other regular meetings of the Board of Directors shall be held without call at such time as shall from time to time be fixed by the Board of Directors. Such regular meetings may be held without notice.

#### **SECTION 6.08. SPECIAL MEETINGS**

6.08 (a) Authority to call. Special meetings of the Board of Directors for any purpose may be called at

any time by the chairman of the board, the president, any vice president, the secretary or any two Directors.

6.08 (b) Notice.

- (i) Manner of giving. Notice of the time and place of special meetings shall be given to each Director by one of the following methods: (a) by personal delivery or written notice;(b) by first-class mail, postage paid;(c) by telephone communication , 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, and including a voice messaging system or other system or technology designed to record and communicate messages; (d) by telegram, charges prepaid; (e) by facsimile; or (f) by electronic mail or other electronic means. All such notices shall be given or sent to the Director's address, telephone number, facsimile number or e- mail address as shown on the records of the Corporation.
- (ii) Time requirements. Notices sent by first class mail shall be deposited into a United States mail box at least four days before the time set for the meeting. Notices given by personal delivery, telephone, telegraph, facsimile or electronic mail or other electronic means shall be delivered, telephoned, given to the telegraph company or sent by facsimile or electronic mail or other electronic means at least 48 hours before the time set for the meeting.
- (iii) Notice contents. The notice shall state the time and place for the meeting. It need not specify the purpose of the meeting and it need not specify the place of the meeting if it is to be held at the principal executive office of the Corporation.

**SECTION 6.09. 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 (a) a quorum is present, and (b) 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 6.10. ADJOURNMENT**

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

**SECTION 6.11. 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 24 hours, in which case 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 the adjournment.

**SECTION 6.12 ACTION WITHOUT MEETING**

Any action required or permitted to be taken by the Board of Directors may be taken without a meeting, if all members of the board, individually or collectively, consent in writing to that action. Such action by written consent shall have the same force and effect as a unanimous vote of the Board of Directors. Such written consent or consents shall be filed with the minutes of the proceedings of the Board of Directors.

#### **SECTION 6.13. FEES AND COMPENSATION OF DIRECTORS**

Directors and members of committees may receive such compensation, if any, for their services, and such reimbursement of expenses, as may be determined by resolution of the Board of Directors to be just and reasonable.

#### **SECTION 6.14. NO LIABILITY OF DIRECTORS**

No Director shall be personally liable for the debts, liabilities or obligations of this Corporation. The Directors of this Corporation shall have no liability for dues or assessments.

### **ARTICLE VII**

#### **COMMITTEES**

#### **SECTION 7.01. COMMITTEES OF DIRECTORS**

The Board of Directors may, by resolution adopted by a majority of the Directors then in office, designate one or more committees (a "Committee"), each consisting of two or more Directors, to serve at the pleasure of the Board of Directors. Any Committee, to the extent provided in the resolution of the Board of Directors, shall have all the authority of the Board of Directors, except that no Committee, regardless of board resolution, may:

- (a) take any final action on matters which, under the Delaware General Corporation Law, also requires members' approval or approval of a majority of all the members;
- (b) fill vacancies on the Board of Directors or in any committee which has the authority of the Board of Directors;
- (c) fix compensation of the Directors for serving on the Board of Directors or on any committee;
- (d) amend the Certificate of Incorporation;
- (e) amend or repeal Bylaws or adopt new Bylaws;
- (f) amend or repeal any resolution of the Board of Directors which by its express terms is not so amendable or repealable;
- (g) appoint any other committees of the Board of Directors or the members of these committees;
- (h) expend corporate funds to support a nominee for Director after there are more people nominated for Director than can be elected;
- (i) adopt an agreement of merger or consolidation;
- (j) except as allowed by Section 144 of the Delaware General Corporation Law, approve any transaction (i) to which the Corporation is a party and one or more Directors have a material financial interest; or (ii) between the Corporation and one or more of its Directors or between the

Corporation and any person in which one or more of its Directors have a material financial interest.

#### **SECTION 7.02. MEETINGS AND ACTION OF COMMITTEES**

Meetings and action of committees shall be governed by, and held and taken in accordance with, the provisions of Article VI of these Bylaws, concerning meetings of Directors, with such changes in the context of those Bylaws as are necessary to substitute the Committee and its members for the Board of Directors and its members, except that the time for regular meetings of committees may be determined either by resolution of the Board of Directors or by resolution of the Committee, and that special meetings of Committees may also be called by resolution of the Board of Directors or by resolution of the Committee. Notice of special meetings of Committees shall also be given to all alternate members of the Committee, who shall have the right to attend all meetings of the Committee. Minutes shall be kept of each meeting of any committee and shall be filed with the corporate records. The Board of Directors may adopt rules for the government of any Committee not inconsistent with the provisions of these Bylaws.

#### **SECTION 7.03. SERVICE OF COMMITTEES**

Each Committee shall serve at the pleasure of the Board of Directors. The designation of any such Committee and the delegation thereto of authority shall not alone relieve any Director of his or her duty under law to the Corporation.

### **ARTICLE VIII**

#### **OFFICERS, AGENTS AND EMPLOYEES**

#### **SECTION 8.01. OFFICERS**

The officers of the Corporation shall be a chairman of the board, a secretary and a chief financial officer. This Corporation may also have, at the discretion of the Board of Directors, a president, more than one vice president, one or more assistant secretaries, one or more assistant chief financial officers, and such other officers as may be appointed in accordance with the provisions of Section 8.03. Any number of offices may be held by the same person.

#### **SECTION 8.02. ELECTION OF OFFICERS**

The officers of the Corporation, except those appointed in accordance with the provisions of Section 8.03 shall be chosen by the Board of Directors, and each shall serve at the pleasure of the board, subject to the rights, if any, of an officer under any contract of employment.

#### **SECTION 8.03. SUBORDINATE OFFICERS**

The Board of Directors may appoint, and may authorize the chairman of the board or the president or another officer to appoint, any other officers that the business of the Corporation may require, each of whom shall have the title, hold office for the period, have the authority and perform the duties specified in the Bylaws or determined from time to time by the Board of Directors.

#### **SECTION 8.04. REMOVAL OF OFFICERS**

Subject to the rights, if any, of an officer under any contract of employment, any officer may be removed, with or without cause, by the Board of Directors, at any regular or special meeting of the board, or, except in case of an officer chosen by the Board of Directors, by an officer on whom such power of removal may be conferred by the Board of Directors.

#### **SECTION 8.05. RESIGNATION OF OFFICERS**

Any officer may resign at any time by giving written notice to the Corporation. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice; and, unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the Corporation under any contract to which the officer is a party.

#### **SECTION 8.06. VACANCIES IN OFFICES**

A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled only in the manner prescribed in these Bylaws for regular appointments to that office.

#### **SECTION 8.07. RESPONSIBILITIES OF OFFICERS**

8.07 (a) Chairman of the Board. If such an officer be elected, the chairman of the board shall preside at meetings of the Board of Directors and exercise and perform such other powers and duties as may be from time to time assigned to the chairman of the board by the Board of Directors or prescribed by these Bylaws. If there is no president, the chairman of the board shall, in addition, be the chief executive officer of the Corporation and shall have the powers and duties prescribed in Section 8.07(b).

8.07 (b) President. Subject to such supervisory powers as may be given by the Board of Directors to the chairman of the board, if any, the president shall be the chief executive officer of the Corporation and shall, subject to the control of the Board of Directors, generally supervise, direct and control the business and the officers of the Corporation. The president shall preside, in the absence of the chairman of the board or if there be none, at all meetings of the Board of Directors. The president shall have such other powers and duties as may be prescribed by the Board of Directors or by these Bylaws.

8.07 (c) Vice presidents. In the absence or disability of the president, the vice presidents, if any, in order of their rank as fixed by the Board of Directors or, if not ranked, a vice president designated by the Board of Directors, shall perform all the duties of the president and, when so acting, shall have all the powers of, and be subject to all the restrictions upon, the president. The vice presidents shall have such other powers and perform such other duties as from time to time may be prescribed for them respectively by the Board of Directors or by these Bylaws.

8.07 (d) Secretary. The secretary shall attend to the following:

- (i) Book of minutes. The secretary shall keep or cause to be kept, at the principal executive office or such other place as the Board of Directors may direct, a book of minutes of all meetings and actions of Directors and committees of Directors, with the time and place of holding, whether regular or special, and, if special, how authorized, the notice given, the names of those present at such meetings, and the proceedings of such meetings.



- (ii) Membership records. The secretary shall keep, or cause to be kept, at the principal executive office or such other place as the Board of Directors may direct, a record of the corporation's Directors, showing the names of a Director and their address.
- (iii) Notices, seal and other duties. The secretary shall give, or cause to be given, notice of all meetings of the Board of Directors required by the Bylaws to be given. The secretary shall keep the seal of the Corporation in safe custody. The secretary shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or by these Bylaws. If for any reason the secretary shall fail to give notice of any special meeting of the Board of Directors called by one or more of the persons identified in Section 7.08(a), then any such person or persons may give notice of any such special meeting.

8.07 (e) Chief financial officer. The chief financial officer shall attend to the following:

- (i) Books of account. The chief financial officer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and records of accounts of the properties and business transactions of the Corporation, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital, retained earnings and other matters customarily included in financial statements. The books of account shall be open to inspection by any director at all reasonable times.
- (ii) Deposit and disbursement of money and valuables. The chief financial officer shall deposit all money and other valuables in the name and to the credit of the Corporation with such depositories as may be designated by the Board of Directors; shall disburse the funds of the Corporation as may be ordered by the Board of Directors; shall render to the president and Directors, whenever they request it, an account of all of his transactions as chief financial officer and of the financial condition of the Corporation; and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or by these Bylaws.
- (iii) Duties of president. In the absence or disability of the president, and if there be no vice presidents or if no vice presidents are present and available, the chief financial officer shall perform all the duties of the president and, when so acting, shall have all the powers of, and be subject to all the restrictions upon, the president.
- (iv) Bond. If required by the Board of Directors, the chief financial officer 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 his or her office and for restoration to the Corporation of all its books, papers, vouchers, money and other property of every kind in the possession or under the control of the chief financial officer on his or her death, resignation, retirement, or removal from office.

## **SECTION 8.08. AGENTS AND EMPLOYEES**

The Board of Directors may appoint agents and employees who shall have such authority and perform such duties as may be prescribed by the Board. The Board may remove any agent or employee at any time with or without cause. Removal without cause shall be without prejudice to such person's contract rights, if any, and the appointment of such person shall not itself create contract rights.

## **SECTION 8.09. FEES AND COMPENSATION OF OFFICERS, AGENTS AND**

## **EMPLOYEES**

The Corporation may pay compensation in reasonable amounts to officers for services rendered, such amounts to be fixed by a majority of the entire Board of Directors. The Corporation may pay compensation in reasonable amounts to agents and employees for services rendered, such amount to be fixed by the Board or, if the Board delegates power to any officer or officers, then by such officer or officers. The Board may require officers, agents or employees to give security for the faithful performance of their duties.

## **ARTICLE IX**

### **INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES, AND OTHER AGENTS**

#### **SECTION 9.01. INDEMNIFICATION OF CORPORATE AGENTS**

To the full extent permitted by then applicable law, the Corporation shall reimburse, indemnify and hold harmless each agent of the Corporation who is or has been a party or is threatened to be made a party to any proceeding, except as prohibited by law, by reason of the fact that such person is or has been an agent of the Corporation, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding if such person acted in good faith and in a manner such person reasonably believed to be in the best interests of the Corporation and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful. The termination of any proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in the best interests of the Corporation or that the person had reasonable cause to believe that his conduct was unlawful. There shall be no indemnification pursuant to this Article in respect of any claim, issue, or matter as to which the person shall have been adjudged to be liable to the Corporation unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability, and in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper.

#### **SECTION 9.02. STANDARD OF CONDUCT**

Indemnification as provided in Section 9.01 shall be made by the Corporation only if authorized in a specific case, upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in title 8, Section 145 (a) and (b) of the Delaware General Corporation Law, by a majority vote of a quorum consisting of Directors who are not parties to such proceedings, or by the court in which such proceeding is or was pending upon application made by the Corporation or the agent or the attorney or other person rendering services in connection with the defense.

#### **SECTION 9.03. SUCCESSFUL DEFENSE BY AGENT**

To the extent that an agent of the Corporation has been successful on the merits in defense of any proceeding referred to in this Article, or in defense of any claim, issue or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection therewith.

#### **SECTION 9.04. ADVANCE OF EXPENSES**

This corporation shall advance funds to be used for expenses incurred in defending any proceeding, prior to the final disposition of such proceeding, upon approval by a majority of the authorized number of Directors and upon receipt of an undertaking by or on behalf of the recipient to repay such amount unless it shall be determined ultimately that he is entitled to be indemnified as authorized in this Article or by applicable law.

#### **SECTION 9.05. SCOPE OF INDEMNIFICATION**

The right of indemnification provided in this Article shall inure to each person referred to in this Article and, in the event of such person's death, shall extend to such person's legal representatives. The right of indemnification provided in this Article shall not be exclusive of any other rights to which any such person, or any other individual, may be entitled as a matter of law (including, without limitation, such person's rights under Section 145 of the Delaware General Corporation law), or under any agreement, vote of the Directors or otherwise.

### **ARTICLE X**

#### **RECORDS AND REPORTS**

##### **SECTION 10.01. MAINTENANCE OF CORPORATE RECORDS**

The corporation shall keep:

- (a) Adequate and correct books and records of account;
- (b) Minutes in written form of the proceedings of its board and committees of the board;
- (c) A record of its Directors, giving their names and addresses.

All such records shall be kept at the Corporation's principal executive office.

##### **SECTION 10.02. MAINTENANCE AND INSPECTION BY DIRECTORS**

This Corporation shall keep at its principal executive office the original or a copy of the Certificate of Incorporation and Bylaws as amended to date. 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 10.03. ANNUAL REPORT TO DIRECTORS**

10.03 (a) Not later than 120 days after the close of the Corporation's fiscal year, the board shall cause an annual report to be sent to the Directors. Such report shall contain the following information in reasonable detail:

- (i) The assets and liabilities, including the trust funds, of the Corporation as of the end of the fiscal

year

- (ii) The principal changes in assets and liabilities, including trust funds, during the fiscal year.
- (iii) The revenue or receipts of the Corporation, both unrestricted and restricted to particular purposes, for the fiscal year.
- (iv) The expenses or disbursements of the Corporation, for both general and restricted purposes, during the fiscal year.
- (v) Any information required by Section 9.04.

10.03 (b) The report required by this Section shall be accompanied by any report thereon of independent accountants, or, if there is no such report, by the certificate of an authorized officer of the Corporation that such statements were prepared without audit from the books and records of the Corporation.

#### **SECTION 10.04. ANNUAL STATEMENT OF CERTAIN TRANSACTIONS AND INDEMNIFICATIONS**

No later than the time the Corporation gives its annual report, if any, and in any event no later than 120 days after the close of the Corporation's fiscal year, the Corporation shall prepare and mail or deliver to each director a statement of the amount and circumstances of any transaction or indemnification of the following kind:

10.04 (a) Each transaction, involving more than \$20,000 or which was one of a number of transactions with the same person involving in the aggregate more than \$20,000, in which the Corporation, its parent or its subsidiary was a party, and in which either of the following had a direct or indirect financial interest:

- (i) Any director or officer of the Corporation, its parent or subsidiary (a mere common Directorship shall not be considered such an interest); or
- (ii) Any holder of more than 9% of the voting power of the Corporation, its parent or its subsidiary.

10.04 (b) Any indemnifications or advances aggregating more than \$9,000 paid during the fiscal year to any officer or director of the Corporation pursuant to Article IX hereof.

#### **SECTION 10.05. CONTRACTS, ETC., HOW EXECUTED**

The Board of Directors, except as otherwise provided in these Bylaws, may authorize any officer or officer, agent or agents to enter into any contract or execute any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances; and unless so authorized by the Board of Directors, 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.

### **ARTICLE XI**

#### **CONSTRUCTION AND DEFINITIONS**

Unless the context requires otherwise, the general provisions, rules of construction and definitions in the Delaware General Corporation Law 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 a natural person, corporation, partnership, joint venture, trust or other entity.

**ARTICLE XII**

**AMENDMENTS**

Except as otherwise provided in these Bylaws, the Board of Directors may adopt, amend or repeal Bylaws, provided that, if any provision of these Bylaws requires the vote of a larger proportion of the Directors than otherwise required by law, such provision may not be altered, amended or repealed except by vote of such larger number of Directors.

**CERTIFICATE OF SECRETARY**

I, the undersigned, certify that I am the presently elected and acting Secretary of the \_\_\_\_\_, a Delaware nonprofit public benefit corporation, and the above Bylaws, consisting of 16 pages, are the Bylaws of the Corporation as adopted at a meeting of the Directors dated \_\_\_\_\_, 2003.

Dated: \_\_\_\_\_, 2003.

\_\_\_\_\_  
\_\_\_\_\_, Secretary