

## **BYLAWS OF THE RICHMOND GAY COMMUNITY FOUNDATION**

### **ARTICLE I NAME**

- 1.1 **Designation.** The name of this nonprofit organization is the Richmond Gay Community Foundation.

### **ARTICLE II PURPOSES**

- 2.1 The Richmond Gay Community Foundation (the “RGCF”) is a nonprofit, nonstock corporation doing business as Diversity Thrift, Diversity Bingo and the Gay Community Center of Richmond and organized to improve the lives of Gay, Lesbian, Bisexual and Transgender people through scientific, educational and charitable activities.
- 2.2 **Restrictions.** The RGCF shall possess all powers and authority permitted by law except:
- 2.2.1 No part of the net earnings of the RGCF shall inure to the benefit of, or be distributable to, its members, Directors, officers, or other private persons except that the RGCF shall be authorized and empowered to pay reasonable compensation for services rendered or expenses otherwise incurred and to make payments in furtherance of the purposes set forth in paragraph 2.1.
- 2.2.2 Notwithstanding any other provisions of these Bylaws, the RGCF shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1954, as amended (or the corresponding provisions of future federal Internal Revenue law), or (b) by a corporation, contributions to which are deductible under Section 170 of the Internal Revenue Code of 1954, as amended (or the corresponding provisions of any future federal Internal Revenue laws).
- 2.3 **Dissolution.** Upon dissolution of the RGCF, or upon any partial or entire liquidation of its properties or assets, all of the RGCF’s property of every nature and description shall, after making provisions for discharge of all the liabilities of the RGCF, be paid over and transferred to one or more organizations or institutions which are exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1954, as amended (or the corresponding provisions of any future federal Internal Revenue laws), as shall be selected by the majority of the persons who are then serving as Directors of the Board.

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2.4 Nonpartisan Activities. The RGCF shall be non-partisan. The RGCF shall not participate or intervene in any political campaign on behalf of any candidate for public office. In compliance with nonprofit corporation laws, the RGCF may publicly educate about issues of importance to the community it serves. It may not, however, devote substantial resources to the publication or dissemination of materials with the purpose of attempting to influence legislation for or against any cause or measure being submitted to the people for a vote. The RGCF shall not, except in an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the purposes described above.

2.5 Nondiscrimination. The RGCF shall be open to any person, group or organization supporting our mission of improving the lives of Gay, Lesbian, Bisexual and Transgender people.

### **ARTICLE III** **MEMBERSHIP**

3.1 The RGCF shall have one class of members. Members must either participate actively in the work of RGCF or pay a membership fee established by the Board of Directors.

3.2 Meetings.

3.2.1 An annual meeting of the membership will be held each year at a date and time established by the Board of Directors.

3.2.2 An annual report will be distributed to the members with notice of the annual meeting which shall be sent to the membership fifteen (15) days prior to the annual meeting in written or electronic format.

3.2.3 Special membership meetings may be called at any time by the Board of Directors or at the request of the members by means of a petition to the Board of Directors signed by twenty (20) current members or ten percent (10%) of the membership base, whichever number is higher. The Board, upon receipt of the petition must call the meeting within forty-five (45) days and notify the membership by mail or by electronic format at least fifteen (15) days prior to the meeting.

3.2.4 Membership meetings shall be conducted by the Board of Directors.

3.3 Voting.

3.3.1 Voting at membership meetings will be restricted to persons who are members in good standing for at least thirty (60) days immediately prior to the meeting.

3.3.2 A member must be present to vote and each member will have one vote.

3.3.3 To be in good standing, a member must either have served as a volunteer for one or more of the activities of RGCF or paid the membership fee established by the Board of Directors within the preceding twelve (12) months.

3.4 Membership and Mailing Lists.

3.4.1 The staff of the RGCF shall maintain a membership list and a mailing list.

3.4.2 Any membership or mailing list established under the authority of the RGCF shall remain confidential and may not be disclosed to any other group or organization. Use of lists shall be restricted to persons or organizations specifically authorized by the Board of Directors.

3.4.3 Use of RGCF membership or mailings lists shall be restricted to purposes of determination of voting eligibility and mailings or notices as authorized by the Board of Directors.

3.4.4 A general mailing list can be established by the RGCF. Individuals will have the option of being included on a general mailing listed compiled by the RGCF.

**ARTICLE IV**  
**BOARD OF DIRECTORS**

4.1 General Powers: The business and affairs of the RGCF shall be managed by its Board of Directors, which may exercise all powers of the RGCF and perform all lawful acts and things for and on behalf of the RGCF.

4.2 Numbers and Tenure: The Board of Directors shall consist of at least five (5) and not more than thirty (30) members, who, except as specifically designated below, shall serve for a two year renewable term. No member of the Board of Directors may serve more than six (6) years following the effective date of these by-laws without a break in service. Appointments shall be made as provided for in Section 4.4, Nomination and Appointment.

4.3 Ex Officio Members: The President of the RGCF shall serve as an ex-officio member of the Board of Directors without vote, unless the President is an elected member of the Board of Directors.

4.4 Nomination and Appointment

4.4.1 The RGCF Governance and Nominating Committee will nominate candidates for the Board of Directors, who must be approved by the Executive Committee and by a majority vote of the RGCF Board of Directors. The RGCF Board of Directors will determine the number of Directors positions to be filled each year, and will request nominations for these positions from the Governance and Nominating Committee.

4.4.2 Consideration for nomination to the RGCF Board of Director requires fulfillment of the requirements for the office or position, and a letter of willingness to serve from the potential nominee. To be nominated to the Board an individual must be a member in good standing of RGCF.

4.4.3 Term of office for each Director shall be as defined in section 4.2 with the goal that

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the terms of office shall be staggered such that approximately one half of the Directors will be elected or reelected by the Board each year. Board members elected or reelected during and after 2009 who have served the maximum of three consecutive terms may be nominated for the Board of Directors after at least a one term break in service.

#### 4.5 Vacancies.

4.5.1. Resignations. Any Director may resign at any time by giving written notice to the Board of Directors of the RGCF. Unless otherwise specified in such written notice, a resignation shall take effect upon delivery thereof to the Board of Directors. It shall not be necessary for a resignation to be accepted before it becomes effective.

4.5.2. Removal. The Board of Directors may remove any Director, with or without cause, but only at a meeting called for that purpose and the notice of the meeting shall state that the purpose or one of the purposes, of the meeting is the removal of a Director. The removal of a Director shall be effective only if the number of votes cast to remove the Director constitutes a two thirds majority of the votes entitled to be cast when the Director was elected to the Board. A Director who is absent from three (3) consecutive meetings of the Board shall be subject to removal if the reasons given for such absences are not acceptable to a majority of the Board of Directors.

4.5.3 Filling of Vacancies. Any vacancy occurring in the Board of Directors for any cause other than by reason of an increase in the number of directors may, unless otherwise provided in these Bylaws, be filled by the Chair of the RGCF and approved by the Executive Committee and a majority of Directors of the RGCF. A director filling a vacancy shall serve the remainder of the unexpired term, which will not be considered to be a term of service as defined in Section 4.2. The director who filled a vacancy may be considered for formal nomination in accordance with Section 4.4 as a Director at the end of the unexpired term.

#### 4.6 Meetings.

4.6.1 Regular Meetings. The Board of Directors of the RGCF shall hold at least quarterly meetings each year.

4.6.2 Special meetings may be held at the call of the Chair or a majority of the Board of Directors on at least ten (10) days notice to each director. Such notice shall state the purpose of such special meeting.

4.6.3 Quorum; Adjournments. At all meetings of the Board of Directors, a majority of the directors then in office shall constitute a quorum for the transaction of business, and the act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board of Directors, except as may be otherwise specifically provided by law or the Articles of Incorporation. If a quorum is not present at any meeting of the Board of Directors, the directors present may adjourn the meeting, without notice other than announcement at the meeting, until a quorum

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shall be present.

4.6.4 Action by Consent. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting if consent to such action is affirmed by all members of the Board of Directors, and such consent is filed with the minutes of the proceedings of the Board of Directors.

4.6.5 Meetings by Telephone or Similar Communications. The Board of Directors may participate in a meeting by means of a conference telephone or similar communications equipment by means of which all directors participating in the meeting can communicate simultaneously with each other at the same time, and participation by such means shall be conclusively deemed to constitute presence in person at such meeting. Such means of communication also shall constitute presence in person when the meeting is being conducted principally as a face-to-face round-table board meeting.

4.6.6 Minutes. Recorded minutes shall be kept for each meeting of the RGCF Board of Directors, and are the responsibility of the Secretary. Minutes shall require approval by the Board of Directors at or before the next scheduled meeting.

## **ARTICLE V** **OFFICERS**

5.1 The officers of RGCF shall be the Chair, the Chair-Elect, President, Secretary, and the Treasurer. The Governance and Nominating Committee shall present a slate of Officers for approval by the RGCF Directors by a simple majority vote. The term of office for each Officer shall be one (1) year, and officers can serve multiple terms. One person may serve in two offices simultaneously.

5.2 Duties of Officers. The officers of this Board of Directors are charged and entrusted as follows, and as defined in RGCF Policies and Procedures.

5.2.1 Chair. The Chair shall preside at all meetings of the Board of Directors and perform other duties usually pertaining to the office. The Chair shall assure that the Board of Directors fulfills its responsibility for the governance of RGCF, shall be a partner with management in helping to achieve the mission of RGCF, shall preside at all meetings of the Board of Directors, shall have a right to vote on all questions, shall appoint committee chairs and committee members with an eye to future succession, and shall have such other powers and duties as the Board from time to time may prescribe.

The Chair shall be a voting member of all committees of the Board (except the Audit Committee) and shall serve as Chair of the Executive Committee.

5.2.2 Chair-Elect. The Chair-Elect shall assist the Chair in the performance of the Chair's duties, shall preside in the absence of the Chair at meetings of the RGCF; and shall assume the duties of the Chair, if the Chair is unable to serve.

5.2.3 Secretary. The Secretary shall be a member of the Board of Directors. The Secretary, or Assistant Secretary elected by the Board of Directors who need not be a member of the Board of Directors, shall have the responsibility of sending notices of all meetings of the Board of Directors and keeping the meetings of all such meetings. At each meeting of the Board, the minutes of the last preceding meeting shall be presented by the Secretary for the approval of the Board. The Secretary or Assistant Secretary shall have custody of the seal, shall affix it to such instruments as require its use, and when so affixed, shall attest it by signature. The Secretary or Assistant Secretary shall sign all documents requiring the signature of the Secretary as an officer of RGCF.

5.2.4. Treasurer. The Treasurer may, but need not be, a member of the Board of Directors and, if not a Director, may be compensated as provided in these by-laws. The Treasurer shall be the chair of the Finance Committee of the Board and, in this capacity, shall have the duty and responsibility to:

- work with the CEO on budget planning and preparations;
- monitor spending and revenues against projections in the approved budget and inform the Board of disparities so that joint decisions can be made on appropriate adjustments;
- ensure the Board's financial policies are being followed;
- report to the Board of Directors and the general membership on finances;
- oversee preparation of any required financial reporting forms;
- ensure compliance with tax laws and reporting requirements;
- cooperate with the Audit Committee and any outside auditors; and
- sign checks and other financial instruments and legal documents as authorized by the Board.

The Board may elect as an Assistant Treasurer a bank, trust company, or other financial entity to which, by direction of the Board or the Finance Committee, may be entrusted with the custody of stocks and securities belonging to RGCF and of the bonds of any officers of RGCF.

5.25 President. The President may be an elected director of the board or an individual employed by the board who is not an elected director. In the absence or disability of the President, the Board may appoint an acting President, who shall have the powers and duties of the President.

The President shall:

- be the chief executive officer of RGCF and exercise general supervision over all the affairs of the organization under the general direction of the chair and the board of directors;

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- be responsible for the development of policies and procedures necessary for the operation of RGCF and its programs and perform all duties incident to the office of the president, including regular oral and written reports to the board on the status of RGCF and, under the general direction of the Treasurer, development and presentation of the annual budget and monthly financial statements;
- have the power to sign all duly authorized contracts, deeds, acceptances of gifts and bequests and other instruments in the name of and on behalf of RGCF as authorized by the Board of Directors. The President shall have the power, consistent with policies adopted by the Board, to delegate authority under this subsection to any other officer of RGCF or administrative official of RGCF by an instrument in writing. Any such delegation shall be reported at the next regular meeting of the Board or the executive committee; and
- if not an elected director, be an ex-officio non-voting member of the Board and of all standing committees of the Board except the Audit Committee and the Compensation Subcommittee of the Executive Committee.

5.2.6 Other Officers. Any other Officers elected by the Board shall perform such duties and exercise such powers as shall from time to time be designated by resolution of the Board of Directors.

5.3 Officers' Bonds. The Board of Directors may require, at the expense of RGCF, any officer to give a bond for the faithful discharge of the duties of such office in such sum, if any, and with such surety or sureties as the Board of Directors shall designate.

5.4 Removal. The Board of Directors may remove any officer at any time with or without cause by a vote of a three quarters majority of the Directors then in office.

5.5. Resignation. Any officer may resign at any time by giving written notice to the Board of Directors or to the Chair. Upon resignation, the Governance and Nominating Committee shall present a slate with at least one nominee for that vacancy to the Board within 60 days, and the RGCF Board shall elect a new officer to fill the vacancy within 60 days of receiving this slate.

## **ARTICLE VI** **COMMITTEES**

6.1 Standing Committees of RGCF. Except as otherwise provided in these By-laws, the Chair annually shall recommend to the Board of Directors the election of one Director to serve as the Chair and two Directors to serve as members of the following standing committees, and any other standing committees as the Board may authorize by resolution from time to time :

The Executive Committee  
The Finance Committee  
The Audit Committee  
The Governance and Nominations Committee  
The Policy and Programs Committee

The Chair of the Board shall be an *ex officio* member, with vote, of all committees of RGCF except the Audit Committee. Each Director shall be appointed by the Board on the recommendation of the Chair to serve on at least one standing committee. In addition to the Directors appointed to serve on the standing committees, the Board may appoint any number of other persons to serve as members of the standing committees on the recommendation of the Chair of the Board or the Chairs of the standing committees. Each Director or other person appointed to chair or serve on a committee shall serve at the pleasure of the Board for a period of one year or until the appointment of their respective successors. Officers and employees of RGCF may be appointed as *ex officio* members of committees, serving without vote, and may be chosen to serve as Secretaries for committees of the Board. In addition, committees of the Board may designate certain individuals to serve the committee in advisory capacities, based upon special skills or expertise deemed valuable or desirable to such committees. Only a Director of RGCF may be appointed to serve as chair of a standing committee or subcommittee.

6.2 Special Committees of RGCF. The Board may create one or more special committees or task forces of RGCF and appoint Directors or other persons to serve on them. Members of special committees shall serve at the pleasure of the Board, and no special committee created by the Board shall continue in operation for more than one year, unless extended by the Board. Any person may be appointed to serve as chair of a special committee of RGCF.

6.3 Vacancies. The Chair may appoint Directors or other persons to fill vacancies in any committee chair or membership.

6.4 Authority of Committees. The committees of the Board shall exercise their powers subject to the general control of the Board. Each committee may adopt rules for its own governance not inconsistent with these By-laws or with rules adopted by the Board of Directors. The Board of Directors may delegate to a committee the authority of the Board of Directors, except that a committee may not (i) fill vacancies on the Board of Directors; (ii) amend the Articles of Incorporation; or (iii) adopt, amend, repeal these Bylaws.

The creation of, delegation of authority to, or action by a committee does not alone constitute compliance by a Director with the standards of conduct required of a Director.

6.5 Meetings of Committees. The standing committees of the Board shall each hold regular meetings at least four times a year; other committees shall meet as necessary. The Chair of any committee may, and on the request of the Board of Directors or of three members of the committee shall, call a meeting of the committee or any subcommittee thereof. At least one week's written notice of the time and place of each meeting shall be given to each committee member, except that in the case of emergency a meeting of any committee or any subcommittee thereof may be called upon such shorter notice as the Chair of the committee may determine, but in no event less than one day's notice.

6.6 Quorum. Two voting members, or one-third of the membership, whichever is larger, shall constitute a quorum competent for the transaction of business at meetings of each committee

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or any subcommittee thereof. In the absence of a quorum at the time and place set for a meeting, the voting member or members present may adjourn the meeting from time to time until a quorum is present.

- 6.7 Minutes. All committees shall keep minutes of their proceedings. Written minutes of regular meetings of committees shall normally be presented to the Board of Directors for information. Each committee shall, when requested by the Executive Committee, present to the Board a comprehensive report regarding some aspect of the matters under its charge.
- 6.8 Action by Committee Without a Meeting. Any action of a committee that may be taken at a meeting of the members of the committee may be taken without a meeting of such committee if consent in writing setting forth the action so taken shall be signed by all members of the committee. Such written consent may be given by electronic means including electronic mail. Such consent shall have the same force and effect as a unanimous vote of the members of the committee.
- 6.9 The Executive Committee. The Executive Committee shall consist of the following members: the Chair, Chair Elect, Treasurer (if the Treasurer is a member of the Board), Secretary, and the chair of the Governance and Nominations committee of the Board. The Chair of the Board of Directors shall serve as Chair of the Executive Committee.
- 6.9.1. The Executive Committee shall, between meetings of the Board, have all the duties and powers of the Board, except that the Executive Committee shall not have the power: i) to elect or remove a Director or an Officer; ii) amend the Articles of Incorporation; iii) adopt, amend or repeal these By-laws; or iv) approve a plan of merger of RGCF.
- 6.9.2. The Chair of the Board shall appoint two individuals who have experience with human resources management or employee compensation to serve with the Chair, Chair Elect and Secretary as members of a subcommittee of the Executive Committee known as the Compensation Committee. The Compensation Committee will be responsible for making recommendations to the Board of Directors regarding compensation to be paid to any officer who is an employee of RGCF as authorized by Article V of these By-Laws. The Compensation Committee also shall review annually a compensation plan for any other key employees of RGCF. A key employee is someone who is responsible for more than 10% of the revenues or expenditures of RGCF and whose compensation from RGCF and related entities is \$150,000 or more.
- 6.9.3 The Executive Committee shall report to the Board all actions taken by having written minutes of each of its meetings distributed to all members of the Board of Directors within seven days of any meeting. The Executive Committee shall also report orally at Board meetings as required.

- 6.10 The Finance Committee. The Finance Committee shall consist of a chair and members appointed in accordance with these By-laws. The Finance Committee shall have supervision of the finances, funds, stocks and securities of RGCF, and shall report thereon at each regular meeting of the Board.
- 6.10.1. The Finance Committee shall oversee the investments of RGCF under investment policy guidelines established by the Board and shall have the power to make and to change investments, to sell, assign and transfer any part of the stocks and securities held by RGCF or any rights or privileges appurtenant thereto, and to designate a person or persons to execute and deliver in the name of or on behalf of RGCF instruments for the assignment and transfer of stocks and securities registered in its name. The Finance Committee may employ investment counsel and may delegate authority to purchase or sell securities for the account of RGCF to such investment counsel or to the Treasurer of RGCF subject to such limitations as the Board may impose. The Finance Committee shall report changes in investments to the Board at each regular meeting, and shall from time to time prepare and submit to the Board estimates of expected endowment income and appreciation.
- 6.10.2. The Finance Committee shall, in each year, receive from the President and review the proposed budget showing the estimated receipts and disbursements of RGCF for the next year, as submitted by the Treasurer, and shall present the budget, with such changes as the Committee may make, for the consideration and action of the Board. The Board may approve, amend, or reject the budget so submitted. No monies of RGCF shall be expended unless the expenditure is authorized by the budget or other action of the Board or the Executive Committee. In the latter instance the action shall be reported to the Board at its next meeting. All requests for expenditures not authorized by the budget shall be presented through the Finance Committee, which shall report its recommendations to the Board.
- 6.10.3. The Finance Committee shall have oversight of any real property owned by RGCF and the maintenance thereof.
- 6.10.4. The Finance Committee shall oversee implementation of and compliance with financial accountability policies adopted by the Board.
6. 11 The Audit Committee. The Audit Committee shall consist of a chair and two members appointed in accordance with these By-laws. The Chair shall be a Director but the other members may be individuals who are not Directors but are members in good standing of RGCF. None of the members of the Audit Committee may be members of the Executive Committee. The Audit Committee shall recommend annually to the Board the names of certified public accountants for selection as independent auditors to examine the accounts of RGCF. The Audit Committee shall receive and examine annually the opinion of the independent auditors selected by the Board regarding the accounts of RGCF, shall receive and examine any additional reports that may be submitted by the independent auditors, and shall present the auditor's opinion to the Board annually together with any comments and recommendations which it deems appropriate.

6.12 The Governance and Nominations Committee. The Governance and Nominations Committee shall consist of a chair and members appointed in accordance with these By-Laws.

6.12.1 The Governance and Nominations Committee shall consider and present to the Executive Committee nominations for Directors of RGCF to be elected by the Board, and nominations for Chair, Chair Elect, Secretary and Treasurer of RGCF to be elected by the RGCF board from among its members.

6.12.2. The Governance and Nominations Committee shall review the functioning of the committees of the Board and, shall recommend to the Chair Directors for appointment as members of the standing committees of the Board.

6.12.3. The Governance and Nominations Committee shall develop and administer an orientation program for newly elected Directors and shall develop and administer a professional development and education program for continuing members of the Board.

6.12.4. The Governance and Nominations Committee shall regularly review the By-laws and governance policies of RGCF and recommend amendments as appropriate.

6.13 The Programs and Policy Committee. The Programs and Policy Committee shall consist of a chair and members appointed in accordance with these By-Laws. The Committee shall have oversight of the charitable, research and educational programs of RGCF and of any advocacy undertaken consistent with its mission and organization as a non-profit, tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code. The Programs and Policy Committee shall review any strategic and action plans developed by the President and report to the Finance Committee its estimates of the costs of the programs and to the Board its recommendations regarding program priorities.

## **ARTICLE VII CONFLICTS OF INTEREST**

7.1. Conflict of Interest Policy. The Board of Directors shall adopt, and annually renew, a Conflict of Interest Policy consistent with the applicable provisions of the Virginia Non-Stock Corporation Act as it may be amended from time to time and any other legal requirements imposed by federal, state or local law, and each member of the Board of Directors shall annually complete, sign and return a conflict of interest questionnaire designed to assure compliance with that policy.

7.2. Violations. Any violation of the Conflict of Interest Policy or of this Article shall be grounds for immediate removal from the Board.

**ARTICLE VIII  
INDEMNIFICATION AND LIMITATION OF LIABILITY**

8.1 Definitions. For purposes of this Article, the following definitions shall apply:

8.1.1. "RGCF" means The Richmond Gay Community Foundation, Inc. and no predecessor entity or other legal entity;

8.1.2. "expenses" include attorney or counsel fees, expert witness fees, and costs of investigation, litigation and appeal, as well as any amounts expended in asserting a claim for indemnification;

8.1.3. "liability" means the obligation to pay a judgment, settlement, penalty, fine, or other such obligation, including, without limitation, any excise tax assessed with respect to any employee benefit plan;

8.1.4. "legal entity" means a corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise;

8.1.5. "predecessor entity" means a legal entity the existence of which ceased upon its acquisition by RGCF in a merger or otherwise; and

8.1.6. "proceeding" means any threatened, pending, or completed action, suit proceeding or appeal whether civil, criminal, administrative or investigative and whether formal or informal.

8.2 Limit on Liability. In every instance in which the Virginia Nonstock Corporation Act, as it exists on the date hereof or may hereafter be amended, permits the limitation or elimination of liability of directors or officers of a corporation to the corporation, the directors and officers of RGCF shall not be liable to RGCF.

8.3 Indemnification of Officers and Directors. RGCF shall indemnify any individual who is, was or is threatened to be made party to a proceeding (including a proceeding by or in the right of RGCF) because such individual is or was a Director or officer of RGCF, or because such individual is or was serving RGCF or any other legal entity in any capacity at the request of RGCF while a Director or officer of RGCF, against all liabilities and reasonable expenses incurred in the proceeding, except such liabilities and expenses as are incurred because of such individual's willful misconduct or knowing violation of the criminal law. Service as an officer or Director of a legal entity controlled by RGCF shall be deemed to be service at the request of RGCF. The determination that indemnification under this Section is permissible and the evaluation as to the reasonableness of the expenses in a specific case shall be made, in the case of a Director, as provided by law, and in the case of an officer, as provided in Section 4 of this Article; provided that if a majority of the Directors of RGCF is changed after the date of the alleged conduct giving rise to a claim for indemnification, such determination and evaluation shall, at the option of the person claiming indemnification, be made by special legal counsel agreed upon by the Board of Directors and such individual. Unless a determination has been made that indemnification is not permissible, RGCF shall

make advances and reimbursements for expenses incurred by a Director or officer in a proceeding upon receipt of an undertaking from such officer or Director to repay the same if it is ultimately determined that such Director or officer is not entitled to indemnification. Such undertaking shall be an unlimited, unsecured, general obligation of the Director or officer and shall be accepted without reference to such Director's or officer's ability to make repayment. The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent shall not of itself create a presumption that a Director or officer acted in such manner as to make such Director or officer ineligible for indemnification. RGCF is authorized to contract in advance to indemnify and make advances and reimbursements for expenses to any of its officers or Directors to the same extent provided in this Section.

- 8.4 Indemnification of Others. RGCF may, to a lesser extent or to the same extent that it is required to provide indemnification and make advances and reimbursements for expenses to its Directors and officers, provide indemnification and make advances and reimbursements for expenses to its employees and agents, the Directors, officers, employees and agents of its subsidiaries and predecessor entities, and any person serving any other legal entity in any capacity at the request of RGCF, and may contract in advance to do so. The determination that indemnification under this Section is permissible, the authorization of such indemnification and the evaluation as to the reasonableness of expenses in a specific case shall be made as authorized from time to time by general or specific action of the Board of Directors, which action may be taken before or after a claim for indemnification is made, or as otherwise provided by law. No person's rights under Section 8.3 of this Article shall be limited by the provisions of Section 8.4 of this Article.
- 8.5 Miscellaneous. The rights of each person entitled to indemnification under this Article shall inure to the benefit of such person's heirs, executors and administrators. Special legal counsel selected to make determinations under this Article may be counsel for RGCF. Indemnification pursuant to this Article shall not be exclusive of any other right of indemnification to which any person may be entitled, including indemnification pursuant to a valid contract, indemnification by legal entities other than RGCF and indemnification under policies of insurance purchased and maintained by RGCF or others. However, no person shall be entitled to indemnification by RGCF to the extent he is indemnified by another, including an insurer. RGCF is authorized to purchase and maintain insurance against any liability it may have under this Article or to protect any of the persons named above against any liability arising from their service to RGCF or any other legal entity at the request of RGCF regardless of RGCF's power to indemnify against such liability. The provisions of this Article shall not be deemed to preclude RGCF from entering into contracts otherwise permitted by law with any individuals or legal entities, including those named above. If any provision of this Article or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of this Article, and to this end the provisions of this Article are severable.
- 8.6 Amendments. No amendment, modification or repeal of this Article shall diminish the rights provided hereunder to any person arising from conduct or events occurring before the adoption of such amendment, modification or repeal.

**ARTICLE IX**  
**MISCELLANEOUS PROVISIONS**

- 9.1 Corporate Seal. The Board of Directors may adopt a seal and use the same by causing it or a facsimile thereof to be impressed, affixed or otherwise reproduced.
- 9.2 Fiscal Year. The fiscal year shall be determined in the discretion of the Board of Directors, but in the absence of any such determination it shall be the calendar year.
- 9.3 Interpretation. For the purpose of construing these By-laws, unless the context indicates otherwise, words in the singular shall be deemed to include words in the plural and vice versa, and words in one gender shall be deemed to include words in the other gender. Any provisions of the Bylaws which are inconsistent with the laws of the state in which the RGCF is incorporated or with the Articles of Incorporation of the RGCF shall be null and void.
- 9.4 Amendments. Except as otherwise provided in the Articles of Incorporation, these Bylaws may be amended or repealed, and new Bylaws may be made at any regular or special meeting of the Board of Directors by a majority vote of the Board; provided, however, that at least ten (10) days written notice of any proposed changes shall be given to each Director in the manner provided in these By-laws.
- 9.4 Effective Date. These by-laws shall be effective on April 15, 2009.

**ADOPTED BY THE BOARD OF DIRECTORS on April 1, 2009.**  
Effective on April 15, 2009