

Amended and Restated Bylaws of Shoreline Aquatic Fitness

Revised and adopted December, 2020

ARTICLE 1 NAME AND PURPOSE

1.1 Name

Shoreline Aquatic Fitness is doing business as Mountain View Masters (“MVM”).

1.2 General Purpose

MVM’s purpose is a non-profit public benefit corporation.

1.3 Specific Purpose

The specific purpose of MVM is set forth in its Articles of Incorporation. In fulfilling its purpose, MVM strives to respect the goals, objectives, rules, and standards prescribed by United States Masters Swimming, Inc. (“USMS”).

ARTICLE 2 GENERAL PROVISIONS

2.1 Principal Office

MVM’s principal office shall be located in Mountain View, Santa Clara County, California or at such other locations within the county as the Board of Directors (the “Board”) may determine.

2.2 Fiscal Year

The fiscal year of MVM will begin the first day of January of each calendar year and end the last day of December of such year.

ARTICLE 3 MEMBERSHIP

3.1 Membership Defined

A Member is any individual who holds USMS membership and pays MVM membership fees beyond individual drop-in visits.

3.2 Eligibility for Membership

Application for membership shall be open to any adult individual who is interested in the purposes or programs of MVM. Membership is granted after completion and submission of MVM membership application forms, registration with USMS, and payment of the required MVM membership fees. The board may restrict or deny new membership applications for reasons including but not limited to lack of resources such as finances, staffing, and pool availability.

3.3 Membership Fee

The membership fee shall be determined by the Board.

3.4 Loss of Membership

3.4.a A Member may resign by sending written notice to the Treasurer. Such resignation shall be effective upon receipt by the Treasurer.

3.4.b Members who fail to pay USMS or MVM membership fees in a timely manner may be deemed by the Treasurer or Board to have submitted their resignation.

3.4.c The Board may revoke or suspend an individual's membership due to reasons including but not limited to:

- (i) dangerous, inappropriate, or disrespectful behavior;
- (ii) refusal or failure to abide by rules imposed by MVM, facilities used by MVM, or the government.

3.4.d Resignation or revocation of membership shall not relieve the individual of unpaid membership fees or other amounts owed to MVM.

3.4.e Any and all rights of a Member in MVM cease upon death, resignation, or other termination of membership.

ARTICLE 4 DEDICATION OF ASSETS

4.1 Property Use

The property of MVM is irrevocably dedicated to charitable or educational purposes, or any other purposes permitted under Section 501(c)(3) of the Internal Revenue Code. No part of the net income or assets of MVM shall ever inure to the benefit of a Director or any private person; provided, however, that this provision shall not prevent payment to any such person of reasonable compensation for services performed for MVM in effecting any of its public purposes, as long as such compensation is otherwise permitted by these Bylaws and is fixed by resolution of the Board; and no such person or persons shall be entitled to share in the distribution of, and shall not receive, any of the corporate assets on the dissolution of MVM.

4.2 Distribution of Assets Upon Dissolution

Upon the dissolution or winding up of MVM, its assets remaining after payment, or provision for payment, of all debts and liabilities of MVM shall be distributed to a nonprofit fund, foundation or corporation which is organized and operated exclusively for charitable, scientific, or educational purposes and which has established its tax-exempt status under Section 501(c)(3) of the Internal Revenue Code.

ARTICLE 5 MEETINGS

5.1 Annual Member Meeting

An annual meeting of the Members (the “Annual Member Meeting”) shall be held at a date and place to be determined by the Board. The purpose of the Member Meeting shall be for the election of directors, review of the Annual Report, the receipt and review of reports from officers and committees, and any other business as may properly come before the Board. The Board may postpone, reschedule, or cancel any meeting of Members previously scheduled by the Board.

5.2 Special Meetings

Special meetings of the Members may be called for any purpose or purposes by the President or the Board. Special meetings shall also be called by the President when requested in writing by at least ten percent (10%) of the Members. This request shall state the purpose or purposes for which the special meeting is to be called. The business transacted at the meeting shall be limited to the purpose stated in the request notice. The Board may postpone, reschedule, or cancel any meeting of Members previously scheduled by the President or the Board.

5.3 Record Date

In order that the Board may determine the Members entitled to notice of any meeting of Members or any adjournment thereof, the Board may fix a record date, which, unless otherwise required by law, shall not be more than thirty (30) nor less than seven (7) days before the date of such meeting. If the Board so fixes a date, such date shall also be the record date for determining the Members entitled to vote at such meeting unless otherwise specified by the Board. If no record date is fixed by the Board, the record date for determining Members entitled to notice of or to vote at a meeting of Members shall be the close of business on the day prior to the day on which notice is given, or, if notice is waived, at the close of business on the day prior to the day on which the meeting is held.

5.4 Notice of Member Meeting

5.4.a General Notice Contents

All notices of meetings of members shall be sent or otherwise given in accordance with Section 5.4.c not more than sixty (60) days nor less than seven (7) days before the date of the meeting.

5.4.b Notice of Agenda Items

If action is proposed to be taken at any meeting, the notice shall also state the general nature of the proposal. Member action on such items is invalid unless the notice or written waiver of notice states the general nature of the proposal(s):

- (i) filling vacancies on the Board;
- (ii) reviewing the Annual Report;
- (iii) amending the Bylaws or Articles of Incorporation; or
- (iv) voluntarily dissolving MVM.

5.4.c Manner of Giving Notice

Notice of any meeting of Members shall be given in writing by U.S. mail or email addressed to the mailing or email addresses appearing in MVM’s membership records. Notice shall be

deemed to have been given at the time when deposited to U.S. mail or when email is sent. If no mailing or email address appears in MVM's records for a given Member, notice shall be deemed to have been given if offered orally at any regularly scheduled practice attended by Members.

5.4.d Acknowledgment of Notice

Attendance at a meeting by a Member shall constitute acknowledgment of notice of such meeting, except when the Member attends a meeting for the express purposes of objecting, at the beginning of the meeting, to the transaction of any business due to the meeting's unlawful convening.

5.5 Quorum

5.5.a Percentage Required

Ten percent (10%) of the Members shall constitute a quorum for the transaction of business at a meeting of the Members.

5.5.b Loss of Quorum

The Members present at a duly held meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the Members required to constitute a quorum.

5.6 Adjourned Meeting

Any Members' meeting, whether or not a quorum is present, may be adjourned from time to time by the vote of the majority of the Members represented at the meeting; provided, however, that in the absence of a quorum, no other business may be transacted at that meeting, except as provided in this Article 5. No notice need be given of the adjourned meeting if the time and place are announced at the meeting to be adjourned.

5.7 Voting

5.7.a Eligibility to Vote

Only Members as defined in Section 3.1 are eligible to vote.

5.7.b Manner of Casting Votes

Voting may be done by voice, paper ballot, or written format.

5.7.c If a quorum is present, the affirmative vote of the majority of the Members represented and voting at the meeting shall be the act of the Members, unless the vote of a greater number or voting by classes is required by California law, the Articles of Incorporation, or these Bylaws.

5.7.d In any election of Directors, the candidates receiving the highest number of votes are elected.

5.7.e Proxies

Voting rights may not be exercised by proxies.

5.8 Approval without Meeting via Written Ballot

5.8.a Any action which may be taken at any meeting of Members, including the election of Directors of MVM, may be taken without a meeting if the Board distributes a written ballot, sent in accordance with Section 5.4.c, to every Member entitled to vote on the matter. Such ballot shall set forth the proposed action, provide an opportunity to specify approval or disapproval of any proposal, and state a date and time of ballot counting which provides a reasonable time for members to return the ballot to the Board.

5.8.b Approval by written ballot pursuant to this Section 5.8 shall be valid only if the number of votes cast by ballot during the specified time period reaches a quorum according to Section 5.5.a, and the number of approvals reaches the number required by Sections 5.7.c and 5.7.d.

5.8.c Ballots shall be solicited in a manner consistent with Section 5.4.c. All such solicitations shall indicate the number of responses needed to meet the quorum requirement and shall state the percentage of approvals necessary to pass the measure submitted. The solicitation must specify the time by which the ballot must be received to be counted.

5.8.d Written ballots may not be revoked.

ARTICLE 6 BOARD OF DIRECTORS

6.1 Board Responsibilities

Subject to the limitations of California law, the Articles of Incorporation, and these Bylaws, the Board of Directors shall exercise all corporate powers of MVM. The Board's authority and responsibilities shall include but not be limited to the following:

- (i) select, remove, and supervise all officers and employees of MVM; prescribe their powers and responsibilities; and fix their compensation;
- (ii) conduct, manage, and control the affairs and business of MVM;
- (iii) borrow money and incur indebtedness for the benefit of MVM and cause to be executed and delivered promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations, and other evidences of debt and securities in the name of MVM; and
- (iv) prepare budgets and the Annual Report (as described in Article 8) to be made available to Members.

6.2 Qualification

Directors must be Members of MVM. Individuals employed by MVM are not eligible to serve as Directors.

6.3 Board Size

The board shall consist of a minimum of five (5) Directors and shall not exceed a maximum of nine (9) Directors.

6.4 Election of Directors

Candidates may be nominated by a petition signed by ten (10) Members or two (2) Directors. Such candidates may be elected at the Annual Member Meeting or a Special Meeting pursuant to Sections 5.1 and 5.2. Directors may also be appointed through the approval of the current Board.

6.5 Compensation of Directors

MVM shall not pay any compensation to Directors for services rendered to MVM as Directors, except that Directors may be reimbursed for expenses incurred in the performance of their duties to MVM in reasonable amounts as approved by the Board.

6.6 Liabilities of Directors

The Directors shall not be personally liable for the debts, liabilities, or other obligations of MVM.

6.7 Vacancies

6.7.a A vacancy or vacancies on the Board shall be deemed to exist when the number of Directors falls below the minimum number specified in Section 6.3 due to the failure to appoint a successor following the death, resignation, or removal of a Director. Even if no vacancy exists, additional Directors may be elected, so long as the maximum number of Directors specified in Section 6.3 is not exceeded.

6.7.b Filling Vacancies

Vacancies shall be filled by a vote of the majority of the remaining Directors or the sole remaining Director. In the event that there are no remaining Directors, the Members shall call a special meeting for the purpose of electing a new Board.

6.7.c Removal of Directors

With cause, a Director may be removed from office by a majority vote of the remaining Directors or a two-thirds vote of Members participating in a Special Meeting.

6.7.d Resignation of Directors

Any Director may resign by giving written notice to the President, the Secretary, or the Board. Such a written resignation will be effective on the later of the date it is delivered or the time specified in the written notice that the resignation is to become effective.

6.7.e Reduction without Removal

No reduction of the authorized number of Directors shall have the effect of removing any Director unless the reduction also provides for the removal of that specified Director in accordance with these Bylaws.

6.8 Meetings

6.8.a Regular meetings of the Board may be held at such time and place as the Board may fix from time to time by resolution.

6.8.b Special meetings of the Board for any purpose may be called by any Director.

6.8.c Any Board meeting may be held by conference telephone, online format, or other communications equipment so long as all Directors participating are able to communicate with each other. All such Directors participating shall be considered present.

6.8.d Meetings may be attended by any Members or employees, but the Board may exclude non-Directors at its discretion.

6.9 Notice of Meetings

Except when the time and place of a regular meeting is set by the Board by resolution in advance (as permitted by Section 6.8.b), notice of the time and place of all regular and special meetings shall be given at least 24 hours in advance to each Director by one of the following methods: (i) personal delivery of oral or written notice; (ii) telephone, including a voice messaging system or other system or technology designed to record and communicate messages; or (iii) email or other means of electronic transmission.

6.10 Quorum

A majority of Directors then in office shall constitute a quorum for the transaction of business. Every act taken or decision made by a majority of the Directors present at a meeting duly held with quorum present is the act or decision of the Board.

6.11 Action without Meeting

If a quorum of current Directors consents in a documented manner, action may be taken by the Board without meeting.

ARTICLE 7 OFFICERS

7.1 Officers

Officers of MVM shall be a President, Secretary, Treasurer, and such other offices as the Board may appoint. Only Directors shall be eligible to serve as Officers. Other than the President, any Director may hold more than one office.

7.2 Appointment of Officers

The Officers of MVM shall be appointed by the Board.

7.3 Removal of Officers

In accordance with Section 6.7.c, any Officer may be removed by the Board. The Board may remove an Officer without removing them as a Director.

7.4 Resignation of Officers

Any Officer may resign at any time in a manner pursuant to Section 6.7.d. Directors may resign from Offices without forfeiting their status as Directors.

7.5 Responsibilities of Officers

7.5.a President

The President shall supervise and direct the employees and business affairs of MVM. The President shall preside at all meetings of the Members or the Board. The President may delegate these duties to other Directors as necessary.

7.5.b Secretary

The Secretary shall:

- (i) maintain records of the bylaws;
- (ii) ensure the documentation of all MVM proceedings, including the minutes of meetings; and
- (iii) make records available to Directors and Members upon request.

The Secretary may delegate these duties to other Directors as necessary.

7.5.c Treasurer

The Treasurer or a Member, volunteer, or employee supervised by the Treasurer shall:

- (i) keep and maintain, or cause to be kept and maintained, adequate and correct books and records of accounts of the properties and transactions of MVM, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital, retained earnings, and other matters customarily included in financial statements;
- (ii) prepare, or cause to be prepared, and certify, or cause to be certified, the financial statements to be included in any required reports;
- (iii) file, or cause to be filed, all tax returns and reports required by government agencies;
- (iv) receive all of the monies and pay all of the bills approved by the Board or authorized in a budget approved by the Board, including ensuring compliance with USMS registration processes and policies;
- (v) deposit, or cause to be deposited, all money and other valuables in the name and to the credit of MVM with such depositories as may be designated by the Board;
- (vi) assist in the preparation of the budget and Annual Report, help develop fundraising plans, and make financial information available to the Board, Members, and the public; and
- (vii) have other powers and perform such other duties incident to the office of Treasurer as may be prescribed by the Board or these Bylaws.

ARTICLE 8

ANNUAL REPORT

The Board shall deliver each year to Members a financial report (“the Annual Report”). Upon written request of a Member, the Board shall promptly cause the most recent Annual Report to be sent to the requesting Member. The Annual Report shall be prepared no later than ninety (90) days after the close of MVM’s fiscal year. The Annual Report shall be accompanied by any pertinent report of independent accountants, or, if there is no such report, the certificate of the Treasurer that such statements were prepared without audit from the books and records of MVM.

The Annual Report shall contain a balance sheet as of the end of such fiscal year, an income statement, and a statement of changes in financial position for such fiscal year.

ARTICLE 9 INDEMNIFICATION

9.1 Definitions

For the purpose of this article:

9.1.a “Agent” means any person who is or was a director, officer, employee, or other agent of MVM, or is or was serving at the request of MVM as a director, officer, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise, or was a director, officer, employee, or agent of a foreign or domestic corporation that was a predecessor corporation of MVM or of another enterprise at the request of the predecessor corporation;

9.1.b “Proceeding” means any threatened, pending, or completed action or proceeding to which MVM or its agent is a party, whether civil, criminal, administrative or investigative; and

9.1.c “Expenses” includes, without limitation, all attorneys’ fees, costs and any other expenses incurred in the defense of any claims or proceedings against an agent by reason of his or her position or relationship as agent and all attorneys’ fees, costs and other expenses incurred in establishing a right to indemnification under this Article.

9.2 Successful Defense by Agent

To the extent that an agent of MVM has been successful on the merits in the defense of any proceeding referred to in this Article 9 or in the defense of any claim, issue or matter therein, the agent may be indemnified against expenses actually and reasonably incurred by the agent in connection with the claim. If an agent either settles any such claim or sustains a judgment rendered against him or her, then the provisions of Section 9.3 through Section 9.5 shall determine whether the agent is entitled to indemnification.

9.3 Action Brought by Persons Other than the Corporation

Subject to the required findings to be made pursuant to Section 9.5, below, MVM shall indemnify any person who was or is a party, or is threatened to be made a party, to any proceeding by reason of the fact that such person is or was an agent of MVM, for all expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with the proceeding. Notwithstanding the foregoing, no indemnification shall be permitted under this Section 9.3 for any action brought by, or on behalf of, MVM, or by an officer, director or person granted related status by the Attorney General, or by the Attorney General on the ground that the defendant director was or is engaging in self-dealing within the meaning of California Corporations Code Section 5233, or by the Attorney General or a person granted related status by the Attorney General for any breach of duty relating to assets held in charitable trust.

9.4 Action Brought by or on Behalf of the Corporation

9.4.a Claims Settled out of Court

If any agent settles or otherwise disposes of a threatened or pending action brought by or on behalf of MVM, with or without court approval, the agent shall receive no indemnification for either amounts paid pursuant to the terms of the settlement or other disposition or for any expenses incurred in defending against the proceeding, unless it is settled with the approval of the Attorney General.

9.4.b Claims and Suits Awarded against Agent

MVM shall indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action brought by or on behalf of MVM by reason of the fact that the person is or was an agent of MVM, for all expenses actually and reasonably incurred in connection with the defense of that action, provided that both of the following are met:

- (i) the determination of good faith conduct required by Section 9.5, below, must be made in the manner provided for in that section; and
- (ii) upon application, the court in which the action was brought must determine that, in view of all of the circumstances of the case, the agent should be entitled to indemnity for the expenses incurred. If the agent is found to be so entitled, the court shall determine the appropriate amount of expenses to be reimbursed.

9.5 Determination of Agent's Good Faith Conduct

The indemnification granted to an agent in Sections 9.3 and 9.4 above is conditioned on the following:

9.5.a Required Standard of Conduct

The agent seeking reimbursement must be found in the manner provided below to have acted in good faith, in a manner he or she believed to be in the best interest of MVM, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use in similar circumstances. The termination of any proceeding by judgment, order, settlement, conviction, or on a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith or in a manner which he or she reasonably believed to be in the best interest of MVM or that he or she had reasonable cause to believe that his or her conduct was unlawful. In the case of a criminal proceeding, the person must have had no reasonable cause to believe that his or her conduct was unlawful.

9.5.b Manner of determination of good faith conduct. The determination that the agent did act in a manner complying with subsection 9.5.a above shall be made by:

- (i) the Board by a majority vote of a quorum consisting of directors who are not parties to the proceeding;
- (ii) approval of the majority of the Members represented and voting at a duly held meeting of Members; provided, however, that the person to be indemnified shall not be entitled to vote; or
- (iii) the court in which the proceeding is or was pending. Such determination may be made on application brought by MVM or the attorney of the agent or other person rendering a defense to the agent, whether or not the application by the agent, attorney or other person is opposed by MVM.

9.6 Limitations

No indemnification or advance shall be made under this Article 9, except as provided in Sections 9.2 or 9.5.b.(ii) hereof, in any circumstance when it appears that:

- (i) the indemnification or advance would be inconsistent with a provision of the Articles of Incorporation, a resolution of the members, or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or
- (ii) the indemnification would be inconsistent with any condition expressly imposed by a court in approving a settlement.

9.7 Advance of Expenses

Expenses incurred in defending any proceeding may be advanced by MVM before the final disposition of the proceeding on receipt of an undertaking by or on behalf of the agent to repay the amount of the advance, unless it is determined ultimately that the agent is entitled to be indemnified as authorized in this Article 9.

9.8 Contractual Rights of Non-Directors and Non-Officers

Nothing contained in this Article 9 shall affect any right to indemnification to which persons other than Directors and Officers of MVM may be entitled by contract or otherwise.

9.9 Insurance

The Board may adopt a resolution authorizing the purchase and maintenance of insurance on behalf of any agent of the corporation against any liability other than for violating provisions against self-dealing asserted against or incurred by the agent in such capacity or arising out of the agent's status as such, whether or not MVM would have the power to indemnify the agent against that liability under the provisions of this Article 9.

ARTICLE 10 AMENDMENTS

Except as otherwise prohibited by California law, these Bylaws may be amended or modified by the Board or a quorum of Members consistent with the processes described within these Bylaws.

Certificate of President

I, the undersigned President of Shoreline Aquatic Fitness (doing business as Mountain View Masters), hereby certify that the foregoing Bylaws were adopted by the Board of Directors at a Member's meeting duly held on December 6, 2020, and that they do now constitute the Bylaws of MVM.

These Bylaws supersede, preempt, and replace all prior Bylaws of MVM.


Name: Zachary Y. Green

Date: December 8, 2020