

RESTATED AND AMENDED BYLAWS

OLD ORCHARD ASSOCIATION I

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**RESTATED AND AMENDED BYLAWS OF
OLD ORCHARD ASSOCIATION I**

**ARTICLE I
RECITALS AND DEFINITIONS**

Section 1. Name. The name of the association is the Old Orchard Association I (the "Association"). The principal office of the Association shall be at such place in the County of Los Angeles as the Board of Directors may designate from time to time.

Section 2. Association Is Nonprofit. The Association has been formed pursuant to the California Nonprofit Mutual Benefit Corporation Law as a nonprofit mutual benefit corporation.

Section 3. Definitions. Unless expressly indicated to the contrary, the terms used herein shall have the following meanings:

(a) **Declaration.** That certain Restated and Amended Declaration of Covenants, Conditions and Restrictions for the Old Orchard Association I recorded July 6, 1967 in the Office of the County Recorder of Los Angeles County as Instrument No. 3665 in Book M2598 pages 91-118, and all amendments thereto.

(b) **Additional Terms.** The balance of the terms defined in the Declaration shall have the same meaning when used in these Bylaws as when used in the Declaration.

Section 4. Purpose. The Association has been formed for the purpose of exercising the powers and performing the duties of the Association set forth in these Bylaws, the Articles and the Declaration.

**ARTICLE II
MEMBERSHIP AND VOTING RIGHTS**

Section 1. Qualifications. Every Owner of a Lot shall be a Member of the Association. If a Lot is owned by more than one Owner all such Owners shall be Members of the Association; provided, however, that for the purposes of the representation of such Lot with regard to the affairs of the Association and the voting of the Members of the Association such Lot shall be exercised by and entitled to only one (1) vote which shall be exercised and cast in accordance with the provisions of these Bylaws. Ownership of a Lot within the Covered Property shall be the sole qualification for membership in the Association.

Section 2. Eligibility To Vote. Only Members in good standing shall be entitled to vote on any issue or matter presented to the Members for approval. In order to be in good standing, a Member must be current in the payment of all Assessments levied against the Member's Lot and not be subject to any suspension as a result of any disciplinary proceeding conducted in accordance with the Declaration or Bylaws. A Member's good standing shall be determined as of the record date established in accordance with Article V Section 12. A Member who owns more than one Lot shall be ineligible to vote if that Member is delinquent with respect to any such Lot.

Section 3. Transfer. The Association membership of each Owner shall be appurtenant to the Lot giving rise to such membership, and shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon the transfer of title to said Lot and then only to the transferee of title to said Lot. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Lot shall

operate automatically to transfer the membership in the Association appurtenant thereto to the new Owner thereof.

Section 4. Joint Owner Disputes. The vote, or votes, for each Lot may be cast only as a unit, and fractional votes shall not be allowed. In the event that joint Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Owner or Owners cast a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he or they were acting with the authority and consent of all other Owners of the same Lot.

Section 5. Members' Rights and Duties. Each Member shall have the rights, duties and obligations set forth in these Bylaws, the Articles and the Declaration, as the same may be amended from time to time.

Section 6. Cumulative Voting. Cumulative voting shall not be permitted.

ARTICLE III MEMBERSHIP ASSESSMENTS AND LIEN RIGHTS

Section 1. Membership Assessments. All Assessments of the Members provided for in the Declaration shall be paid by the Members at the time, in the manner and subject to the conditions and limitations set forth in the Declaration, and the Board shall fix, levy, collect and enforce such Assessments at the time, in the manner and subject to the limitations set forth in the Declaration.

Section 2. Enforcement, Lien Rights. For the purpose of enforcing and collecting Assessments, this Association shall have the lien rights set forth in the Declaration, which lien rights shall be enforceable by the Board in the manner set forth in the Declaration. The Board shall also have and be entitled to exercise all other rights and remedies set forth in the Declaration or otherwise provided for at law or in equity.

ARTICLE IV MEMBERSHIP RIGHTS AND PRIVILEGES

Section 1. Rights and Privileges of Members. No Member shall have the right, without the prior approval of the Board, to exercise any of the powers or to perform any of the acts delegated to the Board by these Bylaws, or the Declaration. Each Member shall have all of the rights and privileges including, but not limited to, property rights and rights to access over, and use and enjoyment in and to the Common Areas granted to the Members by these Bylaws and the Declaration subject to such limitations as may be imposed in accordance therewith.

Section 2. Association Rules. The Board shall also have the exclusive power to adopt, amend, and repeal such rules and regulations as it deems reasonable (the "Association Rules") which may include the establishment of a system of fines and penalties enforceable as Remedial Assessments. The Association Rules shall govern such matters in furtherance of the purposes of the Association, including without limitation, the use of the Common Areas; provided, however, that the Association Rules may not discriminate among Owners, and shall not be inconsistent with the Declaration, the Articles or Bylaws. A copy of the Association Rules as they may from time to time be adopted, amended or repealed or a notice setting forth the adoption, amendment or repeal of specific portions of the Association Rules shall be delivered to each Owner in the same manner established in the Declaration for the delivery of notices. Upon completion of the notice requirements, said Association Rules shall have the same force and effect as, if they were set forth in and were a part of the Declaration and shall be binding on the Owners and

their successors in interest whether or not actually received thereby. The Association Rules, as adopted, amended or repealed, shall be available at the principal office of the Association to each Owner upon request. In the event of any conflict between any such Association Rules and any other provisions of the Declaration, or the Articles and Bylaws, the provisions of the Association Rules shall be deemed to be superseded by the provisions of the Declaration, the Articles or the Bylaws to the extent of any such conflict.

Section 3. Suspension of Voting Rights; Imposition of Monetary Penalties. After the meeting of the Board, as provided below, the Board shall have the right to suspend the voting rights of any Member or Members for the period during which any Assessment owed by such Member remains unpaid and delinquent. The Board shall also have the right to suspend such voting right for a period not to exceed thirty (30) days and to impose monetary penalties for any other failure to comply with the Declaration or the Association Rules by any Member, his servants, guests, tenants, invitees or the members of his family; provided that any suspension of voting rights shall be made or monetary penalties imposed by the Board only after a meeting of the Board, at which a quorum of the Board is present, duly called and held for such purpose in the same manner as provided in these Bylaws for the noticing, calling and holding of a special meeting of the Board.

Written notice of such meeting, including notice of the proposed actions of the Board and the reasons therefor, shall be given as in the manner described for special meetings of the Board to the Member whose voting rights are being sought to be suspended or against whom monetary penalties are sought to be imposed. Such notice shall indicate the effective date of such suspension or imposition of monetary penalties which date shall not be less than fifteen (15) days from the date such notice is given. Such notice shall be given either by personal delivery or deposited in the United States mail, certified or registered, postage and fees prepaid, return receipt requested, addressed to such Member either at the address of his Residence in the Covered Property or the address given to the Association by him for the purpose of giving notice. Such notice, if mailed, shall be deemed given and received twenty-four (24) hours after being so deposited in the United States mail.

The Member whose voting rights are being sought to be suspended or against whom monetary penalties are sought to be imposed shall be entitled to appear at such meeting not less than five (5) days before the effective date of the suspension or imposition of monetary penalties and present his case as to why voting rights should not be suspended or such monetary penalties should not be imposed. The decision as to whether such rights should be suspended or such monetary penalties should be imposed shall be made by a majority of the members of the Board present at such meeting and shall be binding upon all Members. No action taken at such meeting shall be effective unless a quorum of the Board is present. No suspension of voting rights or imposition of monetary penalties shall be effective unless and until written notice has been given to the Member of the suspension or imposition of monetary penalties and the reason(s) therefor and the effective date of such suspension or imposition of monetary penalties is indicated in said notice. The Member may challenge such suspension or imposition of monetary penalties as described in Section 7341(e) of the California Nonprofit Mutual Benefit Corporation Law.

The remedies described above shall not limit the right of the Board to establish a schedule of late payment charges to be imposed on any Member for nonpayment of Assessments. Said late payment charges shall be separate and in addition to the remedies described above.

ARTICLE V MEETINGS OF MEMBERS

Section 1. Place of Meeting. All meetings of the Members shall be held within the Covered Property or as close thereto as may be practical.

Section 2. Annual Meeting of Members. There shall be an annual meeting of the Members in February of each year. The date, time, and location of the meeting shall be established by the Board and set forth in the notice of meeting sent to the Members. At all annual meetings, the Members shall elect a Board of Directors in accordance with the requirements of these Bylaws. The Members may also transact such other business of the Association as may properly come before them at such annual meeting.

Written notice of each annual meeting shall be given to each Member by the Secretary in the manner hereinafter provided. All such notices of any annual meeting shall be sent to each Member not less than ten (10) days and not more than ninety (90) days before such meeting, and shall specify the place, the day and the hour of such meeting and shall generally state those matters which the Board, at the time of mailing of the notice intends to present for action by the Members (but any proper matter may be presented for action at such meeting). The notice of any meeting at which Directors are to be elected shall include the names of those who are nominees at the time the notice is sent to Members.

Section 3. Special Meetings. Special meetings of Members, for any purpose or purposes whatsoever, may be called at any time by the President of the Association or by the Board, and the Board shall promptly schedule a special meeting in response to a written request for a special meeting signed by Members representing at least five percent (5%) of the total Voting Power of all Members. Except in special cases where other express provision is made by statute, these Bylaws or the Declaration, notice of such special meetings shall be given in the same manner as for annual meetings and may be given by any person or persons entitled to call such meeting. Notices of any special meetings shall specify in addition to the place, day and hour of such meeting, the general nature of the business to be transacted (and no other business may be transacted).

If a special meeting is requested by Members, the request shall be submitted by such Members in writing, specifying the general nature of the business proposed to be transacted, and shall be delivered personally or sent by registered mail or by telegraphic or other facsimile transmission to the President, any Vice-President or the Secretary of the Association. The Officer receiving the request shall cause notice to be promptly given to the Members entitled to vote, that a meeting will be held, and the date for such meeting, which date shall be not less than thirty-five (35) nor more than ninety (90) days following the receipt of the request. If the notice is not given within twenty (20) days after receipt of the request, the persons requesting the meeting may give the notice. Nothing contained in this paragraph shall be construed as limiting, fixing or affecting the time when a meeting of Members may be held when the meeting is called by action of the Board.

Section 4. Voting at Membership Meetings. Voting at any membership meeting may be by voice or by ballot, provided that the voting in any election of Directors shall be conducted by secret written ballot.

Section 5. Notice of Certain Agenda Items. If action is proposed to be taken at any meeting for approval of any of the following proposals, the notice shall also state the general nature of the proposal. Member action on such items is invalid unless the notice or written waiver of notice states the general nature of the proposal(s):

- (a) removing a Director without cause;
- (b) filling vacancies on the Board by the Members;
- (c) amending the Articles;

(d) adopting a contract or transaction in which a Director has a material financial interest;

Section 6. Manner of Giving Notice. Notice to an Owner shall be deemed to have been properly delivered when delivered to the Owner's Lot, whether said Owner personally receives said notice or not, or placed in the first class United States mail, postage prepaid, to the most recent address furnished by such Owner in writing to the Association for the purpose of giving notice, or if no such address shall have been furnished, then to the street address of such Owner's Lot. Any notice so deposited in the mail within the County shall be deemed delivered forty-eight (48) hours after such deposit. In the case of co-Owners, any such notice may be delivered or sent to any one of the co-Owners on behalf of all co-Owners and shall be deemed delivery on all such co-Owners.

Section 7. Adjourned Meetings and Notices Thereof. Any membership meeting, annual or special, whether or not a quorum is present, may be adjourned from time to time by the affirmative vote of a majority of the votes represented at such meeting in person or by proxy, but in the absence of a quorum, no other business may be transacted at any such meeting unless these Bylaws or the Declaration otherwise provides.

If a time and place for the adjourned meeting is not fixed by those in attendance at the original meeting, or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed for regular meetings. No meeting may be adjourned for more than forty-five (45) days. Except as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting, other than by an announcement at the meeting at which such adjournment is taken.

Section 8. Quorum. The presence either in person or by proxy at any meeting of Members representing and entitled to cast at least fifty percent (50%) of that number of votes (the "Net Total Votes") which is equal to the difference between the total number of votes in the Association (the "Total Votes") and the number of votes as to which voting rights are suspended at the time of the subject meeting in accordance with these Bylaws, shall constitute a quorum for any action by the Members, unless a different requirement is imposed by these Bylaws, the Articles or the Declaration, and a majority of the Net Total Votes present at a meeting at which a quorum is present shall prevail at such meetings unless a different percentage is required by these Bylaws, the Articles or the Declaration. Subject to the provisions of section 4 of this Article V and unless expressly authorized by these Bylaws or the Declaration, all action required or permitted to be taken by the Members may be taken only at a duly called and properly noticed annual or special meeting at which a quorum is present.

The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members so that less than a quorum is present if any action taken (other than adjournment) is approved by at least a majority of the Members required to constitute a quorum. If any meeting cannot be held because a quorum is not present, a majority of the Members present either in person or by proxy and entitled to vote, may adjourn the meeting to a time not less than five (5) days nor more than thirty (30) days from the time the original meeting was called at which meeting the quorum requirement shall be twenty-five percent (25%) of the Net Total Votes.

Section 9. Consent of Absentees. The transactions of any meeting of Members, either annual or special, however called and noticed, shall be as valid as though had at a meeting duly held after regular call and notice, if a quorum is present either in person or by proxy, and if, either before or after the meeting, each of the Members entitled to vote and not present in person or by proxy signs a written

waiver of notice or a consent of the holding of such meeting or an approval of the minutes thereof. The waiver of notice or consent need not specify either the business to be transacted or the purpose of any annual or special meeting of Members, except that if action is taken or proposed to be taken for approval of any of the matters specified in Section 4 of this Article V, the waiver of notice or consent shall state the general nature of the proposal. All such waivers, consents or approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

Section 10. Waiver By Attendance. Attendance by a person at a meeting shall also constitute a waiver of notice of that meeting, except when the person objects, at the beginning of the meeting, to the transaction of any business due to the inadequacy or illegality of the notice. Also, attendance at a meeting is not a waiver of any right to object to the consideration of matters required to be so included in the notice of the meeting, if that objection is expressly made at the meeting.

Section 11. Action Without Meeting. Any action other than the election of Directors, which under the provisions of the California Nonprofit Mutual Benefit Corporation Law may be taken at a meeting of the Members, may be taken without a meeting and without prior notice if (a) the written ballot of every Member is solicited specifying the proposed action and providing an opportunity to specify approval or disapproval of any proposal, (b) the required number of signed approvals in writing, setting forth the action so taken, is received, (c) the number of ballots cast within the time period specified equals or exceeds the quorum required to be present at a meeting authorizing the action, and (d) 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.

Ballots shall be solicited in a manner consistent with the requirements of subdivision (b) of Section 7511 and Section 7514 of the California Nonprofit Mutual Benefit Corporation Law. All such solicitations shall indicate the number of responses needed to meet the quorum requirement and shall state the percentage of approvals necessary to pass the measure submitted. The solicitation must specify the time by which the ballot must be received in order to be counted.

Subject to Sections 7611 and 7613 of the California Nonprofit Mutual Benefit Corporation Law, any Member casting a ballot, or the proxyholders of a Member or a transferee of a membership or a personal representative of the Member or their respective proxyholders, may revoke the ballot, or substitute another, by a writing received by the Association prior to the time specified in the solicitation pursuant to the preceding paragraph, but may not do so thereafter. Such revocation is effective upon its receipt by the Secretary of the Association.

Section 12. Record Date. The Board of Directors may fix a date in the future as a record date for the determination of the Members entitled to notice of and to vote at any meeting of Members.

To determine the Members entitled to notice of and to vote at any meeting of Members, the record date shall not be more than sixty (60) nor less than ten (10) days prior to the date of the meeting. When a record date is so fixed, only Members of record on that date shall be entitled to notice of and to vote at the meeting, notwithstanding any transfer of or issuance of membership certificates on the books of the Association after the record date. 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 and to vote at the meeting of Members.

The record date for determining those Members entitled to vote by written ballot on corporate action without a meeting 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 the first written ballot is mailed or solicited who are otherwise eligible to vote are entitled to cast written ballots.

For purposes of this section, a person holding membership as of the close of business on the record date shall be deemed the Member of record.

Section 13. Proxies. Every person entitled to vote or execute consents shall have the right to do so either in person or by an agent or agents authorized by a written proxy executed by such person or his duly authorized agent and filed with the Secretary of the Association prior to the commencement of the meeting at which the proxy is to be exercised. A validly executed proxy that does not state that it is irrevocable shall continue in full force and effect unless (i) revoked by the Member executing it, before the vote cast pursuant to that proxy, by a writing delivered to the Association stating that the proxy is revoked by a subsequent proxy executed by such Member, or by personal attendance and voting at a meeting by such Member, or (ii) if written notice of the death or incapacity of the maker of the proxy is received by the Association before the vote pursuant to that proxy is counted; provided, however, that no proxy shall be valid after the expiration of eleven (11) months from the date of the proxy, unless otherwise provided in the proxy, except that the maximum term of any proxy shall be three (3) years from the date of execution. The revocability of a proxy that states on its face that it is irrevocable shall be governed by the provisions of the California Nonprofit Mutual Benefit Corporation Law. In any election of Directors, any form of proxy that is marked by a Member "withhold", or otherwise marked in a manner indicating that the authority to vote for the election of Directors is withheld, shall not be voted either for or against the election of a Director. Failure to comply with this paragraph shall not invalidate any corporation election taken, but may be the basis for challenging the proxy at a meeting.

ARTICLE VI DIRECTORS

Section 1. Number, Qualifications. The affairs of the Association shall be managed by a Board of five (5) Directors who shall be Members of the Association whose memberships are in good standing with all Assessments current and are not subject to any suspension of membership rights. Only one Owner per Lot shall be eligible to serve on the Board at any time. The number of Directors may be increased or decreased from time to time but in no event shall be less than three (3) by an amendment to these Bylaws by the Members as hereinafter provided in these Bylaws.

Section 2. Term of Office. The Directors shall serve a term of two (2) years. At the annual meeting held in 2001, the Members shall elect five (5) Directors, three (3) shall hold office for two (2) years. The two (2) remaining Directors elected shall hold office for a one (1) year term. In the year 2001, the three nominees who receive the most votes are elected for two (2) years. Thereafter, at each annual meeting the Members shall elect a new Director to fill each vacancy created by the expiration of a prior Director's term of office. All Directors elected at the 2002 annual meeting and thereafter shall serve for a term of two (2) years. Directors shall hold office until their successors have been elected.

Section 3. Nominating Committee. The President of the Association shall appoint a committee to select qualified candidates for election to the Board at least ninety-five (95) days before the date of the election, and the Secretary shall forward to each Member, with the notice of meeting required by Article V Section 2, a list of candidates nominated, by office.

Members representing five percent (5%) of the membership may nominate candidates for directorships at any time before the fiftieth (50th) day preceding such election. On timely receipt of a petition signed by the required number of Members, the Secretary shall cause the names of the candidates named on it to be placed on the ballot along with those candidates named by the nominating committee. At the meeting to

elect Directors, any Member present at the meeting, in person or by proxy, may place names in nomination.

Section 4. Election of Directors. Members or their proxies may cast for each Lot owned one vote with respect to each vacancy. The persons receiving the largest number of votes shall be elected. In the event there is a tie vote between those candidates who receive the lowest number of votes necessary to qualify the candidate for election, the tie shall be broken by vote of the newly constituted Board (tied nominees abstaining). Voting for members of the Board of Directors shall be by secret written ballot. Cumulative voting shall not be permitted.

Section 5. Removal, Vacancies and Resignation. The entire Board or any individual Director may be removed from office, with or without cause, at any duly called, noticed and held annual or special meeting of the Members, at which a quorum is present, by a majority of the total votes present at such meeting either in person or by proxy, and entitled to vote, provided, however that unless the entire Board is removed from office by the vote of the Members of the Association, no individual Director shall be removed prior to the expiration of his term of office if the votes cast against removal or not consenting in writing to such removal would be sufficient to elect the Director if voted at an election at which the same total number of votes were cast and the entire number of Directors authorized at the time of the most recent election of the Director were then being elected.

A vacancy or vacancies shall be deemed to exist in case of the death, resignation or removal of any Director, or if the Members shall increase the authorized number of Directors but shall fail at the meeting at which such increase is authorized or any adjournment thereof to elect the additional Director so provided for, or in the event the Members fail at any time to elect the full number of authorized Directors. Except for a vacancy created by removal of a Director, vacancies on the Board may be filled by a majority of Directors then in office, whether or not less than a quorum, or by a sole remaining Director. In the event of an increase in the authorized number of Directors, no more than one Director may be appointed by the Board, rather than elected by the Members, to fill a vacancy created thereby. The Members may elect a Director at any time to fill any vacancy not filled by the Directors.

A vacancy in the Board created by the removal of a Director shall be filled by the affirmative vote of a majority of the Owners constituting a quorum, in person or by proxy, at a meeting duly called and noticed pursuant to the provisions of the Bylaws dealing with annual or special meetings of the Members.

In the event that any member of the Board shall be absent from three (3) consecutive regular meetings of the Board of Directors, the Board may, by action taken at the meeting during which said fourth absence occurs, declare the office of said absent Director to be vacant.

Section 6. Place of Meeting. All meetings of the Board shall be held within the Covered Property if reasonably possible, otherwise at a place as close thereto as reasonably possible and within the County of Los Angeles, as designated at any time by resolution of the Board or by written consent of a majority of the members of the Board.

Section 7. Regular Meetings. Regular meetings of the Board shall be held at a time and at such place within the Covered Property or as close thereto as reasonably possible, which place may be designated by the Board from time to time. Notice of the time and place of such meeting shall be posted at a prominent place or places within the Common Area and shall be communicated to each Director not less than four (4) days prior to the meeting. Regular meetings of the Board shall be held monthly.

Section 8. Special Meetings. Special meetings of the Board for any purpose or purposes may be called by written notice at any time by the President, or if he is absent or unable or refuses to act, by any Vice President or by any two (2) Directors.

Notice of the time and place of special meetings and of the nature of any special business to be considered shall be given to each Director either (a) by written notice given by first-class mail at least ninety-six (96) hours prior to the scheduled time of such meeting, or (b) by telephone notice or written notice delivered personally or by telegraph at least ninety-six (96) hours prior to the meeting; provided notice need not be given to any Director who signs a waiver of notice or a written consent to the holding of the meeting. Notice of the time and place of all special meetings shall be posted at a prominent place or places within the Common Area no later than ninety-six (96) hours prior to the meeting.

Whenever any Director has been absent from any special meeting of the Board and notice of such meeting has been duly given to such Director, an entry in the minutes to the effect that notice has been duly given shall be made.

Section 9. Meetings by Telephone. Any meeting, regular or special, may be held by conference telephone or similar communication equipment, and any member of the Board may participate by conference telephone or similar communications equipment in a meeting at which other members of the Board are physically present, so long as all Directors participating in the meeting can hear one another, and all such Directors shall be deemed to be present in person at such meeting.

Section 10. Quorum Requirement, Waiver of Notice. The transaction of any business at any meeting of the Board, however called and noticed, or wherever held, shall be as valid as though made at a meeting duly held after regular call and notice, if a quorum is present, unless a quorum is expressly not required pursuant to these Bylaws, and if, either before or after the meeting, each of the Directors not present signs a written waiver of notice, or a consent to the holding of such meeting, or an approval of the minutes thereof. All such waivers, consents or approvals shall be filed with the corporate records and made a part of the minutes of the meeting.

Section 11. Action Without Meeting. Any action required or permitted to be taken by the Board by law, according to the Articles, the Bylaws or the Declaration may be taken without a meeting, if all members of the Board shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board, and shall have the same force and effect as an unanimous vote of such Directors.

If the Board resolves by unanimous written consent to take action, an explanation of the action taken shall be posted at a prominent place or places within the Common Areas within three (3) days after the written consents of all Directors have been obtained.

Section 12. Quorum. A majority of the Board shall constitute a quorum thereof. Every act done or decision made by a majority of the Directors present at a meeting duly held at which a quorum is present, in person or by telephone, shall be regarded as the act of the Board, unless the provisions of these Bylaws, the Articles or the Declaration (especially those provisions relating to (i) approval of contracts or transactions in which a Director has a direct or indirect material financial interest, (ii) appointment of committees, and (iii) indemnification of Directors) shall require or permit the particular action involved to be taken by the Board under other circumstances.

Section 13. Adjournment. A quorum of the Directors may adjourn any Directors' meeting to meet again at a stated day and hour; provided, however, that in the absence of a quorum, a majority of the Directors present at the Directors' meeting, either regular or special, may adjourn from time to time

until the time fixed for the next regular meeting of the Board. 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 the adjournment.

Section 14. Open Meetings.

(a) Open to Members. With the exception of executive sessions of the Board (see subparagraph (b), below) and any meetings conducted by conference telephone, any Member of the Association may attend meetings of the Board, provided, however, that nondirector Members may participate in deliberations or discussions of the Board only when authorized by a vote of a majority of a quorum of the Board. The term "meeting" includes any congregation of a majority of the members of the Board at the same time and place to hear, discuss, or deliberate on any item of business scheduled to be heard by the Board, except those matters that may be discussed executive session.

The Board of Directors of the Association shall permit any Member of the Association to speak at any meeting of the Association or the Board of Directors, except for meetings of the Board held in executive session. A reasonable time limit for all Members of the Association to speak to the Board of Directors or before a meeting of the Association shall be established by the Board of Directors.

(b) Executive Sessions. The Board, on the affirmative vote majority of the Directors present at a meeting at which a quorum is present, shall be entitled to adjourn at any time for purposes of reconvening in executive session to discuss (i) litigation in which the Association is or may become a party; (ii) matters relating to the formation of contracts with third parties; (iii) Member discipline; or (iv) personnel matters. The Board must meet in executive session if requested by a Member who may be subject to a fine, penalty, or other form of discipline and the Member who is the subject of the disciplinary proceeding shall be entitled to attend the executive session. Any matter discussed in executive session shall be generally noted in the minutes of the Board meeting, taking into consideration the need to maintain confidentiality.

(c) Board Meeting Minutes. The minutes, minutes proposed for adoption that are marked to indicate draft status, or a summary of the minutes, of any meeting of the Board of Directors, other than minutes of an executive session, shall be available to the Members within (thirty) 30 days following the meeting. The minutes, proposed minutes, or summary of the minutes shall be distributed to any Member on request and on reimbursement of the Association's costs of making that distribution. Members shall be notified in writing at the time that the pro forma budget required by Article IX, section 6(a), below, is distributed, or at the time of any general mailing to the entire membership, of the Members' right to have copies of the minutes of any Board meeting and how and where those minutes may be obtained.

(d) Members' Right to Notice of Meetings. Unless the time and place of meeting is fixed by the Bylaws, or unless the Bylaws provide for a longer period of notice, Members shall be given notice of the time and place of Board meetings, except for "emergency meetings," at least four days before the date of the meeting. This notice may be given by posting the notice in a prominent place or places within the Common Area, by mail or delivery of the notice to each Lot within the Covered Property, or by newsletter or similar means of communication. For purposes of this subparagraph (d), an "emergency meeting" of the Board means a meeting called by the President or by any two members of the Board under circumstances that could not have been reasonably foreseen that require immediate attention and possible action by the Board and that of necessity make it impracticable to provide prior notice to the Members as required by the Civil Code Section 1363.05(g).

Section 15. Compensation. No Director of the Association shall receive any salary or other compensation for services rendered as a Director or Officer of the Association. However, Directors and Officers shall be reimbursed for expenses incurred in connection with the business of the Association and authorized by the Board. Nothing herein shall preclude any Director from serving the Association in any capacity other than as an Officer or a Director and receiving compensation therefor as authorized and approved by the Board. Any Director receiving any special compensation for services in such other capacity shall be excluded from deliberations and voting by the Board relative to the authorization thereof and fixing compensation with regard thereto.

Section 16. Committees. The Board shall have the power to appoint an Executive Committee and other committees and to delegate to such committees all the authority of the Board with respect to matters within the committee's assigned responsibility except the power to:

- (a) adopt, amend or repeal the Bylaws or the Articles of Incorporation;
- (b) fill vacancies on the Board or in any committee which has the authority of the Board;
- (c) amend or repeal any resolution of the Board which by its express terms is not so amendable or repealable;
- (d) appoint any other committees of the Board or the members of these committees;
- (e) approve any transaction (1) to which the Association is a party and one or more Directors have a material financial interest or (2) between the Association and one or more of its Directors or (3) between the Association and any entity in which one or more of its Directors have a material financial interest.

Each committee shall be composed of two (2) or more Directors (one member of the Executive Committee shall be the President) and shall keep regular written minutes of the proceedings and report the same to the Board. Unless otherwise expressly provided in the Articles, Bylaws, Declaration or in the Board resolution authorizing and empowering a committee, all actions of any committee shall be considered advisory to the Board and shall be scheduled on the agenda of the Board meeting next following the committee's action or decision for affirmation, rescission, or modification, as the Board in its sole discretion deems appropriate.

Section 17. Powers and Duties. Subject to the limitations of the Articles, these Bylaws, the Declaration and the California Nonprofit Mutual Benefit Corporation Law as to action required to be taken, authorized or approved by the Members of the Association, or a portion or percentage thereof, all Association powers and duties including those set forth in the Declaration shall be exercised by, or under the authority of the Board, and the business and affairs of the Association shall be controlled by the Board.

ARTICLE VII OFFICERS

Section 1. Enumeration of Officers. The Officers of the Association shall be a President, Vice President, a Secretary, a Chief Financial Officer and such other Officers as the Board may deem necessary. Any person may hold more than one office, provided that neither the Secretary nor the Chief Financial Officer may serve concurrently as the President. All Officers shall be members of the Board.

Section 2. Election of Officers. The Officers of the Association, except such Officers as may be appointed in accordance with the provisions of Section 3 of this Article VII, shall be chosen annually by majority vote of the Board at its first regular meeting following the annual meeting of the Members, and each shall hold his office until he shall resign or shall be removed or otherwise disqualified to serve, or his successor shall be elected and qualified.

Section 3. Subordinate Officers. The Board may appoint, and may authorize the President or another Officer to appoint, any other Officers that the business of the Association may require, each of whom shall have the title, hold office for the period, have the authority, and perform the duties specified in these Bylaws or determined from time to time by the Board.

Section 4. Term. All Officers shall hold office at the pleasure of the Board.

Section 5. Resignation of Officers. Any Officer may resign at any time by giving written notice to the Board. Any resignation shall take effect at the date of the receipt of the 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 Association under any contract to which the Officer is a party.

Section 6. President. The, President shall be the Chief Executive Officer of the Association and shall be subject to the control of the Board, have supervision, direction and control of the business and affairs of the Association. He shall preside at all meetings of the Members and at all meetings of the Board. He shall be an ex-officio member of all standing committees, including the Executive Committee, if in existence, and shall have the general powers and duties of management usually vested in the office of President of a California nonprofit mutual benefit corporation, and shall have such powers and duties as may be prescribed by the Board or by these Bylaws. The President shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes of the Association.

Section 7. Vice President. In the absence or disability of the President, the Vice President shall perform all the duties of the President, and when so acting shall have all power of, and be subject to all the restrictions upon, the President. The Vice President shall have such other powers and perform such other duties as from time to time may be prescribed for him by the Board or by these Bylaws.

Section 8. Secretary. The Secretary shall keep or cause to be kept, a book of minutes at the principal office of the Association or such other place as the Board may order, of all meetings of Directors and Members, with the time and place of holding, whether regular or special, and if special how authorized, the notice thereof given, the names or those persons present at the Directors' meetings, the number of Members present or represented at Member's meetings and the proceedings thereof.

The Secretary shall give, or cause to be given, notice of all the meetings of the Members and of the Board required by the Bylaws or law to be given and he shall keep the seal of the Association in safe custody, and shall have such other powers and perform such other duties as may be prescribed by the Board or these Bylaws.

The Secretary shall keep, or cause to be kept, at the principal executive office, as determined by resolution of the Board, a record of the Association Members showing the names of all Members and their addresses.

Section 9. Chief Financial Officer. The Chief Financial Officer shall keep and maintain, or cause to be kept or maintained, adequate and correct accounts of the properties and business

transactions of the Association, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital and surplus. The books of account shall at all times be open to inspection by any Director. The Chief Financial Officer shall sign all checks and promissory notes of the Association and shall deposit all monies and other valuables in the name and to the credit of the Association with such depositories as may be designated by the Board. He shall disburse the funds of the Association as may be ordered by the Board, 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 Association, and shall have such other powers and perform such other duties as may be prescribed by the Board or these Bylaws. The Board may delegate the performance of the foregoing duties, subject to supervision by the Chief Financial Officer, to a professional manager retained by the Association.

**ARTICLE VIII
INDEMNIFICATION OF DIRECTORS, OFFICERS,
EMPLOYEES, AND OTHER AGENTS**

Section 1. Definitions. For the purpose of this Article,

(a) "agent" means any person who is or was a Director, Officer, employee, or other agent of this Association, or is or was serving at the request of this Association as a Director, Officer, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise;

(b) "proceeding" means any threatened, pending, or completed action or proceeding, whether civil, criminal, administrative or investigative; and

(c) "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 his position or relationship as agent and all attorneys' fees, costs, and other expenses incurred in establishing a right to indemnification under this Article.

Section 2. Successful Defense By Agent. To the extent that an agent of this Association has been successful on the merits in the defense of any proceeding referred to in this Article, 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 him, then the provisions of Sections 3 through 5 of this Article shall determine whether the agent is entitled to indemnification.

Section 3. Actions Brought By Persons Other Than The Association. Subject to the required findings to be made pursuant to Section 5 below, this Association 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, this Association, 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 selfdealing within the meaning of California Corporation Code 5233, by reason of the fact that such person is or was an agent of this Association, for all expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with the proceeding.

Section 4. Action Brought By or On Behalf of the Association.

(a) **Claims settled out of court.** If any agent settles or otherwise disposes of a

threatened or pending action brought by or on behalf of this Association, with or without 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.

(b) **Claims and suits awarded against agent.** This Association 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 this Association by reason of the fact that the person is or was an agent of this Association, and for all expenses actually and reasonably incurred in connection with the defense of that action, provided that both of the following are met:

- (i) The determination of good faith conduct required by Section 5 of this Article below must be made in the manner provided for in that section; and
- (ii) 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 5. Determination of Agent's Good Faith Conduct. The indemnification granted to an agent in Sections 3 and 4 of this Article above is conditioned on the following:

(a) **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 he believed to be in the best interest of this Association, 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, of itself, create a presumption that the person did not act in good faith or in a manner which he reasonably believed to be in the best interest of this Association or that he had reasonable cause to believe that his conduct was unlawful. In the case of a criminal proceeding, the person must have had no reasonable cause to believe that his conduct was unlawful.

(b) **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:

- (i) the Board by a majority vote of quorum consisting of Directors who are not parties to the proceeding; or
- (ii) the affirmative vote or written ballot of a majority of the votes of the Members represented and voting at a duly held meeting at which a quorum is present (which affirmative votes also constitute a majority of the required quorum), with the persons to be indemnified not being entitled to vote thereon; or
- (iii) the court in which the proceeding is or was pending. Such determination may be made on application brought by this Association 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 this Association.

Section 6. Limitations. No indemnification or advance shall be made under this Article, except as provided in Sections 2 or 5(b)(iii), in any circumstance when it appears:

(a) that the indemnification or advance would be inconsistent with a provision of the Articles, a resolution of the Members, or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or

(b) that the indemnification would be inconsistent with any condition expressly imposed by a court in approving a settlement.

Section 7. Advance of Expenses. Expenses incurred in defending any proceeding may be advanced by this Association before the final disposition of the proceeding upon 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.

Section 8. Contractual Rights of Nondirectors and Nonofficers. Nothing contained in this Article shall affect any right to indemnification to which persons other than Directors and Officers of this Association, or any subsidiary hereof, may be entitled by contract or otherwise.

Section 9. Insurance. The Board may adopt a resolution authorizing the purchase and maintenance of insurance on behalf of any agent of the Association 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 this Association would have the power to indemnify the agent against that liability under the provisions of this Section.

ARTICLE IX MISCELLANEOUS

Section 1. 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 Association, shall be signed by the Chief Financial Officer and co-signed by the President.

Section 2. Contracts, Etc. How Executed. The Board, except as otherwise provided in these Bylaws, may authorize any Officer or Officers, agent or agents, to enter into any contract or execute any instrument in the name and on behalf of the Association, 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 Association by a contract or engagement or to pledge its credit or to render it liable for any purpose or to any amount.

Section 3. Maintenance and Inspection of Articles and Bylaws. The Association shall keep in its principal office the original or a copy of the Articles of Incorporation and these Bylaws, as amended or otherwise altered to date, certified by the Secretary, which shall be open to inspection by the Members at all reasonable times during office hours.

Section 4. Maintenance and Inspection of Other Corporate Records. The Association shall keep the following records at such place or places designated by the Board or, in the absence of such designation, at its principal executive office:

(a) adequate and correct books and record of account;

(b) minutes of the proceedings of the Members, Board of Directors and any committee(s) of the Board;

(c) a record of the names and addresses of each Member.

The minutes shall be kept in written or typed form, and the other 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. These records shall be open to inspection on the written demand of any Member, at any reasonable time during usual business hours, for a purpose reasonably related to the Member's interests as a Member. The inspection may be made in person or by an agent or attorney, and shall include the right to copy and make extracts.

The Board shall establish reasonable rules with respect to:

(a) notice to be given to the custodian of records by the Member desiring to make the inspection. A Member who wishes to inspect and copy the record of all Members' names and addresses must give five (5) business days' prior written demand to the Association which demand shall state the purpose for which the inspection rights are requested.

(b) hours and days of the week when such an inspection may be made.

(c) payment of the cost of reproducing copies of documents requested by a Member.

Each Director shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a Director includes the right to make extracts and copies of documents.

Section 5. Accounting Year. The accounting year of the Association shall terminate on December 31st of each year unless and until a different accounting year is adopted by Members at a duly constituted meeting thereof.

Section 6. Budget and Financial Statements. Not less than forty-five (45) days and not more than sixty (60) days prior to the beginning of each accounting year of the Association (the "Distribution Date"), the Board shall distribute to each Member a pro forma operating statement or budget for the upcoming accounting year which shall specifically include the following items:

(a) a statement of estimated revenue and expenses on an accrual basis;

(b) a summary of the Association's reserves based upon the most recent review or study conducted pursuant to the Article of this Declaration entitled "Covenant for Maintenance Assessments" which shall be printed in bold type and include all of the following:

(i) the current estimated replacement cost, estimated remaining life and estimated useful life of each major component of the Common Area;

(ii) as of the end of the accounting year for which the study is prepared

(1) the current estimate of the amount of cash reserves necessary to repair, replace, restore or maintain major components of the Common Area; and

(2) the current amount of accumulated cash reserves actually set aside to repair, replace, restore or maintain major components of the Common Area; and

(iii) the percentage that accumulated cash reserves actually set aside is of the current estimate of cash reserves necessary;

(c) a statement as to whether the Board has determined or anticipates that the levy of one or more Special or Capital Improvements Assessments will be required to repair, replace or restore any major component of the Common Area or to provide adequate reserves therefore; and

(d) a general statement setting forth the procedures used by the Board in the calculation and establishment of reserves to defray the costs of future repair, replacement or additions to the Common Areas for which the Association is responsible.

A report consisting of the following shall be distributed within 120 days after the close of the accounting year:

(a) a balance sheet as of the end of the accounting year;

(b) an operating (income) statement for the accounting year;

(c) a statement of changes in financial position for the accounting year; and

(d) for any accounting year in which the gross income to the Association exceeds \$75,000, a copy of the review of the annual report prepared in accordance with generally accepted accounting principles by a licensee of the California State Board of Accountancy.

If the report referred to in this Section is not prepared by an independent accountant it shall be accompanied by the certificate of an authorized officer of the Association that the statement was prepared from the bank statements and records of the Association without independent audit or review.

In lieu of the distribution of the pro forma operating statements set forth in the Section, the Board may elect to distribute a summary of the pro forma operating statements to all of its Members with a written notice that the pro forma operating statements are available at the business office of the Association or at another suitable location within the boundaries of the Covered Property and that copies will be provided upon request and at the expense of the Association. If any Member requests copies of the pro forma operating budget, including the statements described in this Section, to be mailed to the Member, the Association shall provide copies to the Member by first-class United States mail at the expense of the Association and mailed within five days. The written notice that is distributed to each of the Association Members shall be in at least 10-point bold type on the front page of the summary of the statements.

The Board shall take the following actions not less frequently than quarterly:

(a) cause a current reconciliation of the Association's operating accounts to be made and review the same;

(b) cause a current reconciliation of the Association's reserve accounts to be made and review the same;

(c) review the current year's actual reserve revenues and expenses compared to the current year's budget;

(d) review the most current account statements prepared by the financial institution where the Association has its operating and reserve accounts; and

(e) review an income and expenses statement for the Association's operating and reserve accounts.

The Board of Directors shall annually distribute, within sixty (60) days prior to the beginning of each accounting year, a statement of the Association's policies and practices in enforcing its remedies against Owners for defaults in the payment of the Assessments set forth in Article III hereof, including the recording and foreclosing of liens against Owners' Lots.

The Board of Directors shall distribute a summary of the Association's property, general liability, and earthquake and flood insurance policies, which shall be distributed within 60 days preceding the beginning of the Association's fiscal year, that includes all of the following information about each policy:

(a) the name of the insurer.

(b) the type of insurance.

(c) the policy limits of the insurance.

(d) the amount of deductibles, if any.

The Association shall, as soon as reasonably practicable, notify its Members by first class mail if any of the policies described above have lapsed, been canceled, and are not immediately renewed, restored, or replaced, or if there is a significant change, such as a reduction in coverage or limits or an increase in the deductible, as to any of those policies. If the Association receives any notice of nonrenewal of a policy described above the Association shall immediately notify its Members if replacement coverage will not be in effect by the date the existing coverage will lapse.

To the extent that any of the information required to be disclosed is specified in the insurance policy declaration page, the Association may meet its obligation to disclose that information by making copies of that page and distributing it to all of its Members. The summary distributed shall contain, in at least 10-point boldface type, the following statement: "This summary of the association's policies of insurance provides only certain information, as required by subdivision (e) of Section 1365 of the Civil Code, and should not be considered a substitute for the complete policy terms and conditions contained in the actual policies of insurance. Any association member may, upon request and provision of reasonable notice, review the association's insurance policies and, upon request and payment of reasonable duplication charges, obtain copies of those policies. Although the association maintains the policies of insurance specified in this summary, the association's policies of insurance may not cover your property, including personal property or, real property improvements to or around your dwelling, or personal injuries or other losses that occur within or around your dwelling. Even if a loss is covered, you may nevertheless be responsible for paying all or a portion of any deductible that applies. Association members should consult with their individual insurance broker or agent for appropriate additional coverage."

Section 7. Construction. Unless the context requires otherwise or a term is specifically defined herein, the general provisions, rules of construction, and definitions in the California Nonprofit Mutual Benefit Corporation Law shall govern the construction of these Bylaws. Without limiting the generality of the above, the singular shall include the plural and the masculine shall include the feminine and the neuter. The Article and Section headings used in these Bylaws have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction.

ARTICLE X EVIDENCE OF MEMBERSHIP, SEAL

Section 1. Evidence of Membership. The Board shall have the power, but not the obligation, to cause the issuance of evidence of membership in the Association to the Members in such form as the Board shall determine.

Section 2. Seal. The Association shall have a seal in circular form having within its circumference the name of the Association, its date of incorporation and such other matters as may be required by the laws of California.

ARTICLE XI AMENDMENTS, CONFLICTS

Section 1. Amendments. These Bylaws may be amended from time to time by vote at any duly called, noticed and held regular or special meeting of the Members at which a quorum is present or by written assent of the Members. Any amendment to these Bylaws shall require the vote, in person or by proxy, of a majority of the votes of the Owners constituting a quorum; provided, however, that the percentage of the voting power of the Association necessary to amend a specific clause or provision shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause or provision. Amendments shall be kept by the Secretary with the other records and books of the Association and shall become effective upon the execution of such written instrument as required by this Section without any further action or requirement.

Section 2. Conflicts. In the event of any inconsistency between these Bylaws and the Articles, the Articles shall control, and in the event of any inconsistency between these Bylaws or the Articles and the Declaration, the Declaration shall control.

CERTIFICATE OF SECRETARY

THIS IS TO CERTIFY:

That I am the duly elected, qualified and acting Secretary of Old Orchard Association I, a California Nonprofit Mutual Benefit Corporation, and that the above and foregoing Restated and Amended Bylaws consisting of 20 pages, were duly adopted by written ballot of the Members of said Association on the 17th day of August 2000, and that they now constitute said Bylaws.

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of September 2000.

Dennis Wood
Secretary

Frank Schranz
President