



**AMENDED AND RESTATED BYLAWS
TEAM NEW YORK AQUATICS INC.,**

a New York not-for-profit corporation

Adopted December 7, 1990

Restated for TNYA's incorporation as a not-for-profit corporation, October 24, 1993

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ARTICLE 1 – GENERAL

1.1 NAME

The name of this not-for-profit corporation shall be Team New York Aquatics, Inc. (“TNYA”).

1.2 MISSION STATEMENT

The mission of TNYA is to serve the social and physical wellbeing of the lesbian, gay, bisexual, transgender, queer, gender non-conforming, and allied (“LGBTQ+”) community in the greater New York City area by organizing and participating in amateur aquatic practices and competitions for LGBTQ+ athletes in a safe environment characterized by mutual understanding and support, allowing LGBTQ+ athletes of all abilities and skill levels to achieve their own goals in aquatic sports.

1.3 DEFINITIONS

As used in these bylaws, unless the context otherwise requires, the term:

- (a) “AGM” means Annual General Meeting, the annual meeting of the members required by N-PCL § 603(b);
- (b) “Board” means the Board of Directors of the Corporation;
- (c) “Board officers” means the President, Vice President, Coaching Officer, Treasurer, and Secretary;
- (d) “Board Organizing Meeting” or “BOM” means the first meeting of the Board following an AGM;
- (e) “coach” means a person who is paid hourly or per practice to coach an aquatic sport practice or competition and who does not have the title, compensation, or responsibilities of a Head Coach;
- (f) “compensation” means payment either in cash or in-kind to an individual or sole proprietorship for personal services; payment to a staffing agency or other legal person for services is not compensation unless that legal person is simply a vehicle through which an individual is paid for personal services;
- (g) “conflict of interest” shall have the meaning set forth in the conflict of interest policy promulgated by the Board, not inconsistent with the N-PCL or the IRC or regulations promulgated thereunder;
- (h) “the Corporation” or “TNYA” shall mean Team New York Aquatics, Inc.;
- (i) “directors” mean voting members of the Board;
- (j) “General Meeting” means a meeting of the members of the Corporation;
- (k) “grant” means any expenditure from the Fortoul Fellowship Fund, payment of money by TNYA to a member to attend a TNYA or other event (from any source), or any other discount on payment of fees ordinarily due and payable;
- (l) “Head Coach” is a person retained by TNYA either as an employee or independent contractor to supervise other coaches and/or perform administrative functions for TNYA;

- (m) “IGLA” means International Gay and Lesbian Aquatics Inc.;
- (n) “IRC” means the Internal Revenue Code of 1986 as now in effect or as may hereafter be amended;
- (o) “independent directors,” are directors who both meet the definition set forth in N-PCL § 102(a)(21) and are neither TNYA employees, independent contractors, or coaches;
- (p) “key person” shall have the same meaning as set forth in N-PCL § 102(a)(25);
- (q) “the membership” means all members of TNYA taken together;
- (r) “N-PCL” means the New York Not-For-Profit Corporation Law;
- (s) “National Governing Bodies” or “NGBs” means U.S. Masters Swimming Inc., U.S.A. Water Polo Inc., U.S. Artistic Swimming Inc., and U.S.A. Diving Inc., or any successor organizations of any of the foregoing, except that if TNYA does not participate in activities regulated by one or more of the foregoing organizations, these terms shall be taken to exclude that body;
- (t) “other officers” are all officers who are not Board officers;
- (u) “SGM” means a Special General Meeting, a special meeting of the members;
- (v) “Welfare policies” mean the member code of conduct, anti-harassment policy, and anti-discrimination policy promulgated by the Board pursuant to bylaw 1.5;
- (w) “written” notices, requests, or other communications shall be taken to refer to both written and electronic communication, including but not limited to emails sent to the last known email address of the recipient.

1.4 AFFILIATION

TNYA must use its best efforts to join, and maintain membership in, IGLA and each NGB governing those aquatic activities in which TNYA presently participates. TNYA must take those actions necessary to ensure TNYA and its members comply with the requirements of such organizations.

1.5 NON-DISCRIMINATION AND WELFARE POLICIES

TNYA shall be nondiscriminatory, and ensure in all its operations and activities a safe and inclusive environment where all individuals are treated with respect. In furtherance of this obligation, the Board must promulgate and enforce the welfare policies and distribute copies of these policies to the membership at least once each year.

1.6 TNYA IS A PUBLIC CHARITY

TNYA is organized and shall be operated exclusively for charitable purposes within the meaning of section 501(c)(3) of the IRC. Notwithstanding any other provision of these bylaws, TNYA must not carry on any activities not permitted to be carried on by a corporation exempt from federal income tax under section 501(c)(3) of the IRC, or by a corporation, contributions to which are deductible under section 170(c)(2) of the IRC.

1.7 OTHER AUTHORITIES

Consistent with its affiliations as provided in bylaw 1.4, TNYA is bound by, and must not act inconsistently with, the following authorities:

- (a) The laws of the United States and of New York State, in particular the N-PCL, the IRC, and any other applicable laws and regulations;
- (b) The bylaws, rules, and regulations promulgated by the NGBs;
- (c) These bylaws;
- (d) Policies adopted by the Board not overridden by the members pursuant to bylaw 3.9; and,
- (e) For the conduct of meetings, the latest edition of Rosenberg's Rules of Order as published by the League of California Cities.

To the extent that the above authorities are in irreconcilable conflict, TNYA is bound by the authority appearing higher on the above list.

ARTICLE 2 – MEMBERSHIP

2.1 WHO IS A MEMBER

The members of TNYA consists of individuals, each of whom:

- (a) Is aged eighteen years or over;
- (b) Is interested in the purposes and programs of TNYA;
- (c) Is a member of one or more of the NGBs;
- (d) Has agreed to the welfare policies promulgated by the Board pursuant to bylaw 1.5;
- (e) Has paid the designated initiation fee to TNYA;
- (f) If they are subject to a restriction on joining TNYA because of the action of the Board or the membership pursuant to bylaw 2.3, has received the approval of the Board or membership (as applicable) to resume their membership; and,
- (g) has registered with TNYA by completing the form prescribed by the Board.

2.2 LOSS OF MEMBERSHIP

A person ceases to be a member if that person:

- (a) Fails to pay the designated annual dues within one month of the date on which they become due and payable;
- (b) Ceases to be a member in good standing of at least one of the NGBs and has not regained good standing in an NGB within 30 days;
- (c) Resigns in writing to the Secretary;
- (d) Is expelled from TNYA pursuant to bylaw 2.3;
- (e) Is sent two consecutive notices to their registered email address that are returned as

undeliverable;

- (f) Dies or experiences any other event that would terminate a person's membership in a non-profit corporation under the N-PCL.

2.3 MEMBER AND PARTICIPANT MISCONDUCT

- (a) The Board may ban any person ("the respondent") from further participation in some or all of TNYA's activities for just cause. The ban imposed may be of limited or indefinite duration.
- (b) Except as provided by subdivision (c) of this bylaw, the Board may impose neither a limited nor indefinite ban on participation unless and until the Board has made reasonable efforts to give the respondent notice in writing of the allegations against them, an opportunity to be heard with counsel or by proxy, and a reasoned written decision.
- (c) If the Board believes it is probable that just cause exists to ban the respondent from participation in TNYA's activities, and that irreparable harm would result if the Board were to delay in imposition of a ban until notice and an opportunity to be heard were provided, the Board may temporarily ban the respondent from participation in TNYA activities notwithstanding failure to comply with any of the provisions of subdivision (b) of this bylaw. A ban authorized by this subdivision (c) shall expire 30 days after imposition and may not be renewed. The Board's powers pursuant to this subdivision (c) may be exercised by the Co-Chairs, provided that if exercised by the Co-Chairs the resulting ban shall expire seven days after imposition and may not be renewed except by the Board, such renewal expiring 23 days after Board action without possibility of further renewal pursuant to this subdivision (c). In all cases, the respondent may challenge imposition of such interim measures by writing to the Board or appealing to the membership pursuant to subdivision (d). Notwithstanding the foregoing, the Board may empower coaches to require any participant remove themselves from a practice or event for just cause, with subsequent exclusions to be determined as otherwise described in this subdivision (c).
- (d) Any member aggrieved by the Board's actions or inactions concerning a ban on participation (including but not limited to a decision not to impose a ban on participation), may appeal that decision or absence of decision to the membership, which may overturn the Board's decision or absence of decision by vote of the membership, taken by secret ballot, at a General Meeting. Any override of the Board's decision or absence of decision that has the effect of banning a member from participation may be made only with just cause. The Board must use reasonable efforts to provide the respondent and member or members who have made the appeal (if they are different to the respondent) notice in writing of the allegations against the respondent and an opportunity to be heard with counsel or by proxy at such a meeting.
- (e) The Board (or, on appeal, the membership) may expel a member from TNYA for just cause under the same procedure as applies to a ban on participation. Expulsion of a member terminates the respondent's rights and privileges of membership. Imposition of an indefinite ban on the respondent participating in any TNYA activities shall also have the effect of expelling the respondent from TNYA.
- (f) "Just cause" exists when (i) those approving the action believe that it is more likely than

not that the respondent acted or will act in breach of the welfare policies, the conflict of interest policy, or the code of conduct of one or more of the NGBs, and (ii) the breach is of sufficient seriousness that the action is necessary to remediate the breach or prevent its occurrence or reoccurrence.

- (g) No person expelled by the Board may rejoin TNYA except with the express approval of the Board; no person expelled by vote of the membership overturning a Board decision may rejoin TNYA except by vote of the membership.
- (h) No member who resigns their membership between the date of any incident that serves as at least a partial basis for imposition of a ban or the date on which notice of ban proceedings is transmitted to that person (whichever comes first) and the date (if any) on which any proceedings with respect to a potential ban has finally terminated without a ban being imposed on that member's participation, may rejoin TNYA without the affirmative consent of the Board, or, if the Board's decision or lack of decision is appealed to the membership, a vote of the membership.

2.4 INITIATION FEES AND ANNUAL DUES

The Board may levy an initiation fee payable upon becoming a member as well as annual dues payable either once each year or in installments as the Board may provide. Annual dues and initiation fees for members must be uniform. Except as required by law, membership dues are not refundable in whole or in part should a person lose their membership during the balance of the year. Any waiver, in whole or in part, of an initiation fee or annual dues shall be deemed a grant governed by bylaw 8.14.

2.5 DISCIPLINES WITHIN TNYA

Each member may be a member of one or more of the swimming discipline, artistic swimming discipline, diving discipline, or water polo discipline. A member is a member of a discipline if they are a member of the NGB for that discipline and TNYA is a member of the NGB for that discipline.

2.6 MEMBER RIGHTS, DUTIES, AND POWERS

All members are voting members and may serve as directors or officers. Membership is not transferrable. The duties and powers of the membership are:

- (a) To elect the directors, in accordance with Article 4;
- (b) To modify or reverse policy and programs established by the Board, in accordance with Article 3;
- (c) To amend these bylaws, in accordance with Article 9;
- (d) To inspect any books or records maintained by the Board or officers of TNYA in the discharge of their official duties, in accordance with N-PCL § 621; and
- (e) To contribute to the management of TNYA by volunteering to, among other things, plan events, serve on committees, and/or hold appointed or elected offices.

ARTICLE 3 – GENERAL MEETINGS

3.1 ANNUAL GENERAL MEETING

The AGM must be held no earlier than February 1 and no later than April 1 of each year, on a date and time specified by the Board.

3.2 BUSINESS OF THE AGM

The business of the AGM is:

- (a) Ascertainment of quorum and record of attendance;
- (b) Presentation of the financial and membership report required by bylaw 8.5, deficit or surplus remediation plan if required by bylaw 8.6, overview of the Corporation’s performance against budget, and report on the athletic program for each discipline;
- (c) A period where members may ask questions of the directors and officers;
- (d) Consideration of old and new business properly before the meeting proposed (i) by the Board, or (ii) by demand of 10% of the membership, made in the same manner as a petition for an SGM, at least 20 days before the date of the AGM;
- (e) Statements from nominees for director, followed by a period of time for members to ask questions of the nominees;
- (f) Elections as provided by article 4 (including sending of reminder emails pursuant to bylaw 4.6);
- (g) An open forum period where members may discuss TNYA’s operations and strategy among themselves and with the directors and officers;
- (h) Announcement of the results of the elections; and,
- (i) Adjournment.

3.3 SPECIAL GENERAL MEETINGS

SGMs may be called by the Board or by demand of 10% of the membership (“the petitioning members”). The petitioning members may call a SGM by making such a demand, in writing, to the Secretary specifying the date and month of the meeting demanded, which shall not be less than two nor more than three months from the date of such written demand. The Secretary, upon receiving the written demand, shall promptly give notice of such meeting; should the Secretary fail to do so within five business days thereafter, any petitioning member may give such notice.

3.4 PLACE AND FORMAT OF GENERAL MEETINGS

All General Meetings must be held electronically via videoconference utilizing a service that is free for members to access. If the Board determines that such an electronic meeting cannot be lawfully or practicably held, it may hold the meeting at a physical location within the City of New York. If the General Meeting is being held electronically, the Board must implement reasonable measures to:

- (a) Verify that each person participating electronically is a member or a proxy of a member;

- (b) Provide each member participating electronically with a reasonable opportunity to participate in the meeting, including an opportunity to propose, object to, and vote upon a specific action to be taken by the members, and to see, read or hear the proceedings of the meeting substantially concurrently with those proceedings; and,
- (c) Record and maintain a record of any votes or other actions taken by electronic communication at the meeting. Voting shall be done by electronic polls or contemporaneous chat functions accessible to those members participating electronically in the meeting, and not by voice or show of hands.

3.5 GENERAL MEETING NOTICES

The notice of any General Meeting must conform with the following requirements:

- (a) *Time*. Written notice must be given for any General Meeting at least 10 and not more than 50 calendar days in advance of the date of the meeting.
- (b) *Information*. The meeting notice must contain the time, date, place (if an in-person meeting), access link and credentials (if an online or hybrid meeting), whether the meeting is being called by the Board or the petitioning members, a brief description of old and new business that will be proposed to the meeting, and, if the meeting is a SGM, the purpose or purposes for which the meeting is called.
- (c) *Special Notice Requirements for Certain Items of Business*. A General Meeting may not approve an amendment to these bylaws unless a description of the substance of the proposed amendment is included in one or more notices of the meeting; nor may a General Meeting consider whether or to what extent one or more persons should be removed from office, or banned from participation in TNYA activities, unless one or more notices for that meeting circulated at least 10 calendar days in advance so state and name the subject(s) of the imposed or proposed removal or ban.
- (d) *Address*. The notice must be sent to each member's last known email address as it appears on the Register of Members at the time the notice is sent; provided, that members may request in writing that notices be delivered by first class mail. The record date for any notice of a General Meeting shall be the date of the notice.
- (e) *Adjourned meetings*. Notwithstanding N-PCL § 605, adjourned meetings require the same notice as an SGM.

3.6 QUORUM AT GENERAL MEETINGS

If TNYA has 16 or fewer members, a majority of the membership present in person or by proxy shall constitute quorum for the transaction of business at a General Meeting. If TNYA has more than 16 members and fewer than 1,000 members, eight members or 10 percent of the membership present in person or by proxy, whichever is greater, shall constitute a quorum for the transaction of business at a General Meeting. If TNYA has more than 1,000 members, 100 members present in person or by proxy shall constitute a quorum.

3.7 GENERAL MEETING VOTING PROCEDURE

Each member shall be entitled to one vote, and any member who is a member on the seventh day before a General Meeting is entitled to vote at that General Meeting. All decisions of the members

at a General Meeting may be made only by a vote of the membership. Whenever any action requires the “vote of the membership,” it shall be authorized only by a majority of the votes cast in person or by proxy at a General Meeting, where the affirmative votes cast in favor of any such action are at least equal to the minimum number of members necessary for quorum (except as provided by Article 4 of these Bylaws). Blank votes or abstentions shall not be counted in the number of votes cast. The Board shall not have the power to set or alter a record date for purposes of determining the members entitled to vote at any General Meeting.

3.8 PROXY VOTES AT GENERAL MEETINGS

- (a) *Proxy by Written Direction of Member.* A member may vote by proxy by authorizing another member in writing to act for the absent member by proxy either by use of the proxy form provided by the Board or by providing written notice thereof to the Secretary.
- (b) *Board Proxy Form.* The Board must provide a proxy form for each General Meeting that permits proxy voting on each item of business to be considered by the meeting. The proxy form provided by the Board shall, if completed, have the effect of requiring the proxying member’s vote be cast by the chair of the meeting in accordance with the instructions provided by the proxying member in the proxy form. Proxy votes for the election of directors may be cast only in accordance with the provisions of bylaw 4.6; provided that any proxy form issued pursuant to bylaw 4.6 shall also contain the substance of the proxy form required by this bylaw 3.8.
- (c) *Expiry of Proxy.* Notwithstanding any statements to the contrary in the proxy, to the maximum extent permitted by the N-PCL, all proxy agreements shall be deemed expired after the adjournment of the first General Meeting following such agreements’ execution or the lapse, termination, or resignation of the proxying member’s membership, whichever comes first.
- (d) *No Proxy Expenses May Be Incurred.* TNYA must not pay any expenses incurred in the solicitation of votes, proxies, or consents of members by or on behalf of the Board of directors, nominees for director, or any other person.

3.9 MEMBERSHIP OVERRIDES OF BOARD DECISIONS

Any decision of the Board may be overridden by vote of the membership. The Board may not override such a decision by the membership.

ARTICLE 4 – ELECTIONS OF DIRECTORS

4.1 ELECTION AT AGM

The membership shall elect directors at the AGM up to the maximum number of directors. All persons who are members seven days before the date of the AGM are eligible to vote at that AGM. In all elections of directors, each eligible member present in person or by proxy shall have one vote.

4.2 NOMINATIONS OF DIRECTORS

- (a) Any member who not disqualified by reason of the limitations provided in bylaw 5.2 may

nominate themselves to be a director by submitting a nomination to the Secretary before the 8th day prior to the AGM (“the close of nominations”).

- (b) At the time of the first notice of the AGM, the Board must send all members via email an online nomination form; completion of the form shall be sufficient to serve as a nomination. The Board must supply a copy of the form to any member upon written request. All nominations must be self-nominations. The form shall be deemed complete if the candidate completes the fields for the candidate’s name, gender identity, discipline(s), and declaration of interests sufficient to determine whether the candidate qualifies as an independent director and otherwise complies with N-PCL § 715-a. The Board may allow nominators to provide additional information on the form and, to the extent the Board does so, shall circulate that additional information as part of the candidate’s application when applications are distributed.

4.3 MINIMUM BOARD REPRESENTATION

At all times, TNYA must use its best efforts to ensure that:

- (a) at least two directors are persons who identify as women or any gender other than cisgender-male;
- (b) at least one member of each discipline within TNYA that has members (as defined in bylaw 2.5) is a director; and,
- (c) at least three directors are independent directors.

4.4 UNCONTESTED ELECTION

If, at the time of the close of nominations, there are as many or fewer nominees for director as seats open to election, the AGM shall proceed to an uncontested election. In such an election, each voter in attendance must be presented with a secret ballot listing all nominees and provided an opportunity to approve or disapprove each nominee or abstain. A nominee shall be elected in an uncontested election if votes of approval cast on that nominee exceed the votes of disapproval cast on that nominee, not counting abstentions and members not voting, irrespective of whether the number of members who cast affirmative votes is less than the number of members necessary for quorum. A nominee who receives an equal number of votes in favor and votes against shall not be elected.

4.5 CONTESTED ELECTION

- (a) If, at the time of the close of nominations, there are more nominees for director than seats open to election, the AGM shall proceed to a contested election.
- (b) In a contested election, each voter must be presented with a secret ballot listing all nominees and provided the opportunity to vote for up to as many nominees as there are seats open to election. Each voter may vote only once for each nominee.
- (c) Nominees shall be elected in descending order of the number of votes they have received, up to the maximum number of directors as provided by bylaw 5.1, adjusted such that nominees whose election would cause the Board to satisfy the thresholds in bylaw 4.3 must be elected (in descending order of votes received) in preference to nominees who would not. A nominee may be elected even if that nominee has received fewer votes than

the number of members necessary for quorum.

- (d) If there is a tied vote between two or more nominees for the last available seat or seats after application of the procedures set forth in subdivision (c) of this bylaw, the remaining directors must fill the seat in question with one of the tied nominees at the BOM.

4.6 PROCEDURE IN ELECTIONS OF DIRECTORS

- (a) *Appointment of Election Coordinators.* Prior to issuing the first notice of the AGM, the Board must appoint three members who are not candidates and have no disqualifying personal relationships with a candidate (as specified in the conflict of interest policy adopted pursuant to bylaw 5.9) to serve as Election Coordinators for the election.
- (b) *Secure Online Voting System for Proxy Votes.* The Election Coordinators shall set up, on a secure online election system, a secret ballot in conformity with this Article including, if requested by the Board, the content of a proxy form required by bylaw 3.8. The voting system shall be equally accessible to all Election Coordinators but not otherwise accessible to members and shall permit the sending of reminders to those who have not voted, but not permit anyone to learn how any member voted.
- (c) *Transmission of Applications, Proxy Form Ballot, and Opening of Voting.* On the day following the close of nominations, the Election Coordinators shall issue each member eligible to vote as of the date of the close of nominations a link to the online voting system at that member's last known email address. The ballot, or email providing the link to the ballot, must contain a clear and conspicuous link to a compilation of the content of all valid candidate applications received before the nominations deadline if not available on the ballot itself.
- (d) *Campaign Regulations.* The Board must adopt a policy governing campaigning for election that ensures no undue advantage in the campaign accrues to incumbents or any candidate, and no TNYA-owned resources are used to campaign. The Board may not amend this policy at any time within four months before the date of the AGM.
- (e) *Effect of Proxy Voting at General Meeting.* All votes cast using the online voting system prior to the commencement of the AGM shall be deemed irrevocable proxy agreements, for that AGM only, directing the chair of the meeting to cast the proxying members' votes in accordance with the members' secret ballot vote. All votes cast using the online voting system after the commencement of the AGM shall be deemed votes cast at the AGM.
- (f) *Close of Voting.* At the end of the nominees' presentations and Q&A at the AGM, the Election Coordinators shall send a reminder email via the election system to all members who have not voted by proxy with a link to the online ballot, with voting closing 10 minutes following the sending of the reminder.
- (g) *Announcement of Results.* Following the closure of voting the Election Coordinators shall announce the results of the election at the AGM, including the number of votes received by (or, in an uncontested election, for and against) each nominee.

ARTICLE 5 – BOARD OF DIRECTORS

5.1 DIRECTORS

The membership of the Board consists of directors elected at the AGM and directors appointed by the Board to fill vacancies. The number of directors shall be no fewer than seven nor greater than eleven, with a preference for nine directors holding office at any time.

5.2 ELIGIBILITY TO SERVE AS A DIRECTOR

Directors must be members of TNYA. No TNYA employee or paid contractor, other than a coach, may be a director. No person may be elected or appointed a director if, on the day of their election or appointment, they have served as a director for six or more years in the aggregate out of the previous eight.

5.3 DUTIES AND POWERS

TNYA shall be managed by the Board, which shall, in addition to exercising all those powers vested in it by the N-PCL, other laws, or these bylaws:

- (a) Establish and manage the programs and policies of TNYA, including but not limited to the policies provided in bylaws 1.5, 5.9, and 8.10, subject to membership modification, in accordance with bylaw 3.9;
- (b) Name officers or hire employees to deliver the programs and policies so established;
- (c) Monitor the implementation of TNYA's programs and policies by TNYA's officers and employees;
- (d) Review and adopt a budget pursuant to bylaw 8.7; and,
- (e) Review and approve TNYA's Form 990 or 990-EZ prior to its submission.

5.4 TERM OF OFFICE

Directors elected at an AGM shall serve a two-year term, beginning upon the adjournment of the AGM at which they are elected and ending at the adjournment of the second AGM to occur following their election; provided that if fewer than 40% of the currently serving directors have terms set to expire at the next AGM, as many directors as would be necessary for at least 40% of serving directors to have terms set to expire at the next AGM, either self-nominated or (if insufficient self-nominations) chosen by lot, shall be assigned a term to expire at the next AGM.

5.5 RESIGNATIONS

Directors may resign by giving written notice to the Secretary. A director's resignation takes effect on the date specified in the notice, or the date the Board votes to accept the resignation, whichever comes first. For purposes of accepting a resignation early, the Board shall comprise all directors in office other than the director(s) who offered their resignation(s).

5.6 DE FACTO RESIGNATIONS

Any director who misses two consecutive Board meetings, or three Board meetings between one

AGM and the next AGM, without both notifying the Board in advance and being excused from attendance by vote of the Board, shall be considered to have resigned.

5.7 REMOVAL OF A DIRECTOR

The Board may remove a director from office for cause, following circulation of notice of an intention to remove that director to all directors not less than five days before the day such a vote is taken. A vote of the membership may remove any director from office with or without cause. A vote to remove a director, whether by the Board or the membership, must be taken by secret ballot.

5.8 VACANCIES

- (a) If there are fewer than the maximum number of directors permitted by bylaw 5.1, the Board may appoint any otherwise eligible member to be a director. The term of a director appointed pursuant to this bylaw shall commence upon notice to the membership of the appointment and terminate on the adjournment of the first AGM following that director's appointment.
- (b) The Board must give notice to the membership upon the resignation or removal of a director before the ordinary expiration of that director's term.
- (c) If there are fewer than the maximum number of directors and the Board does not meet the thresholds specified in bylaw 4.3, the Board must use best efforts to appoint directors who would cause the Board to meet these thresholds.
- (d) No person appointed a director pursuant to this bylaw may again be appointed a director by the Board until the adjournment of the second AGM following the date of their appointment.
- (e) No person who was a nominee for director but was not elected in an uncontested Board election as provided in bylaw 4.3 may be appointed a director by the Board until or unless such a person is elected a director at an AGM. A nominee for director who was not elected in a *contested* Board election is eligible to be appointed a director by the Board.
- (f) In the event that there are fewer than the minimum number of directors in office than the number prescribed in bylaw 5.1, the remaining director or directors shall be empowered to appoint directors pursuant to this bylaw sufficient to restore the Board to the minimum number of directors and must do so as soon as practicable.

5.9 CONFLICTS OF INTEREST AND RELATED PARTY TRANSACTIONS

The Board must adopt and maintain a conflict of interest policy in conformity with N-PCL § 715-a, the IRC, and the regulations promulgated thereunder. The conflict of interest policy shall make provision for how related party transactions shall be reviewed and approved; any transaction in violation of such restrictions shall be void.

ARTICLE 6 – BOARD OF DIRECTORS MEETINGS

6.1 FREQUENCY OF BOARD MEETINGS

The Board shall meet as frequently as required to complete its business, but not less frequently than four times per year.

6.2 WHO MAY CALL A BOARD MEETING

Board meetings may be called by a Co-Chair or by one-fifth or more of the directors in office. The director or directors calling the meeting must make reasonable efforts to ensure that all directors are able to attend the meeting at the proposed date and time.

6.3 BOARD MEETING NOTICES

Written notice of Board meetings must be given to all directors at least five days in advance of the day set for the meeting. Notice of any adjournment of a meeting of the Board to another time or place must be given to all directors at least five days in advance of the day set for resumption of the meeting. Notice need not be given to a director who waives notice whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to that director. Any director may propose (and with consent of the Board, add) an item to the Board's agenda, with or without notice.

6.4 QUORUM AT BOARD MEETINGS

A majority of directors currently in office shall constitute a quorum for the transaction of any business at any meeting of the Board. Directors who are present at the time of the meeting but not present at the time of a vote due to a conflict of interest or related party transaction shall be determined to be present at the time of the vote for purposes of determining if a quorum is present at such time.

6.5 BOARD VOTING

Each director shall have one vote. Except as otherwise provided by law, the vote of a majority of the directors present at the time of the vote, if quorum is present at such time, shall be the act of the Board.

6.6 BOARD MEETING PROCEDURES

The Board may meet in person or by electronic video screen communication or similar. Whatever the medium of the meeting, all persons participating in the meeting must be able to hear each other at the same time and each director must be able to participate in all matters before the Board, including, without limitation, to propose, object to, and vote upon a specific action to be taken by the Board.

6.7 BOARD ACTION WITHOUT MEETING

Any action required or permitted to be taken by the Board may be taken without a meeting if all directors then in office consent to the adoption of a resolution authorizing the action by electronic mail or other electronic means that sets forth, or is submitted with, information from which it can reasonably be determined that the transmission was authorized by the director. The

resolution and the written consents thereto by the directors shall be filed with the minutes of the proceedings of the Board.

6.8 INVITATION TO ATTEND BOARD MEETINGS

The Board may invite anybody to attend Board meetings and participate as it thinks fit; provided, that only directors may vote.

6.9 BOARD ORIENTATION

At the BOM or the Board meeting immediately following the BOM, the Board must conduct an orientation at which directors shall review their fiduciary and statutory duties as directors, the conflict-of-interest policies and declarations (including any conflicts disclosed by directors that year), other applicable TNYA policies and procedures, and these bylaws.

ARTICLE 7 – OFFICERS AND COMMITTEES

7.1 OFFICERS

The officers of TNYA are the President, the Vice President, the Coaching Officer, the Treasurer, and the Secretary (“the Board officers”), and such other officers as the Board may from time to time appoint (“the other officers”).

7.2 ELIGIBILITY

Board officers and other officers must be members of TNYA.

7.3 ELECTION OF BOARD OFFICERS

The director presently serving as Vice President (if any) immediately prior to the beginning of the BOM shall become President upon the commencement of the BOM; if no such director exists, the Board must elect both a President and Vice President at the BOM from among the currently serving directors. The remaining Board officers must be elected by the Board from among the currently serving directors at the BOM (following the resolution of any tied director elections pursuant to bylaw 4.5. The Board must elect a successor to any Board officer as soon as possible following a vacancy in that office, and no later than the second meeting after that vacancy.

7.4 BOARD OFFICER ELECTION PROCEDURES

- (a) *Chair.* The President, or, if the President is a candidate for office, the director with the longest tenure of service who is not a candidate for any office to be elected at that meeting (or, if there are multiple such directors, one of those directors chosen by lot) shall chair the portion of any Board meeting given over to elections and administer the elections process unless the Board votes to pass the chair to another director who is not a candidate.
- (b) *Balloting.* Elections of Board officers must be by secret ballot; each director present shall have one vote. A candidate for Board officer must receive a majority of votes cast to be elected; if no candidate receives a majority of votes cast, the candidate receiving the

fewest votes (or, if multiple candidates receive the equal lowest number of votes, all such candidates) shall be eliminated and the Board must ballot again between the remaining candidates, repeating this process until one candidate has received a majority of votes cast or all candidates are eliminated. If all candidates are eliminated, nominations shall re-open for the office and the elections process repeated.

(c) *Uncontested Elections.* If only one candidate nominates or is nominated for a given office, the candidate shall be declared elected.

(d) *Only Applicable to Board Officer Elections.* The provisions of this bylaw shall not apply to the election of other officers unless the Board otherwise provides.

7.5 CO-CHAIRS

The President and Vice President shall be different persons but shall possess the same authority and duties except as the N-PCL expressly otherwise provides. They shall be referred to solely as “Co-Chairs” in all internal and external communications unless otherwise required by law. Any reference in these bylaws to the “Co-Chairs” shall refer to the President and Vice President taken together.

7.6 SIMULTANEOUS OFFICERS

No Co-Chair may hold another Board Office simultaneously, other than the office of Coaching Officer and Acting Co-Chair as provided by bylaw 7.10. Any other Board officer or other officer may hold multiple offices simultaneously.

7.7 TERM OF OFFICE

Board officers shall serve from their election until their election to or assumption of another Board office, the election of their successor at the next BOM, or the adjournment of the BOM, whichever happens first. A person may not serve as Co-Chair, Coaching Officer, Treasurer, or Secretary if at the time of their re-election they have served in that office (or, for the Co-Chairs, one or both of those offices) for four years in aggregate out of the previous five. All other officers shall serve terms commencing upon appointment until the next BOM, whereupon they shall be eligible for reappointment.

7.8 RESIGNATION

Any officer may resign at any time by giving written notice to the Board.

7.9 REMOVAL OF OFFICERS

Officers, whether Board officers or other officers, may be removed by the Board or by the vote of the membership, with or without cause. A person removed as an officer by the membership may not be reelected to that office by the Board without the vote of the membership. The Board may not remove a Board officer, whether with or without cause, unless notice of an intention to move that such a Board officer be removed is circulated to all directors not less than five days before the day such a vote is taken.

7.10 DUTIES OF BOARD OFFICERS

Except as the Board otherwise provides, the duties of the officers are as follows.

- (a) The Co-Chairs shall be responsible for the overall supervision of the affairs of TNYA and shall exercise the functions vested by law in the President and Vice President of the Corporation. They, or any one of them, shall call Board meetings, and use their best efforts to circulate a proposed agenda for the same at least five days before the meeting. They shall preside in the ordinary course at all General Meetings and Board meetings either by alternation or in accordance with such arrangement they may make among themselves, unless the directors or members present vote to pass the chair to another member for some or all of the meeting in question. They shall report on the actions of the Board at all General Meetings. They shall assist the Treasurer in preparing the annual budget and the Coaching Officer in recruiting and managing coaches and the Coaching Committees.
- (b) The Coaching Officer shall be responsible for oversight of TNYA's athletic programming. The Coaching Officer shall chair each Coaching Committee and have general responsibility for maintaining and increasing the quality of TNYA's athletic program, including but not limited to recruiting coaches and ensuring coordination between coaches and between coaches and the Board. If one or both Co-Chair positions becomes vacant, the Coaching Officer shall serve as Acting Co-Chair until the remaining Co-Chair position(s) are filled by the Board.
- (c) The Treasurer shall be responsible for oversight of TNYA's finances. The Treasurer shall establish and maintain adequate internal controls over financial reporting, record-keeping, and the use of TNYA's financial assets. The Treasurer is responsible, in cooperation with the Co-Chairs, for preparing the budget to be reviewed and approved by the Board. The Treasurer must make available to officers and directors up-to-date information on the Team's financial status, including dues or fees received and bills outstanding or paid, and furnish to the Secretary such books and records as are properly requested by members pursuant to the N-PCL. The Treasurer shall develop and maintain financial models permitting the Board to determine the economic consequences of decisions respecting Team activities.
- (d) The Secretary shall be responsible for oversight of TNYA's books and records and internal team communications. The Secretary shall take minutes of Board meetings and ensure these minutes and the other books and records of the Corporation are saved and available upon request. The Secretary must maintain the register of members, as well as accurate statistics on members' participation in TNYA activities. The Secretary must collect from each director the annual conflict of interest statements required by N-PCL § 715-a and provide a copy of all completed statements to the AFC, as well as maintain a registry of past directors and officers. The Secretary must inform the membership of any appointment or resignation of any officer or director within one week of such appointment or resignation taking effect.

7.11 ATHLETIC PROGRAM AND COACHING COMMITTEES

TNYA must use its best efforts to provide a comprehensive adult learn to swim program and intermediate "low pressure zone" aquatics program, with special emphasis on providing such

programs to communities historically marginalized or excluded from aquatic sports. The athletic program of each discipline in which TNYA participates shall otherwise be determined by the Coaching Committee for that discipline, subject to any directions or policies that may be made by the Board. The membership of each discipline's Coaching Committee shall consist of the Coaching Officer and all other coaches for that discipline, including Head Coaches if any. The Board may, but need not, appoint one or more Head Coaches for any discipline or TNYA as a whole.

7.12 OTHER OFFICERS

The Board may appoint members of TNYA as other officers. Such officers may include one or more Athletic Safety Officers, a Facilities Coordinator, a Social Coordinator, a Fundraising Coordinator, a Marketing Coordinator, a Competitive Swimming Coordinator, coordinators for a particular discipline's activities, including but not limited to coordinators for adult learn to swim programs or low pressure zone, an Open Water Swimming Coordinator, or TNYA representatives to one or more NGBs, IGLA, or other affiliated organizations. The Board must promulgate and maintain in writing a list of the functional responsibilities of each other officer. The Board must make reasonable efforts to appoint, as such other officers, members who are not presently directors. Officers must report to the Board on all planned projects and will have such authority as granted by the Board.

7.13 OTHER COMMITTEES

The Board, or any officer, may appoint committees to assist them in fulfilling official duties. Officers are encouraged to appoint committees to involve more members in TNYA activities and spread the burdens and benefits of volunteering. Each committee, and the members thereof, shall serve at the pleasure of the Board, except for the Audit and Finance Committee and Coaching Committee which shall be governed by the relevant bylaws.

7.14 LIMITATIONS ON DELEGATION

Except where necessary to avoid a conflict of interest or improper authorization of a related party transaction, the Board may not delegate to any committee or officer the following powers:

- (a) submission to the membership of any action requiring their approval under the N-PCL,
- (b) the appointment or removal of directors, officers, employees, or independent contractors other than coaches,
- (c) the adoption or amendment of the budget (except to the extent that parts of the budget require approval from the Audit and Finance Committee pursuant to bylaw 8.7),
- (d) the Board's pre-submission review of the Form 990-EZ or Form 990,
- (e) the Board's powers with respect to temporary or indefinite bans on participation pursuant to bylaw 2.3,
- (f) adoption of policies pursuant to bylaws 1.5 (welfare policies), 5.9 (conflict of interest), or 8.10 (investment),
- (g) amending or repealing any resolution of the Board other than those that by their express terms permit a committee or officer to so amend or repeal it, or,

(h) any other matter that may not be delegated pursuant to N-PCL § 712 or any other law.

The Board may delegate to committees or officers the initial responsibility to hear and report on any of the foregoing matters, provided that final review of such matters, including final decision respecting such matters, is not delegated.

ARTICLE 8 – FINANCES

8.1 NO EXPENDITURES FOR PRIVATE BENEFIT

No part of the net earnings of TNYA shall inure to the benefit of, or be distributable to its members, trustees, officers, or other private persons, except that TNYA shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in bylaw 1.2.

8.2 BANK ACCOUNT AND AUTHORIZED SIGNATORIES

- (a) *Location of Accounts.* TNYA shall maintain one or more bank accounts at a convenient New York City bank.
- (b) *Account Signatories.* The Co-Chairs and Treasurer shall be authorized to sign checks or authorize electronic funds transfers drawn on TNYA's bank account, consistent with the directions of the Board made in the budget or a Board resolution. These officers must authorize such a check or transfer if the Board resolves that the check or electronic funds transfer be signed or approved.
- (c) *Dual-Signatory Authority Required.* No checks, electronic funds transfers for amounts greater than \$1,000 may be signed or authorized except with the signatures or electronic authorization of two officers otherwise authorized to sign checks or approve electronic funds transfers.
- (d) *System Ownership Fiduciary Obligations.* If TNYA maintains a payment processing system that requires one or more individuals to be designated as the owner of that system, the Board shall designate one of the Co-Chairs or Treasurer, if practical, to serve as owner for the duration of their terms. If such a designation is impractical, the Board may designate any member to serve as the owner; such person shall be deemed a TNYA fiduciary if not already one by virtue of another office the owner holds. Whoever is system owner, the owner must execute the directions of the Board with respect to exercise of their ownership functions (including transmission of ownership credentials to another person).

8.3 REIMBURSEMENT OF EXPENSES

Every member charged by the Board with fulfilling TNYA duties shall be entitled to the reimbursement of expenses reasonably incurred in the fulfillment of those duties, up to amounts approved in advance by the Board. Request for reimbursement shall not be approved unless made in writing to the Treasurer and accompanied by receipts.

8.4 FINANCIAL YEAR

The financial year shall start on September 1 and end on August 31.

8.5 ANNUAL REPORT TO MEMBERS

The Board must present at the AGM a copy of the most recently filed IRS Form 990 (or 990-EZ, as applicable) and a financial report, verified by a majority of the directors then in office, showing in appropriate detail the following for the immediate past financial year:

- (a) The assets and liabilities, including the trust funds, of the Corporation as of the end of the last financial year.
- (b) The principal changes in assets and liabilities, including trust funds, during the last financial year.
- (c) The revenue or receipts of the Corporation, both unrestricted and restricted to particular purposes, during the last financial year.
- (d) The expenses or disbursements of the Corporation, for both general and restricted purposes, during the last financial year.
- (e) The number of members as of the date of the report, together with a statement of increase or decrease in such number during the last financial year, and a statement of the place where the names and places of residence of the current members may be found.

The annual report shall be filed with the records of the Corporation and either a copy or an abstract thereof entered in the minutes of the proceedings of the AGM.

8.6 OVERALL FINANCIAL POLICY

TNYA being a nonprofit charity, it shall be the policy of the Corporation to maintain a balanced budget and therefore neither run large deficits nor accumulate large cash reserves, or otherwise budget for revenues to significantly exceed or be exceeded by expenses in a fiscal year. A reasonable cash reserve must be maintained as a contingency to protect TNYA's ability to continue operations and otherwise advance its charitable purposes. If TNYA's financial performance in a given fiscal year shows either a significant surplus or deficit, the Board must present a plan to restore a balanced budget to the next AGM.

8.7 THE BUDGET

At a meeting held no later than September 1, the Board must approve a budget for the coming financial year. No monies shall be spent in a manner inconsistent with the budget then in effect except as the Board so resolves. To the extent that the budget makes allocations for the purposes of the compensation, the budget must be approved by the Audit and Finance Committee prior to its presentation to the Board. The budget must be transmitted to the membership within one week following its approval.

8.8 FEES FOR ACTIVITIES

The Board may set fees as a condition of participation in some or all TNYA activities, and discount or increase these fees based on participation frequency or volunteering or any other basis the Board deems appropriate, but the fees payable by members or discounts available to

members must be determined upon the same basis and be available to all similarly situated members on the same terms. The setting of a fee for an activity (or the failure to discount a fee for an activity) consistent with the foregoing sentence shall not implicate bylaw 2.3 or require or permit invocation of any of the procedures set forth in that bylaw even if such a fee serves to constructively bar a member from participation in that activity.

8.9 FUNDRAISING FOR OTHER LGBTQ+ CHARITIES

TNYA may make distributions to other eligible charities whose primary purpose is to serve the social or physical wellbeing of the LGBTQ+ community in the greater New York City area, or organize events where its members or members of the public are invited to make contributions to such charities, provided that the making of any such distributions or planning of such events shall not be the primary purpose or activity of TNYA or consume more than an insubstantial part of TNYA's resources.

8.10 INVESTMENT POLICY

The Board may invest TNYA funds exclusively in furtherance of TNYA's charitable purposes, and only in accordance with a written investment policy that the Board must adopt and may from time to time amend. The Board may, where it is prudent to do so, delegate the management and investment of team funds to one or more professional fund managers. The Board's investment policy must provide for a conservative investment strategy and require that TNYA or fund managers acting on its behalf avoid high-risk or highly illiquid assets, or any investments in enterprises hostile to LGBTQ+ equality.

8.11 NO COMPENSATION FOR DIRECTORS

Except for reasonable reimbursement of bona fide expenses incurred on behalf of TNYA, participation in discount or scholarship programs available to other volunteers or members similarly situated, or compensation as a coach, directors shall serve without compensation whether by virtue of their role as director or by virtue of any other office such director might hold in the Corporation.

8.12 AUDIT AND FINANCE COMMITTEE

- (a) *Election, Membership, and Procedure.* On or before March 1 of each year, the independent directors shall elect an Audit and Finance Committee ("AFC") comprising between three and five presently serving independent directors who are not Board officers. Members of the AFC shall serve for one-year renewable terms, and the AFC shall elect its own chair from among its members.
- (b) *General Responsibilities.* The AFC shall perform the duties and functions of an audit committee as required by the N-PCL and other applicable laws; the duties and functions prescribed in these bylaws; and to such other duties and functions as the Board may assign the AFC from time to time, not inconsistent with the law or these bylaws.
- (c) *Special Approval Responsibility for Compensation.* No appropriation of TNYA funds for the purposes of the compensation of coaches, Head Coaches, and any other individual or sole proprietorship may be approved, whether by the Board or any officer, without the prior authorization of the AFC. The AFC shall not approve any compensation proposal

unless it the compensation proposed is fair, reasonable, and in TNYA's best interests at the time of the determination, and the conditions set forth in 26 CFR § 53.4958-6(a) necessary to create a rebuttable presumption that the proposed payment of compensation is not an excess benefit transaction are satisfied.

8.13 NO LOANS TO DIRECTORS, OFFICERS, OR EMPLOYEES

No loans shall be made by TNYA to its directors, officers, employees, independent contractors, coaches, or key persons. No loans, other than through the purchase of bonds, debentures, or similar obligations of the type customarily sold in public offerings, or through ordinary deposit of funds in a bank, shall be made by TNYA to any other corporation, firm, association or other entity in which one or more of TNYA's directors, officers, employees, or key persons are directors, officers, employees, or key persons, or hold a substantial financial interest, except a loan by TNYA to another charitable corporation. For purposes of this bylaw, a failure of TNYA to demand payment in full of any amounts owed to it by a member within 30 days of the accrual of the arrears shall be deemed a loan by TNYA to the member in question.

8.14 FORTOUL FELLOWSHIP AND OTHER GRANT OR DISCOUNT PROGRAMS

- (a) *Fortoul Fellowship*. TNYA must maintain a Paul Fortoul Fellowship Fund to defray the expense of membership fees and other fees for activities ordinarily due to TNYA on behalf of members who would not otherwise be able to afford those fees.
- (b) *Minimum Requirements for Fortoul and Other Grant Programs*. The Board must, for the Fortoul Fellowship and any other grant program:
 - (i) set forth fair and reasonably objective criteria or qualifications for receiving that grant;
 - (ii) establish standard procedures and a timeline for applying for the grant;
 - (iii) provide a grant application form and make the form available to all members; and,
 - (iv) include a full description of the grant and the date on which it will be awarded in any fundraising related to the grant.
- (c) *Selection of Grant Recipients*. Grant recipients shall be selected by a committee appointed by the Board. Each such committee must award grants exclusively through the consistent application of the Board's criteria and document all approvals and denials of applications, including an explanation of how the committee believed the approval or denial reflected the consistent application of the criteria. The initial determinations of the committee (or failure of the committee to so decide) may be appealed by any aggrieved party to the Board.

ARTICLE 9 - MISCELLANEOUS

9.1 AMENDMENTS TO BYLAWS

These bylaws may be amended only by vote of the membership. As provided by N-PCL §§ 615 and 709, no amendment to the bylaws increasing the quorum necessary for a General Meeting or Board meeting to more than a majority of members or a majority of directors then in office (respectively), or increasing the proportion of votes of directors or members that shall be

necessary for the transaction of business or of any specified item of business at a Board meeting or General Meeting to greater than a majority of members equal to or greater than quorum (for the members) or a majority of directors present (for the Board), or to this bylaw, may be approved except by vote of two-thirds of the entire membership.

9.2 PERIODIC GOVERNANCE REVIEWS

Without prejudice to any amendments to TNYA's policies or bylaws that may be proposed or adopted from time to time, TNYA must use reasonable efforts to engage in a comprehensive review of the Corporation's governance documents and related matters in the year 2029, and every six years thereafter.

9.3 DAYS

References in these bylaws to "days" shall mean calendar days, inclusive of weekdays, weekends, and public holidays. A task which is to be performed on or before a certain day shall be deemed timely if it is performed at any time between 12:00am of that day and 12:00am of the following day, New York time.

9.4 DISSOLUTION

In the event of dissolution or final liquidation of TNYA, all of the remaining assets and property of the corporation shall, after paying or making provision for the payment of all of the liabilities and obligations of the corporation and for the necessary expenses thereof, be distributed to one or more other organizations exempt under section 501(c)(3) of the IRC. In the event of voluntary dissolution, such organization or organizations shall be selected in the discretion of the Board, subject to approval of the plan of dissolution and distribution of assets by the New York Attorney General or upon an order of a Justice of the Supreme Court of the State of New York. The members shall not have distributive rights in the assets of the corporation upon dissolution notwithstanding the payment of dues or other assessments.