

BYLAWS  
OF  
**PARK CITY MOUNTAIN SPORTS CLUB**

May 1993 and revised August 2008, March 2014 through  
September 2015

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OF  
PARK CITY MOUNTAIN SPORTS CLUB

ARTICLE I

Identification

Section 1.1                    Names. The corporate name of the Corporation shall be PARK CITY MOUNTAIN SPORTS CLUB.

Section 1.2                    Purposes. The Corporation is organized and shall be operated as a nonprofit corporation in accordance with the Utah Nonprofit Corporation and Co-operative Association Act (the "Nonprofit Act"), as the same may be hereafter amended from time to time. No part of the earnings of the Corporation shall inure to the benefit of, or be distributable to, the Corporation's members, Directors, officers or other persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered to or for the Corporation and to make payments and distributions in furtherance of anyone or more of the purposes set forth in the Articles of Incorporation of the Corporation (hereinafter referred to as the "Articles"). The specific purposes of organization and objectives of the Corporation are contained in Article III of the Articles and include, without limitation, the following:

- (a) To pursue and promote pleasure, recreation and other nonprofit purposes within the meaning of Section 501 (c)(7) of the Internal Revenue Code of 1986, as amended;
- (b) To establish and provide for the social enjoyment, mutual entertainment and athletic improvement of its members through participation in skiing, cycling, hiking, running and other forms of recreation;
- (c) To promote the conservation and wise use of nature's resources;
- (d) To engage in any lawful activity and to have and exercise all powers now or hereafter conferred upon nonprofit corporations under the laws of the State of Utah; and
- (e) To do each and everything necessary, suitable or convenient for the accomplishment of any of the purposes or the attainment of anyone or more of the objectives herein enumerated, or which may at any time appear conducive to or expedient for the protection or benefit of the Corporation, either alone or in connection with other organizations, entities or individuals, and either as principal or agent, subject to such limitation as are or may be prescribed by law.

Section 1.3                    Principal Office. The principal office of the Corporation shall be located at the address of the current President. The Corporation may have such other offices, either within, or outside the State of Utah, as the Board of Directors may designate or as the affairs of the Corporation may require from time to time.

Section 1.4                    Registered Office. The registered office of the Corporation required by the Nonprofit Act to be maintained in the State of Utah may be, but need not be, the same as the principal office of the Corporation if in the State of Utah, and the address of the registered office may be changed from time to time by the Board of Directors.

## ARTICLE II

### Membership

Section 2.1                    Members. Members of the Corporation shall have membership privileges in the Corporation on such terms and in such classes as the Board of Directors shall determine conducive to the achievement of the Corporation's purposes. Initially, the members shall be of a single class without distinction as to rights, privileges and obligations.

Section 2.2                    Qualification for Membership. A person twenty-one years of age or older may become a member upon completing and signing the *Membership Application and General Release Form*, which may be amended from time-to-time, and after paying the initial membership dues. Payment and the Membership Application and General Release Form shall be delivered to the Membership Officer.. Payment of annual dues and the signing and delivery to the Membership Officer of the *Membership Application and General Release Form* are required for continuing to be a member upon the annual renewal date for dues payment.

Section 2.3                    Fees and Dues. The Board of Directors may determine from time to time the amount of the initial membership fee and annual dues, if any, payable to the Corporation by its members. The Board of Directors will notify all members of any changes to membership fees and annual dues. Membership dues will not be refunded to any member should they choose to resign from the club.

Section 2.4                    Default. When any member shall be in default in the payment of dues for a period of 60 days from the date such dues are payable, the membership of such person is automatically terminated.

Section 2.5                    Suspension and Termination of Membership. A member may be suspended for a period or expelled for cause such as violation of any of these Bylaws or other rules of the Corporation, or for conduct prejudicial to the best interests of the Corporation. Suspension or expulsion shall be by a two-thirds vote of the membership of the Board of Directors, provided that a statement of the charges shall have been mailed by registered mail to the member at his last recorded address at least 15 days before final action is taken thereon; the foregoing statement shall be accompanied by a notice of the time when and place where the Board of Directors is to take action in the premises. The member shall be given an opportunity to present a defense at the time and place set forth in such notice.

Section 2.6                    Guest Privileges and Membership Protocol. Guests and other non-members who have participated in three (3) social or activity events will be required to join the club before participating in any fourth (4<sup>th</sup>) social or activity event. If membership payments and signing the Membership Application and General Release Form are not received prior to or at the fourth event, then participation in the fourth event, or any further club events, will not be allowed until payment and signing of the form has occurred.

Section 2.7                    Voting Rights. Members shall be eligible to vote at Club meetings on the basis of one vote per member. To be eligible to vote, members must be current with respect to all Club obligations. Delinquent or suspended members shall not vote at Club meetings.

Section 2.8                    Annual Meeting. An annual meeting of the members shall be held in the month of February or March in each year, on such date as may be determined by the Board of Directors, for the purpose of electing Directors and for the transaction of such other business as may come before the

meeting. Failure to hold an annual meeting as required by these Bylaws shall not invalidate any action taken by the Board of Directors or officers of the Corporation.

Section 2.9 Special Meetings. Special meetings of the members for any purpose or purposes, unless otherwise prescribed by statute, may be called by the Board of Directors and shall be called by the President at the request of the holder of a petition by not less than fifteen percent (15%) of all the members of the Corporation entitled to vote at the meeting.

Section 2.10 Place of Meetings. Each meeting of the members shall be held at such place, either within or outside Utah, as may be designated in the notice of meeting. If no place is designated in any such notice, the relevant meeting shall be held at the registered office of the Corporation in Utah.

Section 2.11 Notice of Meetings. Except as otherwise prescribed by statute, written notice of each meeting of the members stating the place, day and hour of the meeting, and in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be given not less than ten nor more than sixty days before the date of the meeting, either personally, conspicuously in the Corporation's website, by email, by first class mail, by or at the direction of the President, the Secretary or the officer or persons calling the meeting, to each member entitled to vote at such meeting. If mailed, such notice shall be deemed to be given when deposited in the United States mail, addressed to each member at such member's address as it appears on the records of the Corporation, with postage prepaid. The attendance of a member at a meeting shall constitute a waiver of notice of such meeting, except where a member attends (or participates in) a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

Section 2.12 Quorum. Except as otherwise required by statute, fifteen percent (15%) of the members of the Corporation entitled to vote, represented in person or by proxy, shall constitute a quorum at each meeting of the members, and the affirmative vote of a majority of the members represented at a meeting at which a quorum is present and entitled to vote on the subject matter shall be the act of the members. If less than fifteen percent (15%) of the members are represented at a meeting, a majority of the members so represented may adjourn the meeting without further notice other than an announcement at the meeting of the new date, time and place; provided, however, that if the adjournment is for more than thirty days, or if after the adjournment a new record date for the adjourned meeting is or must be fixed by statute or under these Bylaws, notice of the adjourned meeting must be given to members who are entitled to vote at the meeting. At such adjourned meeting, at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally notified.

### **ARTICLE III**

#### **Board of Directors**

Section 3.1 General Powers. The business and affairs of the Corporation shall be managed by its Board of Directors, except as otherwise provided by the Nonprofit Act, the Articles or these Bylaws. The Board of Directors shall have general control over all officers and committees of the Corporation and shall have full power and authority to do any and all things that are proper to be done by the Corporation, except as otherwise provided in the Articles or these Bylaws. The Board of Directors shall be empowered to review and, in its absolute discretion, approve all activities of the Corporation.

Absent such approval, actions and activities of the members of the Corporation shall not constitute sanctioned activities of the Corporation.

Section 3.2 Number, election, Tenure and Qualifications. The number of Directors of the Corporation shall be not less than seven (7), and shall be established as determined by the Board of Directors from time to time. The Directors shall be elected at the annual meeting of the members of the Corporation. Each active member shall be entitled to one vote for each Director to be elected and the Directors shall be elected by plurality vote. Each Director shall hold office for a term of one year and thereafter until such Director's successor shall have been elected and qualified, or until the Director's earlier death, resignation or removal. A Director can only be removed as provided in U.C.A. 16-6a-808, or as it may be amended or replaced. Directors must be at least twenty-one years old but need not be residents of the State of Utah.

Section 3.3 Vacancies. Any Director may resign at any time by giving written notice thereof to the President. Such resignation shall take effect at the time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. Any vacancy occurring in the Board of Directors may be filled by the affirmative vote of majority of the remaining Directors though less than a quorum. A Director elected to fill a vacancy shall be elected for the unexpired term of such Director's predecessor in office and thereafter until the Director's successor shall have been elected and qualified, or until the Director's earlier death, resignation or removal. Any Directorship to be filled by reason of an increase in the number of Directors shall be filled by the majority vote of the Directors voting at a duly called meeting of the Board of Directors at which a quorum was present and voting, and a Director so chosen shall hold office until the next regular annual meeting of the Corporation and thereafter until the Director's successor shall have been elected and qualified, or until the Director's earlier death, resignation or removal.

Section 3.4 Regular Meetings. A regular annual meeting of the current Board of Directors shall be held during the month of February or March during each calendar year on such date and at such time and place, either within or outside the State of Utah, as specified by the Board of Directors, for the purpose of conducting of such business as may come before the meeting and for the election of the following year's Board of Directors by all members. The Board of Directors may provide by resolution the time and place, either within or outside Utah, for the holding of additional regular meetings.

Section 3.5 Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the President or any two Directors. The date, time and place, either within or outside the State of Utah, for holding any such special meeting shall be fixed by a person or persons authorized to call such meetings.

Section 3.6 Notice. Notice of each meeting of the Board of Directors stating the date, time and place of the meeting shall be given to each Director at the Director's residence address (or other address specified by the Director) at least seven days prior thereto by the sending of a written notice by email, first class mail, or at least three days prior thereto by personal delivery of written notice (the method of notice need not be the same as to each Director). If mailed, such notice shall be deemed to be given when deposited in the United States Mail, with postage thereon prepaid. Any Director may waive notice of any meeting before, at or after such meeting. The attendance of a Director at a meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting unless otherwise required by applicable law.

Section 3.7                    Presumption of Assent. Any Director present at a meeting of the Board of Directors shall be presumed to have assented to any action taken at such meeting unless such Director's dissent is entered in the minutes of the meeting or unless the Director shall file his or her written dissent to such action with the person acting as the secretary of the meeting at the meeting or immediately after the adjournment thereof. Such right to dissent shall not apply to a Director who voted in favor of such action.

Section 3.8                    Quorum and Voting. A majority of the Directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, and the vote of a majority of the Directors present in person at a meeting at which a quorum is present shall be the act of the Board of Directors. If less than a quorum is present at any meeting properly noticed and called, a majority of the Directors present may adjourn the meeting from time to time without further notice other than an announcement of the meeting, until a quorum shall be present. No Director may vote or act by proxy at any meeting of Directors.

Section 3.9                    Compensation. Directors shall not receive compensation for their services as such, although the reasonable expenses of Directors of attendance at meetings of the Board of Directors may be paid or reimbursed by the Corporation. Directors shall not be disqualified to receive reasonable compensation for services rendered to or for the benefit of the Corporation in any other capacity.

Section 3.10                  Meetings by Telephone. Members of the Board of Directors or any committee designated by the Board of Directors may participate in a meeting of the Board of Directors or committee by means of conference telephone or similar communications equipment by which all persons participating in the meeting can hear each other at the same time. Such participation shall constitute presence in person at any such meeting.

Section 3.11                  Consent in Lieu of Meeting. Any action that may be taken at a meeting of the Board of Directors may be taken without a meeting if written consent setting forth the action so taken is signed by all of the Directors and is filed with the Secretary. Such consent (which may be signed in counterparts) shall have the same force and effect as a unanimous vote of the Directors at a meeting of the Board of Directors.

Section 3.12                  Honorary Directors. A majority of the Board of Directors may elect persons to serve as Honorary Directors of the Corporation for terms of one year. Honorary Directors shall be entitled to attend all meetings of the Board of Directors and shall provide advice and guidance to the Board of Directors, but shall have no voting rights as Directors and, except as otherwise required by applicable law, shall not be liable to the Corporation or its members for actions taken by the Board of Directors. In addition to Honorary Directors elected by the Board of Directors, all Directors may, but shall have no obligation to, serve as Honorary Directors for a period of one year following the termination of their term as Directors.

Section 3.13    No Shared Directorships. Only one person, who is a member in good standing, may be elected (or appointed in the case of a vacancy) to fill any stated position as a Director of the Corporation. Dual or shared directorships are not permitted.

## ARTICLE IV

### Committees

Section 4.1                  Designation. Except as specifically set forth herein, the Board of

Directors may, in its discretion, designate from among its members one or more committees of the Board of Directors, each of which, to the extent provided in the resolution establishing such committee, shall have and may exercise all of the authority of the Board of Directors, except as prohibited by applicable law. The delegation of authority to any committee shall not operate to relieve the Board of Directors or any member of the Board of Directors from any responsibility imposed by law. Rules governing procedures for meetings of any committee of the Board of Directors shall be as established by the Board of Directors, or in the absence thereof, by the committee itself.

Section 4.2                      Chairperson. The Board of Directors shall appoint one member of each committee of the Board of Directors to serve as Chairperson of that committee, to oversee and direct the business and affairs of such committee. The Chairperson shall be elected to serve a term of two years. A vacancy in the position of Chairperson of any committee, however occurring, shall be filled by a majority of the Board of Directors for the unexpired portion of that term.

Section 4.3                      Meetings. Committee meetings shall be held as necessary to carry out the duties and functions of the committee when called by the Chairperson or any two members of the committee. All members of the committee shall be duly notified not less than five (5) days prior to any meeting of the committee and a majority of the members of a committee shall constitute a quorum.

Section 4.4                      Nominating Committee. The Board of Directors shall designate within a reasonable time after the annual meeting of members a Nominating Committee. This Committee shall be composed of three members: the Past President (Chair); Current President and current Vice President. The membership in this Committee terminates at the conclusion of the next annual meeting of the membership. The Committee shall be responsible for proposing members for election as Directors at the next annual meeting of the membership, or in the event of Director vacancies between annual meetings of the membership may propose replacement Directors for election by the Board of Directors, and shall also recommend persons for consideration as Officers to be elected at the first meeting of the Board of Directors following the annual membership meeting or to fill Officer vacancies.

However, at the annual membership meeting, any member of the Corporation may present nominations that were submitted thirty (30) days or more in advance of the annual meeting to the Secretary by written notice of petition with signatures of ten percent (10%) of the members, in addition to those presented by the Nominating Committee.

The Nominating Committee may not nominate any of its members to be a Director or Officer. It is understood that the Vice President shall be the candidate for the next year's President's position. The Committee generally should not consider proposing a replacement Director for a present Director who wishes to continue to be a member of the Board of Directors and is otherwise qualified to serve. The proposed Directors should be provided to the Board of Directors at least by the December meeting preceding the February or March membership meeting. The slate of candidates, as well as any candidates nominated by petition, shall be published in an email and on the website in the January preceding the annual membership meeting.

Section 4.5                      Audit Committee. The Board of Directors shall designate within a reasonable time after the annual meeting of members an Audit Committee. This Committee shall be composed of three members; the Treasurer (Chair); one Directors and one member who is not a Director. Following the annual meeting the Treasurer shall present to the Board the proposed members during or before the April meeting. The Board shall consider the proposed members of the Committee and either approve the candidates, and if not all are approved select the members of the Committee using the restriction of one from the Board and one from the membership. Members of the committee are not limited to a single term but must be nominated and approved each year. The membership in this Committee terminates at the conclusion of the next annual meeting of the membership. The Committee shall review the financial

records of the Corporation: these shall include financial statements, statements of cash flows, statements of expenses and income and such additional documents as may be available including source documents. The Committee shall determine whether any audits are appropriate and make recommendation to the Board. It shall also review internal accounting practices and controls and shall make inquiry into any other financial matters in addition to those set forth above or as directed by the Board.

## ARTICLE V

### Officers and Agents

Section 5.1                    Number and Qualifications. The officers of the Corporation shall consist of a President, Vice-President, Secretary, Treasurer, and Past-President. The Board of Directors may also appoint such other officers, assistant officers and agents as it may consider necessary. One person may hold more than one office at a time, except that no person may simultaneously hold the offices of President and Secretary. All officers must be at least twenty-one years old.

Section 5.2                    Election and Term of Office. At the regular monthly meeting, following the election of the Board of Directors at the annual meeting, a majority of the newly elected Board of Directors shall elect the Officers of the Corporation. If the election of officers shall not be held at such meeting, such election shall be held as soon as convenient thereafter. Each officer shall hold office for a term of one (1) year or until the officer's earlier resignation, removal or death.

Section 5.3                    Compensation. Officers of the Corporation shall serve without compensation, unless otherwise determined by the members of the Corporation. If, however, the members shall determine that officers of the Corporation shall be compensated, during any period in which the Corporation is a private foundation as described in Section 509(a) of the Internal Revenue Code, no payment of compensation (or payment or reimbursement of expenses) shall be made in any manner so as to result in the imposition of any liability under Section 4941 of the Internal Revenue Code.

Section 5.4                    Removal. Any officer or agent of the Corporation may be removed by the Board of Directors whenever in its judgment the best interests of the Corporation will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent of the Corporation shall not itself create contract rights.

Section 5.5                    Vacancies. Any officer of the Corporation may resign at any time, subject to any rights or obligations under any existing contracts between the officer and the Corporation, by giving written notice to the President or to the Board of Directors. An officer's resignation shall take effect at the time specified in such notice, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. In the case of vacancy in any office, however occurring, the Board of Directors shall fill such vacancy by appointment. The appointment shall be for the unexpired portion of the term.

Section 5.6                    Authority and Duties of Officers. The officers of the Corporation shall have the authority and shall exercise the powers and perform the duties specified below and as may be additionally specified by the President, the Board of Directors or these Bylaws, except that in any event each officer shall exercise only such powers and perform only such duties as may be permitted by applicable law.

Section 5.7                    President. The President shall, subject to the direction and supervision



of the Board of Directors, (i) have general and active control of its affairs and business and general supervision of its officers, agents and employees; (ii) preside at all meetings of the Board of Directors; (iii) see that all orders and resolutions of the Board of Directors are carried into effect; and (iv) perform all other duties incident to the office of President and as from time to time may be assigned to the President by the Board of Directors.

Section 5.8                      Vice-President. The Vice-President shall assist the President and shall perform such duties as may be assigned by the President or by the Board of Directors. The Vice-President shall, at the request of the President, or in the President's absence or inability or refusal to act, perform the duties of the President and when so acting shall have all the powers of and be subject to all the restrictions on the President.

Consistent with past practice, the Vice President is intended to become the President through the vote of the membership appointing him/her as a Director and the new Board of Directors electing him/her as President as part of the next meeting of the Board. Although it is desirable that the Vice President has served for one year on the Board, it should not prevent the Nominating Committee from selecting from the talented and competent pool of members of PCMSC who have not served on the Board (as of the date of the election by the membership at the annual meeting of members). In addition to other duties as contained in this Section 5.8, the Vice President is responsible for ensuring new members are contacted and welcomed to the club.

Section 5.9                      Secretary. The Secretary shall (i) keep the minutes of the proceedings of the Board of Directors and any committees of the Board of Directors; (ii) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (iii) be custodian of the corporate records and of the seal of the Corporation; and (iv) in general, perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to the Secretary by the President or by the Board of Directors. Assistant Secretaries, if any, shall have the same duties and powers, subject to supervision by the Secretary.

Section 5.10                      Treasurer. The Treasurer shall (i) be the principal financial officer of the Corporation and have the care and custody of all its funds, securities, evidences of indebtedness and other personal property and deposit the same in accordance with the instructions of the Board of Directors; (ii) receive and give receipts for moneys paid in on account of the Corporation, and payout of the funds on hand all bills, payrolls and other just debts of the Corporation of whatever nature upon maturity; (iii) unless there is a controller, be the principal accounting officer of the Corporation and as such prescribe and maintain the methods and systems of accounting to be followed, keep complete books and records of account, prepare and file all local, state and federal tax returns and related documents, prescribe and maintain an adequate system of internal audit, and prepare and furnish to the President and the Board of Directors statements of account showing the financial position of the Corporation and the results of its operations; (iv) upon request of the Board of Directors, make such reports to it as may be required at any time; and (v) perform all other duties incident to the office of Treasurer and such other duties as from time to time may be assigned to the Treasurer by the President or the Board of Directors. Assistant Treasurers, if any, shall have the same powers and duties, subject to supervision by the Treasurer.

Section 5.11                      Past-President. The Past-President shall assist the Board of Directors in matters of past activities and history of the Corporation, and other such duties, as may be assigned by the President or Board of Directors. In addition, the Past-President shall chair the Nominating Committee and report on nominations for the subsequent Board of Directors by the December monthly meeting of the Board.

Section 5.12                      Bond. The Board of Directors may require any Director, officer, agent or

employee of the Corporation to be bonded in such sums and with such sureties as shall be determined by the Board of Directors, conditioned upon the faithful performance of such person's duties and for the restoration to the Corporation of all books, papers, vouchers, money and other property of whatever kind in such person's possession or under such person's control belonging to the Corporation.

## ARTICLE VI

### Indemnification

Section 6.1                    The Corporation shall indemnify a director, officer, committee member, employee, agent or volunteer member who is providing services for the Corporation, and who was, is or may be named a defendant or respondent in any proceeding as a result of his or her actions or omissions within the scope of his or her official capacity in the Corporation or providing services on its behalf. This indemnification shall be as broadly construed as possible, limited only by specific prohibitions of the Utah Revised Nonprofit Corporation Act or U.C.A. §78B-4-101 et seq, as either may be amended, renumbered or recodified from time-to-time. It is the policy of the Corporation to maintain liability and other insurance such as officer and director's coverage, so long as the policies can be secured at reasonable cost and terms as determined by the board of directors. The Corporation's policy includes maintaining insurance that meets the requirements of U.C.A. §78B-4-101 et seq. and would also provide broad protection for those covered by the policy, including primary coverage if available at reasonable cost. Any indemnification provided by this Article are intended to be secondary to benefits from insurance policies secured by the Corporation and shall also be limited to the assets of the Corporation.

Section 6.2                    Directors and Officers. Subject to the Articles of Incorporation (present code reference "Certificate of Incorporation") and the other sections of this Article, the Corporation will indemnify, to the fullest extent permitted by, and in the manner permissible under, the laws of the State of Utah in effect on the date hereof and as amended from time to time, any person who was or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether criminal, civil, administrative, or investigative, by reason of the fact that he or she is or was a director, officer, employee, volunteer member doing the Corporation's business or agent, or is or was serving at the request of the Corporation, against expenses (including attorney fees), judgments, fines, ERISA excise taxes or penalties, and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit, or proceeding, including any action, suit, or proceeding by or in the right of the Corporation (a "Proceeding"). The Corporation will advance all reasonable expenses incurred by or on behalf of any such person in connection with any Proceeding within 20 days after the receipt by the Corporation of a statement or statements from such person requesting such advance or advances from time to time, whether prior to or after final disposition of such Proceeding. Such statement or statements will reasonably evidence the expenses incurred by such person and, if such person is an officer or director of the Corporation, will include or be preceded or accompanied by an undertaking by or on behalf of such person to repay any expenses advanced if it will ultimately be determined that such person is not entitled to be indemnified against such expenses. Costs, charges, or expenses of investigating or defending Proceedings for which indemnity will be sought hereunder may be incurred without the Corporation's consent provided that no settlement of any such Proceeding may be made without the Corporation's consent, which consent will not be unreasonably withheld.

Section 6.3                    Determination of Right to Indemnification.

6.3.1    Any indemnification requested by any person under Section 1.1 will be made no later than forty-five (45) days after receipt of the written request of such person unless a determination is made within said forty-

five (45) day period: (i) by a majority vote of directors who are not parties to such Proceedings, or (ii) in the event a quorum of non-involved directors is not obtainable, at the election of the Corporation, by independent legal counsel in a written opinion, that such person is not entitled to indemnification hereunder.

6.3.2 Notwithstanding a determination under Section 1.2.1 above that any person is not entitled to indemnification with respect to a Proceeding, such person will have the right to apply to any court of competent jurisdiction for the purpose of enforcing such person's right to indemnification pursuant to these bylaws. Neither the failure of the Corporation (including its board of directors or independent legal counsel) to have made a determination prior to the commencement of such action that such person is entitled to indemnification hereunder, nor an actual determination by the Corporation (including its board of directors or independent legal counsel) that such person is not entitled to indemnification hereunder, will be a defense to the action or create any presumption that such person is not entitled to indemnification hereunder.

6.3.3 The Corporation will indemnify any person against all expenses incurred in connection with any hearing or Proceeding under this Section 1.2 if such person prevails on the merits or otherwise in such Proceeding.

Section 6.4                    Subrogation. In the event of payment under these bylaws, the indemnifying party or parties will be subrogated to the extent of such payment to all of the rights of recovery of the indemnified person therefor and such indemnified person will execute all papers required and will do everything that may be necessary to secure such rights, including the execution of such documents necessary to enable the indemnifying party or parties to effectively bring suit to enforce such rights.

Section 6.5                    Presumptions and Effect of Certain Proceedings.

6.5.1 In making a determination with respect to entitlement to indemnification hereunder, the person or persons or entity making such determination will presume that such person is entitled to indemnification under this Article I, and the Corporation will have the burden of proof to overcome that presumption in connection with the making by any person, persons, or entity of any determination contrary to that presumption.

6.5.2 The termination of any Proceeding or of any claim, issue or matter therein, by judgment, order, settlement, or conviction, or upon a plea of *nolo contendere* or its equivalent, will not (except as otherwise expressly provided in these Bylaws) of itself adversely affect the right of any person to indemnification or create a presumption that such person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the Corporation or, with respect to any criminal Proceeding, that such person had reasonable cause to believe that his or her conduct was unlawful.

Section 6.6                    Exception to Right of Indemnification or Advancement of Expenses. Notwithstanding any other provision of these Bylaws, no person will be entitled to indemnification or advancement of expenses under these Bylaws with respect to any Proceeding brought by such person, unless the bringing of such Proceeding or making of such claim will have been approved by the board of directors.

Section 6.7                    Contract. The foregoing provisions of this Article will be deemed to be a contract between the Corporation and each director, officer, committee member, employee, member volunteer performing the Corporations business or agent who serves in such capacity at any time while this Bylaw is in effect, and any repeal or modification thereof will not affect any rights or obligations then existing with respect to any state of facts then or theretofore existing or any Proceeding theretofore or thereafter brought based in whole or in part upon any such state of facts.

The foregoing rights of indemnification will not be deemed exclusive of any other rights to which any director, officer, committee member, employee, member volunteer performing the corporations business or agent may be entitled apart from the provisions of this Article.

Section 6.8                    Surviving Corporation. The board of directors may provide by resolution that references to "the Corporation" in this Article will include, in addition to this Corporation, all constituent corporations absorbed in a merger with this Corporation so that any person who was a director or officer of such a constituent corporation or is or was serving at the request of such constituent corporation as a director, employee, or agent of another corporation, partnership, joint venture, trust, association, or other entity will stand in the same position under the provisions of this Article with respect to this Corporation as he or she would if he or she had served this Corporation in the same capacity or is or was so serving such other entity at the request of this Corporation, as the case may be.

Section 6.9                    Inurement. The indemnification and advancement of expenses provided by, or granted pursuant to, this Article will continue as to a person who has ceased to be a director, officer, committee member, employee, member volunteer performing the Corporations business or agent and will inure to the benefit of the heirs, executors, and administrators of such person.

Section 6.10                  Employees and Agents. To the same extent as it may do for a director or officer, the Corporation shall indemnify and advance expenses to a person who is not and was not a director or officer of the Corporation but who is or was an employee, volunteer member providing services for the Corporations or agent of the Corporation, subject to the provisions of this Article VI.

Section 6.11                  Limits of Indemnification. No indemnification shall be made under this Bylaw if a judgment or other final adjudication adverse to such person establishes that his or her acts were committed in bad faith, gross negligence, intentional injurious and wrongful conduct or were the result of active and deliberate dishonesty and were material to the cause of action so adjudicated, or that he or she personally gained material to the cause of action so adjudicated, or that he or she personally gained in fact a financial profit or other advantage to which he or she was not legally entitled, and provided further that no such indemnification shall be required with respect to any settlement or other nonadjudicated position of any threatened or pending action or proceeding unless the Corporation has given its consent to such settlement or other disposition.

Section 6.12                  Indemnification Not Exclusive Right. Nothing in the Article shall limit or affect any other right of any person to indemnification or expenses, including attorneys' fees, under any statute, rule, regulation, Article or Certificate of Incorporation, Bylaw, insurance policy, contract, or otherwise.

Section 6.13                  Savings Clause. In case any provision in this Article shall be determined at any time to be unenforceable in any respect, the other provisions shall not in any way be affected or impaired thereby, and the affected provision shall be given the fullest possible enforcement in the circumstances, it being the intention of the Corporation to afford indemnification and advancement of expenses to its directors, officers, committee members, employees, agents or members who are providing services for the Corporation, acting in such capacities or in the other capacities specified in this Article, to the fullest extent permitted by law.

## ARTICLE VII

### Miscellaneous

Section 7.1 Account Books, Minutes, Etc. The Corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its Board of Directors and committees. All books and records of the Corporation may be inspected by any member, or that member's authorized agent or attorney, for any proper purpose at any reasonable time.

Section 7.2 Fiscal Year. The fiscal year of the Corporation shall be as established by the Board of Directors.

Section 7.3 Conveyances and Encumbrances. Property of the Corporation may be assigned, conveyed or encumbered by such officers of the Corporation as may be authorized to do so by the Board of Directors, and such authorized persons shall have power to execute and deliver any and all instruments of assignment, conveyance and encumbrance; however, the sale, exchange, lease or other disposition of all or substantially all of the property and assets of the Corporation shall be authorized only in the manner prescribed by the Articles consistent with all applicable statutes.

Section 7.4 Designated Contributions. The Corporation may accept any designated contribution, grant, bequest or devise consistent with its general tax-exempt purpose, as set forth in the Articles. As so limited, donor-designated contributions will be accepted for special funds, purposes or uses, and such designations generally will be honored. However, the Corporation shall reserve all right, title and interest in and to and control of such contributions, as well as full discretion as to the ultimate expenditure or distribution thereof in connection with any such special fund, purpose or use. Further, the Corporation shall acquire and retain sufficient control over all donated funds (including designated contributions) to assure that such funds will be used to carry out the Corporation's tax-exempt purposes.

Section 7.5 Loans to Directors and Officers Prohibited. No loans shall be made by the Corporation to any of its Directors or officers. Any Director or officer who assents to or participates in the making of any such loan shall be liable to the Corporation for the amount of such loan until it is repaid.

Section 7.6 References to Internal Revenue Code. All references in these Bylaws to provisions of the Internal Revenue Code are to the provisions of the Internal Revenue Code of 1986, as amended, and to the corresponding provisions of any subsequent federal tax laws.

Section 7.7 Amendments. Subject to applicable law, the power to alter, amend or repeal these Bylaws, in whole or in part, and adopt new bylaws shall be vested in the Board of Directors.

Section 7.8 Bylaw Provisions Additional and Supplemental to Provisions of Law. All restrictions, limitations, requirements and other provisions of these Bylaws shall be construed, insofar as possible, as supplemental and additional to all provisions of law applicable to the subject matter thereof and shall be fully complied with in addition to the said provisions of law unless such compliance shall be illegal.

Section 7.9 Bylaw Provisions Contrary to or Inconsistent with Provisions of Law. Any article, section, subsection, subdivision, sentence, clause or phrase of these Bylaws which, upon being construed in the manner provided in Section 7.8 hereof, shall be contrary to or inconsistent with any applicable provision of law, shall not apply so long as said provisions of law shall remain in effect, but such result shall not affect the validity or applicability of any other portions of these Bylaws, it being hereby declared that these Bylaws and each article, section, subsection, subdivision, sentence, clause or phrase thereof, would have been adopted irrespective of the fact that anyone or more articles, sections,

subsections, subdivisions, sentences, clauses or phrases is or are illegal.

Section 7.10                    Replacement of “Trustee(s) and Board of Trustees.” Every reference to “Trustee,” “Trustees” or “Board of Trustees” is changed to “Director,” “Directors” or “Board of Directors,” in these Bylaws to conform to the Utah Revised Nonprofit Corporation Act.

## CERTIFICATE OF SECRETARY

**KNOW ALL MEN BY THESE PRESENTS:**

The undersigned Tony Lazarra hereby certifies that he is the Secretary of PARK CITY MOUNTAIN SPORTS CLUB, a Utah nonprofit corporation, and that, as such, he is authorized to execute this certificate on behalf of said Corporation, and further certifies that attached hereto is a complete and correct copy of the presently effective Bylaws of said Corporation.

DATED 1993.

Tony Lazarra, Secretary

**Amendments 2008 through 2009:**

**For sections:** 2.2, 2.5, 2.8, 2.10, 2.11, 3.2, 3.6, 3.13, 4.4, 5.1, 5.8, 5.12, and Article VI:

The undersigned, Miki Laws, hereby certifies that she is the Secretary of the Park City Mountain Sports Club and that as such, she is authorized to execute this certificate on behalf of said corporation, and further certifies that the foregoing constitutes a lawful amendment to the Bylaws of the corporation adopted the date referenced.

Dated this 5th August 2008,

\_\_\_\_\_  
Miki Laws, Secretary

**For section:** 4.5:

The undersigned, Miki Laws, hereby certifies that she is the Secretary of the Park City Mountain Sports Club and that as such, she is authorized to execute this certificate on behalf of said corporation, and further certifies that the foregoing constitutes a lawful amendment to the Bylaws of the corporation adopted the date referenced.

Dated this 2nd September 2008,

\_\_\_\_\_  
Miki Laws, Secretary

**For section:** 5.8 (as amended):

The undersigned, Miki Laws, hereby certifies that she is the Secretary of the Park City Mountain Sports Club and that as such, she is authorized to execute this certificate on behalf of said corporation, and further certifies that the foregoing constitutes a lawful amendment to the Bylaws of the corporation adopted the date referenced.

Dated this 7th October 2008.

\_\_\_\_\_  
Miki Laws, Secretary

**For section:** 4.4 (as amended):

The undersigned, Miki Laws, hereby certifies that she is the Secretary of the Park City Mountain Sports Club and that as such, she is authorized to execute this certificate on behalf of said corporation, and further certifies that the foregoing constitutes a lawful amendment to the Bylaws of the corporation adopted the date reference

Dated this 3<sup>rd</sup> January 2009,

\_\_\_\_\_  
Miki Laws, Secretary

**For section:** 4.4 (as amended):

The undersigned, Miki Laws, hereby certifies that she is the Secretary of the Park City Mountain Sports Club and that as such, she is authorized to execute this certificate on behalf of said corporation, and further certifies that the foregoing constitutes a lawful amendment to the Bylaws of the corporation adopted the date referenced.

Dated this 3<sup>rd</sup> February 2009,

Miki Laws, Secretary



**For section:** 4.4 (as amended):

The undersigned, Becky Hinton, hereby certifies that she is the Secretary of the Park City Mountain Sports Club and that as such, she is authorized to execute this certificate on behalf of said corporation, and further certifies that the foregoing constitutes a lawful amendment to the Bylaws of the corporation adopted the date referenced.

Dated this 28<sup>th</sup> day of March 2012

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Becky Hinton, Secretary

**For section:** 2.7 (as amended):

The undersigned, Becky Hinton, hereby certifies that she is the Secretary of the Park City Mountain Sports Club and that as such, she is authorized to execute this certificate on behalf of said corporation, and further certifies that the foregoing constitutes a lawful amendment to the Bylaws of the corporation adopted the date referenced.

Dated this 4<sup>th</sup> day of March 2014

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Becky Hinton, Secretary

**Amendments 2008 through 2015:**

**For sections:** 1.3, 2.2 – 2.12, 3.4, 3.13, 4.4, 4.5, 5.2, 5.8, 5.10 5.11, 5.12, and Article VI

The undersigned, Sue Johnson, hereby certifies that she is the Secretary of the Park City Mountain Sports Club and that as such, she is authorized to execute this certificate on behalf of said corporation, and further certifies that the foregoing constitutes a lawful amendment to the Bylaws of the corporation adopted the date referenced.

Dated this 1st day of September 2015

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Sue Johnson, Secretary