

## Cover Page to Model Bylaws for AIA Components (as Edited/Annotated for use by AIA Chapters in California)

### Background

In January 2018, AIACC engaged legal counsel to review the AIA's Model Bylaws for technical compliance with the California Nonprofit Mutual Benefit Corporation Law, and to edit/annotate the Model Bylaws in an attempt to make them more usable for AIA Chapters in California. The following document is the result of that effort. California AIA Chapters utilizing this document are encouraged to consult local legal counsel to determine if further tailoring/modification of the suggested California-specific language is appropriate. *The California-specific edits are intended for general information purposes only, should not be considered or construed as legal advice to any specific Chapter, and are not a substitute for the tailored advice that would be provided by local legal counsel.*

### A Note to Explain Terminology

The term "member" is used in this document in various ways. A reference to a "Board member" or "a member of the Board" means a member of the governing body of the Chapter (i.e., a director, within the meaning of California Corporations Code Section 5047).

The term "member" is also used to refer to the individuals who make up the Chapter's membership. As explained in the note added to Section 2.02, as used in the California Nonprofit Corporation Law, the term "member" refers to persons who have certain rights, most notably the right to vote for the election of directors. (See California Corporations Code Section 5056.) Such persons are colloquially referred to in California as "statutory members" (or "voting members").

Since (as also explained in the note added to Section 2.02), California law permits a nonprofit corporation to refer to persons associated with it as "members" *even if such persons are not statutory members*, it is advisable for the bylaws of a California nonprofit corporation to explicitly state which categories/classes of its membership are statutory members (i.e., voting members), and which are not. As set out in the California-specific language added to Section 2.02, the term "voting members" is used to refer to those members who would be considered statutory members, and the term "non-voting members" is adopted to refer to those members who are not considered statutory members. Based on Sections 2.22, 2.34, and 5.24 of the Model Bylaws (as these provisions were drafted by the AIA), this reviewer's take is that, in California, the "assigned members" would be considered statutory members, and the "unassigned members" and the "Affiliate members" would not be considered statutory members.

Finally, regarding "Allied members," this reviewer's understanding is that some AIA Chapters in California allow their Allied members to vote, and other AIA Chapters in California do not. To account for this, this document allows for flexibility (see language and note added to Section 2.02); the main takeaway is that the bylaws should be clear as to whether the Allied members are voting members or non-voting members.



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Institute Secretary

# Model Bylaws for AIA Components

Revised August 2017

[Edited/Annotated January 2018 by AIACC for use by AIA Chapters in California](#)

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## Introduction

State organizations, chapters, and sections are components of the AIA. Every component is located in one of the AIA's regions, each of which has its own regional organization. Although they are not components in themselves, the regional organizations are referenced at various places in these model bylaws.

Bylaws are the internal rules of an organization that determine how it is governed and establish fundamental policies. Every chapter, state and regional organization of the AIA, as well as most if not all sections, should have written bylaws. These model bylaws for AIA components have been prepared to assist components in developing and revising their bylaws.

The sample text in these model bylaws is an illustration for a hypothetical typical chapter. It is meant to be edited and modified to fit the particular requirements of your component.

### How to Use These Model Bylaws

The bylaws of any organization reflect many policy choices about how the members choose to run the organization. Some provisions in AIA component bylaws are required by the Institute Bylaws and others may be required by the nonprofit corporation law of the state in which the component is located. Generally, however, components have a great deal of flexibility to determine what their bylaws say. Here is a key to the editing marks in the model bylaws:

- **An asterisk (\*)** preceding text indicates which provisions of the model should be included in the component's bylaws (generally because such provisions are derived directly from the Institute Bylaws).
- **Superscript numbers within the text (<sup>1</sup>)** indicate footnotes where special care must be taken in drafting or revising the bylaws, or where alternate language may be appropriate. Read the footnotes for further guidance in adapting the model language to your needs.
- **Bracketed words [ ]** and phrases represent options from which you should choose the appropriate item(s). Choose one of the options in each set of brackets and delete the others.
- **Parentheses ( )** indicate language which may be deleted or modified. Decide whether the parenthetical language is right for your situation and delete or modify it as necessary.
- **Stricken or underlined text in the model bylaws indicates suggested edits to align the model bylaws with the requirements of the California Nonprofit**

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Mutual Benefit Corporation Law. If an AIA Chapter in California is organized as other than a California nonprofit mutual benefit corporation, then these edits may not be appropriate for that Chapter to include in its bylaws. The California-specific edits utilize brackets and parentheses in the same way set forth above (i.e., bracketed words and phrases represent options from which you should choose the appropriate item(s), and parentheses indicate language which may be deleted or modified).

As you read through the text of the model bylaws, consider carefully its completeness and applicability to your component's specific structure and operations. You may need to consult with local legal counsel to determine what some sections of the bylaws should say. All California AIA Chapters utilizing these model bylaws, as edited for technical compliance with the California Nonprofit Mutual Benefit Corporation Law, are encouraged to consult local legal counsel to determine if further tailoring/modification of the suggested California-specific language is appropriate. The California-specific edits are intended for general information purposes only, should not be considered or construed as legal advice to any specific Chapter, and are not a substitute for the tailored advice that would be provided by local legal counsel.

## **Component Structure – Different Options**

One major source of modifications to the model language will relate to the component's organizational structure. There are several levels of organizations below the national level in the AIA: regional organizations, and components known as state organizations and chapters. In addition, some state organizations and chapters have created other components, called sections.<sup>1</sup> There are many different types of components, since the regional, state, and local functions may be combined in one or more organizations.

State and Regional Structures. A multi-state region may have statewide chapters or state organizations with local chapters. In single-state regions, the state organization and the regional organization are the same. A state organization with local chapters and a statewide chapter with sections may operate essentially the same as one another, particularly where one or more of the sections has petitioned for and been granted the right to make membership in the section mandatory. (If the sections have not so petitioned, however, membership is entirely voluntary and the sections are not required to provide the Core Member Services of the AIA.) A few state organizations not only have chapters, but also have sections of their own.

No recommendation is made as to whether a state should have a state organization separate from the local chapters, or should operate as a state chapter with local sections. State organizations with separate chapters tend to prevail in more populous states, while a statewide chapter, sometimes with local sections, may be found in states with less population density and larger geographical areas.

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<sup>1</sup> There are two types of sections, commonly referred to as mandatory and voluntary sections. Mandatory sections have assigned members, who may be required to pay section dues. In voluntary sections, membership is voluntary, and there are no required section dues. Mandatory sections must comply with core member service requirements, but voluntary sections need not do so. Anyone interested in the requirements for forming either type of section should contact the AIA Office of General Counsel.

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## Fundamental Policy Choices

Every component must decide certain questions about its structure and governance, and include these choices in its bylaws. Some of the issues to be addressed are as follows.

Incorporation. Incorporation of a component can be a major benefit to its members for several reasons. It relieves members from individual liability for the debts of the organization. Incorporation also means that the component has perpetual existence, independent of the identity of its individual members at any particular point in time. The benefits of incorporation bring with them the obligation to comply with state corporation laws and state and federal tax laws, which may affect what the bylaws contain.

The Institute requires that each state organization, local chapter, and mandatory section be incorporated under the applicable nonprofit corporation statute, and that each secure its own federal and state tax exemptions. Normally, such an exemption will be granted under Section 501(c)(6) of the Internal Revenue Code, which is the category for professional and trade organizations. Exemptions under Section 501(c)(3), provided for charitable organizations such as foundations, are more difficult to secure and more restrictive on the organization's activities.

Governing Boards. The composition of the governing board of the component varies greatly and will affect the bylaws. Most components are governed by boards of directors. Other components are governed by an executive committee composed of such individuals as its current officers and the immediate past president. In still other components, the component's board of directors can be a relatively large group, and a smaller executive committee acts for the board between board meetings.

Staff. Many components are served by a professional staff executive. In such a case, the bylaws will typically set forth the extent of authority of the staff executive and specify that the executive serves at the pleasure of, and reports to, either the board or the president. Unstaffed components can delete this section of the model bylaws.

Committees. Component committee structures vary. Some components provide in their bylaws for certain standing committees, such as membership, government affairs, programs, and nominating. Others specify committees that parallel major Institute program-oriented committees, such as committees on awards, design, practice, and education. Some components do not define any committees in their bylaws, leaving this matter completely flexible for the governing body to determine. Generally, it is advisable to at least specify in the bylaws who has the authority to form and disband committees.

Dues. Component dues structures also vary widely. Most have regular dues only, very few have supplemental dues, and a few have regular assessments for meals or special projects. The bylaws should specify how and by whom the dues levels are determined. There is no need to incorporate the actual dues levels in the bylaws. Indeed, since dues levels often are changed more frequently than the bylaws, a change in dues levels should not require a bylaws change (although applicable law and sound practice may result in providing similar notice and voting majority).

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Although any section may charge dues, only sections with required membership will be able to enforce dues collections by requesting that the Institute terminate members who are in default.

Ethics. The Code of Ethics and Professional Conduct is administered at the national level by the National Ethics Council. Components may not adjudicate charges of unethical conduct or impose ethical discipline on members.

## **Review and Approval**

The Institute's Bylaws require that all component bylaws be approved by the Institute Secretary to ensure that they are not in conflict with the Institute's Bylaws and Rules of the Board. Once the component's bylaws have been drafted and preliminarily approved by the component's governing board, send them to the Office of General Counsel at the Institute for review. Initial review will ordinarily be completed and comments returned to the component within three months. (Additional time may be required afterwards if issues remain unresolved during the initial review and further changes are requested of the component.) Once approved by the Institute, the bylaws can be submitted to the component membership for final approval.

Alternatively, the bylaws can be submitted to the component membership for approval, "subject to approval by the Institute Secretary," and then sent to the Office of General Counsel at Institute headquarters for final review and approval. The bylaws themselves, or the membership's resolution of approval, should permit the component governing board to make any changes required by the Institute Secretary so as to avoid delay in finalizing the bylaws. Components should review their bylaws periodically to ensure they are in line with changes to the Institute's Bylaws.

Component bylaws are reviewed only for consistency with the Institute Bylaws provisions noted in the guidelines. Bylaws of sections with voluntary membership are not required to be approved by the Institute, but will be reviewed if requested.

## **Institute Assistance**

Questions regarding component structure, operations, and chartering should be directed to the Component Relations team at the Institute headquarters in Washington, D.C. Bylaws reviews are conducted through the Office of General Counsel. In providing these model bylaws and reviewing component bylaws, the Institute is not undertaking to provide legal advice. Components have the responsibility to determine that their bylaws are consistent with the laws of the state in which the component is incorporated.

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## ARTICLE 1 ORGANIZATION

### 1.0 GENERAL PROVISIONS

1.01 Name. The name of this organization is<sup>2</sup> \_\_\_\_\_, hereafter referred to as this ~~{Chapter/~~Section/~~Organization}~~.

1.011 Related Institute Organizations. In these bylaws the governing board of this Chapter<sup>3</sup> is referred to as the ~~{Executive Committee/~~Board of Directors}, The American Institute of Architects is referred to as the Institute, and the Board of Directors of the Institute as the AIA Board.

\*1.02 Objects. The objects of this Chapter shall be to promote and forward the objects of The American Institute of Architects within the assigned territory of this Chapter.<sup>4</sup> (The Institute objects are: to organize and unite in fellowship the members of the architectural profession; to promote the aesthetic, scientific and practical efficiency of the profession; to advance the science and art of planning and building by advancing the standards of architectural education, training and practice; to coordinate the building industry and the profession of architecture to insure the advancement of the living standards of people through their improved environment; and to make the profession of ever-increasing service to society.)<sup>5</sup>

1.03 Domain. The domain of this Chapter shall be that territory described in its charter or otherwise established by the Institute. (The territory of this Chapter is described as follows: \_\_\_\_\_[, and is indicated on the map attached to these bylaws].)

1.04 Organization. This Chapter is a ~~non-profit membership corporation~~<sup>6</sup>nonprofit mutual benefit corporation organized under the Nonprofit Mutual Benefit Corporation Law. The Chapter was incorporated in the State of \_\_\_\_\_California on (date), and chartered by the Institute on (date).

\*1.05 Authority. This Chapter shall represent and act for the Institute membership within the territory assigned to it<sup>7</sup> under a charter issued by the Institute. The Institute and this Chapter may act as agent, one for the other, or through a delegated third party, for the purpose of collecting and forwarding dues, acting as custodian of funds, or otherwise; provided that the Institute and this Chapter execute a written agreement to that effect.

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<sup>2</sup> AIA Brand Manual stipulates that component names follow a consistent format to support the graphic identity of the AIA. The specified format is the initials AIA followed by the component name (for example, AIA California Council, AIA Orange County). See the AIA Brand Manual for more explanation.

The bylaws should state the full legal name of the organization as it appears in the incorporation papers. If, for example, the component name is "The New Jersey Society of Architects," the bylaws should say that, but can be followed by the statement, "Except for reports to government and other instances requiring official identification, the commonly used name for the Chapter shall be AIA New Jersey." Alternatively, the component can officially change its incorporated name if it wishes to adopt the AIA Brand Manual format.

<sup>3</sup>~~-For sections of State Organizations, substitute correct terminology, such as "Section" or "State Council," for "Chapter" throughout the bylaws.~~

<sup>4</sup> Objects must be consistent with the component's Articles of Incorporation, state law, and Internal Revenue Service regulations for tax-exempt organizations. This statement may require expansion to comply with applicable state or federal requirements, especially for tax exemption.

<sup>5</sup> Recitation of the objects of the Institute is not necessary, as long as they are referenced in the component's bylaws; in such case, the portion in parentheses may be deleted.

<sup>6</sup>~~-Check state law for proper terminology for the phrase "non-profit membership corporation." You may have to cite the specific statutory references (for example, "Not-For-Profit Corporation Act").~~

<sup>7</sup>~~-State Organizations should insert "on state matters."~~

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**\*1.06 Conformity with Institute Policy.** No act of this Chapter shall directly or indirectly nullify or contravene any act or policy of the Institute. This Chapter shall cooperate with its state organization and regional organization (if applicable) to further the interests of the membership, and by agreement with these organizations may represent and act for them within the territory of this Chapter.

## 1.1 AFFILIATIONS WITH OTHER ORGANIZATIONS<sup>8</sup>

**1.11 Purpose of Affiliations.** This Chapter may affiliate with any local organization of the construction industry operating within the territory of this Chapter that is not used or maintained for financial gain, price fixing or political purposes, if and while the objects of this Chapter will be promoted by such affiliation.

**1.12 Agreements of Affiliation.** Every affiliation must be authorized by (not less than two-thirds vote of) the Board of Directors and shall be evidenced by a written agreement signed by the Chapter and the affiliated organization.

**1.121 Statement of Purpose.** Every agreement of affiliation shall state the purposes and objects of the affiliation, the terms and conditions under which it is entered into, the duration, the objects of the affiliate, and the nature of its organization, membership, government and operations.

**1.122 Limitations.** No affiliated organization shall have any voice in the affairs of this Chapter nor shall it bind or obligate this Chapter to any policy or activity unless the Board of Directors has voted to be so bound or obligated.

**1.123 Termination.** Any affiliation may be terminated by majority vote of the Board of Directors upon such notice to the affiliated organization as may be required in the agreement of affiliation.

**1.13 Privileges of Affiliated Organizations.** The representatives of an affiliated or collaborating organization may attend any of the regular meetings of this Chapter, and may speak at the invitation of the presiding officer.

## 1.2 ENDORSEMENTS

Neither this Chapter, nor the Board of Directors, any Chapter committee, nor any of the Chapter's officers, directors, committee members or employees, in an official capacity as such, shall approve, sponsor or endorse, either directly or indirectly, any public or private enterprise operated for profit, or any material of construction or any method or manner of handling, using, distributing or dealing in any material or product.

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<sup>8</sup> Section 1.1 will not ordinarily apply to the broad range of vendors, contractors, and other third parties with which the component may have a relationship. Rather, affiliations reflect only those exceptional relationships that satisfy the specific definition shown in Section 1.11 and are established through the process shown in Section 1.12. As an alternative to Sections 1.11 through 1.13, the bylaws may state: "This Chapter shall not form or enter into any affiliation with any individual or with any organization that is not a component or affiliate of the Institute."

## ARTICLE 2 MEMBERSHIP<sup>9</sup>

### 2.0 GENERAL PROVISIONS

\*2.01 Categories of Membership. The membership of this Chapter shall consist of:

- a) the Architect and Associate members of the Institute who have been assigned to the Chapter, or who have been admitted to unassigned membership in this Chapter, and
- b) the Allied and Affiliate members the Chapter may admit as provided in Sections 2.3.

Architect members may also hold the titles Fellow and/or Emeritus. Unless otherwise provided, the term “Associate member(s)” in these bylaws shall be understood to include International Associate members. Although Associate members may also hold the title Emeritus, International Associate members may not hold that title.

2.02 Definitions. In these bylaws, Architect and Associate members who have been assigned to this Chapter by the Institute are referred to as “assigned members.” The term “unassigned member” shall refer to members assigned to other chapters who have been admitted to membership in this Chapter pursuant to Section 2.2 of these bylaws. The term “Allied” shall refer to Allied members (as defined in Section 2.35), and the term “Affiliate” shall refer to Student Affiliates (as defined in Section 2.36) and Honorary Affiliates (as defined in Section 2.37). The term “member,” if not otherwise qualified, shall refer to all persons in all classes of membership in this Chapter. The term “voting member” shall refer to the assigned members (and the Allied members), and only the assigned members (and the Allied members) shall be considered “members” within the meaning of California Corporations Code Section 5056. The term “non-voting member” shall refer to the unassigned members [and the Affiliate members/and the Affiliate and Allied members]. For the avoidance of doubt, references in these bylaws to the “members,” if not otherwise qualified, shall mean the voting members and the non-voting members collectively, but no such reference shall constitute any non-voting member as a “member” within the meaning of California Corporations Code Section 5056.<sup>10</sup>

2.021 Membership Rights and Privileges. The voting members shall have the right to vote, as set forth in these bylaws, on the election of members of the Board of Directors, on the disposition of all or substantially all of the assets of the Chapter, on any merger and its principal terms and any amendment of those terms, and on any election to dissolve the Chapter. In addition, the voting members shall have all rights afforded members under the California

<sup>9</sup> The provisions of this Article 2 as written are applicable only to direct membership organizations. For State Organizations that do not have individual memberships (that is, those that are Councils comprised of Chapters), representation of the individual members must be provided for separately from the actual members (Chapters) of the Council. Language such as the following is recommended: “The members of the Council shall consist of all Chapters chartered by the Institute (and Sections of such Chapters) within the State of \_\_\_\_\_. Each member of the Council shall be represented on the Council by its President or by another officer or representative as provided in the bylaws of the member organization.”

<sup>10</sup> In California the term “member” is a term of art specifically defined at California Corporations Code Section 5056. Persons who are “members” within the meaning of Section 5056 (sometimes referred to as “statutory members” or “voting members”) have certain rights under the California Nonprofit Corporation Law, including the right to vote on election of directors and other significant corporate matters. California law permits a nonprofit mutual benefit corporation to refer to persons associated with it as “members” even if such persons are not statutory members, though. (See California Corporations Code Section 7333.) Accordingly, the bylaws of a California nonprofit mutual benefit corporation should explicitly state which categories of members are statutory members. The wording suggested in these three added sentences sets up a framework to do that. If Allied members will have voting rights, the parentheticals in the first sentence should be included, and the first option in the brackets in the second sentence would be used; if Allied members will not have voting rights, the parentheticals in the first sentence should be omitted, and the second option in the brackets in the second sentence would be used. By way of example, a Chapter that does not allow Allied members to vote could use the following wording: “The term “voting member” shall refer to the assigned members, and only the assigned members shall be considered “members” within the meaning of California Corporations Code Section 5056. The term “non-voting member” shall refer to the unassigned members and the Affiliate and Allied members. For the avoidance of doubt, references in these bylaws to the “members,” if not otherwise qualified, shall mean the voting members and the non-voting members collectively, but no such reference shall constitute any non-voting member as a “member” within the meaning of California Corporations Code Section 5056.”

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Nonprofit Mutual Benefit Corporation Law. The non-voting members shall have the rights and privileges set forth in these bylaws or as otherwise determined by the Board of Directors from time to time (as long as such determination is consistent with the Institute Bylaws), but shall not have the right to vote, or any other rights afforded members under the California Nonprofit Mutual Benefit Corporation Law.

\*2.03 Qualifications. This Chapter shall not establish qualifications in addition to, or which vary from, the Institute's policies for membership.

2.04 Non-resident Status. Non-resident status shall be accorded to members who reside and have their principal place of business outside the territory of the Chapter and not in the territory of another chapter. Members who have applied for and been granted such status shall have the same rights and privileges as resident members in the same category, except that the Chapter may lower dues and/or assessments for such members as provided in Article 3.

\*2.05 Enrollment of Members. Every member assigned to or admitted by this Chapter shall be duly notified to that effect by this Chapter, and shall be enrolled by the Secretary as a member of this Chapter. New memberships will be announced at the next regular meeting of this Chapter and in the next issue of the Chapter's official publication.

\*2.06 Annual Dues and Assessments. Every member of this Chapter shall pay the fixed annual dues and assessments of this Chapter as determined in Article 3.

\*2.07 Resignations. Any member may resign from this Chapter by presenting a written resignation to the Secretary. The resignation of an assigned member in good standing shall be forwarded to the Institute and will be effective upon its receipt by the Institute. Other resignations shall be effective as of the date the letter of resignation was received by the Secretary.

\*2.08 Good Standing Defined. A member is not in good standing in this Chapter if and while in default of dues or other obligations to either this Chapter or the Institute.

2.09 Loss or Suspension of Interests, Rights and Privileges. A member who resigns, or whose membership is suspended or terminated by the Institute, loses all rights in this Chapter and the Institute, including any right to use the Chapter's or Institute's name, initials, symbol, or seal, until the member is reinstated in good standing. Resignation, suspension or termination of membership does not relieve the individual of the obligation to pay any indebtedness owed to the Chapter.<sup>11</sup>

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<sup>11</sup> The California Corporations Code does not specify substantive grounds for suspension/termination of membership in a nonprofit mutual benefit corporation, but does address the procedural aspects of terminating/suspending statutory members. The general rule is that the procedure must be fair and reasonable and performed in good faith. (See California Corporations Code Section 7341(b).) A procedure which conforms to the requirements of California Corporations Code Section 7341(c) is presumed to be fair and reasonable, but other procedures may also be fair and reasonable. (See California Corporations Code Section 7341(b).) The following language, which meets the requirements of California Corporations Code Section 7341(c), is offered for consideration by AIA Chapters in California; Chapters that wish to broaden the applicability of this language to all members (i.e., voting and non-voting members) should use the generic "member" in place of "voting member":

If grounds appear to exist for suspending or terminating a voting member under these bylaws, the following procedure shall be followed:

- 1) The Board of Directors shall give the voting member at least 15 days' prior notice of the proposed suspension or termination and the reasons for the proposed suspension or termination. Notice shall be given by any method reasonably calculated to provide actual notice. Notice given by mail shall be sent by first-class or registered mail to the voting member's last address as shown on the Chapter's records.
- 2) The voting member shall be given an opportunity to be heard, either orally or in writing, at least 5 days before the effective date of the proposed suspension or termination. The hearing shall be held, or the written statement considered, by the Board of Directors or by a committee or person authorized by the Board of Directors to determine whether the suspension or termination should occur.
- 3) The Board of Directors, committee, or person shall decide whether the voting member should be suspended, expelled, or sanctioned in any way. The decision of the Board of Directors, committee, or person shall be final.
- 4) Any action challenging an expulsion, suspension, or termination of voting membership, including a claim alleging defective notice, must be commenced within 1 year after the date of the expulsion, suspension, or termination.

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## 2.1 ASSIGNED MEMBERS

\*2.11 General. The qualifications, rights and privileges of assigned Architect and Associate members shall be as provided in [these bylaws and](#) the Institute Bylaws.<sup>12</sup>

\*2.12 Action on Applications. Whenever an application for membership in the Institute and assignment to the Chapter is filed with this Chapter, the [Secretary/Executive Director] shall promptly complete the application and forward it to the Institute. Where the applicant is ineligible under the Institute Bylaws, the Chapter will send a recommendation to the Institute Secretary to deny the application.

\*2.13 Admission Fees Prohibited. An assigned member shall not pay any admission or initiation fee for membership in this Chapter.

\*2.14 Termination. Assigned membership in this Chapter is terminated by the death of the member, resignation or termination of membership in the Institute, reassignment of the member to another chapter, or as otherwise provided in the Institute Bylaws or these bylaws.

\*2.15 Emeritus Members. A member who is granted Emeritus status in accordance with the Institute Bylaws shall automatically become an Emeritus member of this Chapter. All rights, interest, privileges, titles, liabilities and obligations of such members, other than the payment of regular and supplemental dues, shall remain unchanged unless otherwise provided in the Institute Bylaws.

## 2.2 UNASSIGNED MEMBERS<sup>13</sup>

2.21 Admission. This Chapter, without action by the Institute, may admit to unassigned membership any Architect or Associate member assigned to another chapter who applies for such membership in writing in the manner prescribed by the Board of Directors.

\*2.22 Rights and Privileges. Subject to whatever conditions the Institute Bylaws may provide, an unassigned member shall be subject to all regulations and shall have all rights in this Chapter of an assigned member, except that an unassigned member shall not vote on matters described in Section 5.24 of these bylaws, nor represent this Chapter as a delegate or otherwise at any meeting of the Institute.

2.23 Termination. Unassigned membership in this Chapter is terminated by the death of the member and by resignation or termination of membership in the Institute. The Board of Directors may terminate unassigned membership for indebtedness to the Chapter as provided in Section 3.32.

## 2.3 ALLIED AND AFFILIATE MEMBERS<sup>14</sup>

2.31 Admission. Every application for admission to Allied or Affiliate membership in this Chapter shall be promptly acted upon by the [Executive Director/Board of Directors].

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<sup>12</sup> Recitation of Institute Bylaws provisions relating to Architect and Associate Members is unnecessary. If it is desired to include this information in the component bylaws, consult with the Institute's Office of General Counsel on language aligning with the Institute's Bylaws.

<sup>13</sup> Optional. A Chapter need not admit unassigned members. If it chooses to do so, however, it must accord them the rights and privileges stated in Section 2.22.

<sup>14</sup> Optional. A Chapter need not have any Allied or Affiliate members. The procedure for admitting Allied and/or Affiliate members is within the Chapter's discretion.

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**2.32 Admission Fees.** Every applicant for an Allied or Affiliate membership, except Honorary Affiliate members, may pay an admission fee in an amount determined by the Board of Directors as provided in Section 3.02 of these bylaws.

**2.33 Termination.** Allied or Affiliate membership is terminated by the death or resignation of the member, and by the admission or eligibility to be admitted as an assigned or unassigned member. The Board of Directors may terminate the membership of an Allied or Affiliate member for indebtedness as provided in Section 3.32 or, by two-thirds vote<sup>15</sup>, for conduct detrimental to the interests of the Chapter.<sup>16</sup>

**2.34 Rights and Privileges of Allied and Affiliate Members.** Allied members shall have the rights and privileges specified in [these bylaws and](#) the Institute Bylaws, including the use of the phrase “Allied Member of the [Name of Chapter] Chapter of the American Institute of Architects” to describe themselves. An Affiliate ([or Allied](#))<sup>17</sup> member in good standing:

- 1) May serve as a member of any committee of this Chapter that does not perform any duty of the Board of Directors, but may not vote;
- 2) May attend and speak but may not make motions or vote at any meeting of this Chapter;
- 3) Shall not be eligible to serve as an officer or director or to chair a committee of this Chapter; and
- 4) May not in any way use the name, initials, seal, symbol or insignia of this Chapter or of the Institute.

**2.35 Allied Members.**<sup>18</sup> Individuals not otherwise eligible for membership in the Institute or the Chapter may become Allied members if they have established professional reputations and are registered to practice their professions where such requirements exist, or are employed outside of architectural practice but are involved in positions allied to the field of architecture. Allied members may include engineers, planners, landscape architects, sculptors, muralists, artists, and others in government, education, journalism, manufacturing, industry and/or other fields allied to architecture who the chapter believes will provide a meaningful contribution by reason of their employment or occupation.

**2.36 Student Affiliates-Qualifications.**<sup>19</sup> Student Affiliates shall be undergraduate or post-graduate students of architecture schools, or secondary school students, within the territory of this Chapter.

### 2.37 Honorary Affiliates.

**2.371 Qualifications.** A person of esteemed character who is otherwise ineligible for membership in the Institute or this Chapter but who has rendered distinguished service to the

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<sup>15</sup> [The Chapter might consider clarifying whether the two-thirds vote is a vote of its Board members present and voting or all Board members.](#)

<sup>16</sup> Termination of Allied or Affiliate membership for conduct detrimental to the interests of the Chapter should be approached with caution. If the termination is related to competition, it may have antitrust implications.

<sup>17</sup> [If Allied members will be non-voting members then the Chapter may want to add here this reference to Allied members.](#)

<sup>18</sup> The following language may be used as an alternate for Section 2.35: “**2.35 Allied Members.** The eligibility criteria for Allied members shall be as provided in the Institute Bylaws.”

<sup>19</sup> The following language may be used as an alternate for Section 2.36: “**2.36 Student Affiliates.** The qualifications, rights and privileges of Student Affiliates shall be as provided in the Institute Bylaws.”

profession of architecture, or to the arts and sciences allied therewith within the territory of this Chapter, may be admitted as an Honorary Affiliate member of this Chapter.

2.372 Nomination and Admission. A person eligible for Honorary Affiliate membership may be nominated by any member of the Board of Directors. The nomination must be in writing over the signature of the nominator and include the name of the nominee, biography, a history of attainments, qualifications for the honor and the reasons for the nomination. The Board of Directors, at any regular meeting, may admit a nominee as an Honorary Affiliate member.

2.373 Rights and Privileges. In addition to the rights and privileges set forth in Section 2.34 above, Honorary Affiliate members of this Chapter may use the title “Honorary Affiliate of the \_\_\_\_\_ Chapter,” and shall not pay any admission fee or annual dues nor be subject to any assessment.

## **ARTICLE 3 DUES, FEES AND ASSESSMENTS**

### 3.0 ANNUAL DUES

3.01 Obligation to Pay Dues. All members except Emeritus members and Honorary Affiliate members shall pay annual dues on or before January 15 of each year.

3.02 Amount of Annual Dues (and Admission Fees). The Board of Directors (by the concurring vote of at least [specify number or percentage] of its [members present and voting] [entire membership]) may fix, before the end of any fiscal year and in accordance with timing and other requirements fixed by the Institute, the annual dues to be paid by each category of member for the immediately succeeding fiscal year (and the amount of admission fees required of Allied or Affiliate members).<sup>20</sup>

3.03 Dues Upon Admission. A newly admitted assigned or Allied or Affiliate member shall pay full annual dues, except that those admitted during the last six months of the year shall pay one-half the annual dues in the year they are admitted.

3.04 Dues for Nonresident Members. Nonresident members shall pay reduced dues. The amount of the reduction shall be determined by the Board of Directors pursuant to Section 3.02.

3.05 General Waiver of Annual Dues and Admission Fees. This Chapter, by the concurring vote of not less than [a majority/two-thirds] of the total number of assigned members<sup>21</sup> present at a meeting, may waive for any fiscal year any part or all of the annual dues required to be paid by any membership class or any part of the admission fee required to be paid by Allied or Affiliate members.

3.06 Hardship Dues Reduction. The [Secretary/Board of Directors] may, in exceptional circumstances, waive all or any part of the annual dues of any member. After consultation with the Institute Secretary and other affected components, the [Secretary/Board of Directors] may, in exceptional circumstances, waive all or any part of the dues or fees owed by a member to the Institute and other assigned components, provided that such waiver is in equal proportions across all levels of membership.

3.07 Exemptions. Emeritus members and Honorary Affiliate members shall pay no dues or assessments to the Chapter. Emeritus members who wish to receive mailings from the Chapter shall pay a fee in an amount determined by the Board of Directors pursuant to Section 3.02.

### 3.1 ASSESSMENTS

3.11 Authority. This Chapter, by the concurring vote of [a majority/not less than two-thirds of the total number] of Architect members present at a meeting, may levy an assessment on its Architect members, and by the concurring vote of [a majority/not less than two-thirds of the total number] of its assigned members<sup>22</sup> may levy an assessment on its Associate members and/or Allied or Affiliate members (other than Honorary Affiliate members). (The amount of the assessment on a member in any fiscal year shall

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<sup>20</sup> The Institute Bylaws do not permit State and Regional Organizations to charge admission fees.

<sup>21</sup> [Chapters that allow Allied members to vote might change this reference to “assigned members” to “voting members” – since, in the context of a Chapter that allows Allied member to vote, the term “voting members” means both assigned members and Allied members. A Chapter that allows Allied members to vote could also provide for “voting by class” – i.e., provisions that give each class of voting members the right to vote on dues/fees changes that would affect that class.](#)

<sup>22</sup> [See note added to Section 3.05.](#)

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not exceed \_\_\_\_\_ percent of the amount of the annual dues required to be paid by such member for that year.)

3.12 Notice of Assessment. Notice of the intention to levy an assessment stating the amount, the reasons for the assessment, and when it shall be payable, shall be mailed to every member not less than 30 days prior to the meeting of this Chapter at which the proposed assessment is to be voted on.

### 3.2 DEFAULT OF ANNUAL DUES AND ASSESSMENTS

3.21 Annual Dues. Every member who has not paid the entire amount of required annual dues for the then current fiscal year when due shall be in default for the unpaid amount.

3.22 Assessments. Every member who has not paid the entire amount of an assessment on or before the date fixed for payment shall be in default for the unpaid amount.

### 3.3 TERMINATION OR SUSPENSION FOR DEFAULT OF DUES OR ASSESSMENTS

3.31 Assigned Members. If an assigned member is in default to the Institute or this Chapter for nonpayment of dues and assessments, such membership shall be subject to termination.<sup>23</sup>

3.32 Unassigned Members and Allied or Affiliates. If an unassigned member or Allied or Affiliate member is in default to this Chapter for nonpayment of dues and assessments, such membership shall be suspended or terminated, provided that in all cases such member shall have been given a written notice of impending suspension or termination at least 30 days prior to the effective date of such action, during which period the member shall remain in good standing and such default may be cured.<sup>24</sup>

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<sup>23</sup> As applied to Sections, this is applicable only to those Sections of Statewide Chapters or State Organizations that have applied for and been granted required membership status.

<sup>24</sup> [See note added to Section 2.09 addressing California law on the procedural aspects of terminating/suspending a member of a California nonprofit mutual benefit corporation.](#)

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## ARTICLE 4 CHAPTER RELATIONSHIP TO OTHER INSTITUTE ORGANIZATIONS

### 4.0 THE INSTITUTE

~~\*4.01 Delegates to Institute Meetings.~~ This Chapter shall select the delegates to represent the assigned membership at meetings of the Institute from among the assigned members of this Chapter in the number prescribed in the Institute Bylaws as follows:

~~4.011 Delegate Selection Procedure.~~ Member delegates shall be appointed from among the assigned members of this Chapter by the Board of Directors, except that no more than one-third of the Chapter's delegation shall be Associate members. If this Chapter neglects, fails or refuses to select all its delegates, or should any appointed delegates fail to be accredited, then the President or a designated representative may appoint delegates to represent this Chapter or execute a proxy as provided in the Institute Bylaws.<sup>25</sup>

~~\*4.02 Nomination and Election of Institute Directors.~~ ~~[This Chapter/The assigned members of this Chapter] shall participate in the nomination and election of the Regional Representatives for this Chapter's region to the Institute Strategic Council in the manner provided in the bylaws of the Regional Organization.~~<sup>26</sup>

### ~~4.1 REGIONAL ORGANIZATION~~

~~4.11 Chapter Representation in Regional Organization.~~<sup>27</sup> ~~This Chapter shall participate in its Regional Organization in the manner provided in the bylaws of that organization.~~

~~4.12 Delegates to Regional Convention.~~ ~~The assigned members in good standing of this Chapter shall be represented at meetings of the Regional Organization by delegates selected from among the assigned members of this Chapter in the number prescribed in the bylaws of the Regional Organization as follows:~~<sup>28</sup>

~~4.121 Delegate Selection Procedure.~~ ~~Chapter delegates to meetings of the Regional Organization shall be selected from among the assigned members of this Chapter by the [Board of Directors/members attending the annual meeting of the Chapter].~~

<sup>25</sup> For State Organizations or Statewide Chapters, consult the Institute's Office of General Counsel, and substitute or add, as appropriate, a procedure for selection of the State Organization delegate or Statewide Chapter delegate, who must be an Architect member.

<sup>26</sup> Sections 4.02 and 4.1 have been deleted based on the fact that California is a single state region, with no separate Regional Organization.

<sup>27</sup> Where the Regional Organization is a multi-state regional council, the language of this section should be adjusted to reflect State Organization rather than Chapter representation in the Regional Organization. This section can be deleted in single state regions, since Chapter representation is covered in Section 4.2.

<sup>28</sup> This provision relates to Chapter representation at Regional conventions. It may be deleted if the Regional Organization is a Council of Chapters or State Organizations, and does not hold an annual convention.

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## 4.2 STATE ORGANIZATION

4.21 Delegates to State Convention. The assigned members in good standing of this Chapter shall be represented at meetings of its State Organization by delegates selected from among the assigned members of this Chapter in the number prescribed in the bylaws of the State Organization as follows:<sup>29</sup>

4.211 Selection of Delegates. Chapter delegates to meetings of the State Organization shall be selected from among the assigned members of this Chapter by the [Board of Directors/members attending the annual meeting of the Chapter].<sup>30</sup>

4.22 Representation on State Organization Board.<sup>31</sup> The President or another member appointed by the Board of Directors shall be a representative of ~~(the members of)~~ this Chapter in the State Organization. At the annual meeting of this Chapter, the voting members in good standing of this Chapter shall elect one or more additional representatives, as may be required by the State Organization bylaws, to represent ~~(the members of)~~ this Chapter in the State Organization.

4.23 Nominations and Elections. Nominations and elections of Chapter representatives to the State Organization board shall be made at the same time and in the same manner as for the officers and directors of this Chapter.

4.24 Term of Representatives. Each representative shall serve for the term of [one year/two years/\_\_\_\_ years], or until a successor is elected or appointed. The Board of Directors shall name the successor of a representative for the unexpired term created by the representative's resignation, incapacity, or unwillingness to serve, except that the Vice President shall serve in the case of President's resignation, incapacity, or unwillingness to serve.

## 4.3 SECTIONS

4.31 Establishment of Sections. This Chapter may establish Sections with the approval of the Institute Secretary.

4.311 Procedure. Members in a geographic area within the territory of the Chapter may petition the Board of Directors to form a Section.

\*4.32 Section Membership Voluntary.<sup>32</sup> Membership in any Section shall be voluntary and not required as a condition of membership in the Chapter or the Institute.

<sup>29</sup> This provision relates to Chapter representation at State conventions. Insert procedure for selection of member delegates to meetings of the State Organization. This provision may be deleted if the State Organization is a Council of Chapters and does not hold an annual convention.

<sup>30</sup> Presumably an AIA Chapter in California that allows its members (rather than its Board of Directors) to select Chapter delegates would only allow its voting members to participate in this selection process, in which case the phrase "members attending the annual meeting of this Chapter" should be modified to state "voting members attending the annual meeting of this Chapter."

<sup>31</sup> Sections 4.22 through 4.24 are written to govern the Chapter's representatives on the board of the State Organization. Language in parentheses is written for a State Organization that is a direct membership organization, not a Council of Chapters.

<sup>32</sup> Sections of Statewide Chapters or State Organizations that have petitioned for and been granted permission to require membership in the Section, in accordance with the requirements of the Institute Bylaws, may state, "Section Membership Mandatory. Membership in this Section is required as a condition of membership in the Chapter and the Institute." Statewide Chapters or State Organizations with Sections should add the following to their Section 4.32: "Notwithstanding any other provisions hereof, Sections may request required membership as provided in the Institute Bylaws. Such sections must satisfy Core Member Services, as provided in the Institute Bylaws."

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4.33 Section Dues and Assessments. Sections may levy dues and assessments on members of the Section, but Section members may not be required to pay them except to the extent provided in the Institute's Bylaws.

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## ARTICLE 5 CHAPTER MEETINGS<sup>33</sup>

### 5.0 REGULAR, ANNUAL AND SPECIAL MEETINGS

5.01 Annual Meeting. This Chapter shall hold an annual meeting [during the month of \_\_\_\_\_/during the \_\_\_\_\_ quarter of each year/at such time as the Board of Directors may provide], for the purpose of nominating and electing the officers and directors (and representatives to the State ~~and Regional~~ Organizations,) to succeed those whose terms are about to expire; for receiving the annual reports of the Board of Directors and the Treasurer; and for the transaction of such other business as may be appropriate.

5.02 Regular Meetings. This Chapter shall hold regular meetings \_\_\_\_\_.<sup>34</sup>

5.03 Special Meetings. A special meeting of this Chapter for any lawful purpose may be called by the President or the Board of Directors, ~~or by and shall be called by the President at the~~ written request of not less than 5\_\_\_\_\_<sup>35</sup> percent of the total number of this Chapter's voting members in good standing. Any such written request shall be addressed to the attention of the President, Vice President, or Secretary of the Chapter, and such officer shall cause notice in accordance with Section 5.11 of these bylaws to be given promptly to the members entitled to vote, stating that a meeting will be held at a specified time and date fixed by the Board of Directors. However, the meeting date shall be at least 35 but no more than 90 days after receipt of the request. If the notice is not given within 20 days after the request is received, the person or persons requesting the meeting may give the notice. No other business than that specified in the notice of the special meeting shall be transacted, and all rules and procedures at the meeting shall be the same as those for an annual meeting.

5.04 Location of Meetings. Meetings of this Chapter shall be held at any place within or outside California designated by the Board of Directors or by the written consent of all members entitled to vote at the meeting, given before or after the meeting. In the absence of any such designation, meetings shall be held at the Chapter's principal office. The Board of Directors may authorize voting members who are not present in person to participate by electronic transmission or electronic video screen communication.

#### 5.05 Electronic Meetings.

- 1) Authority for Electronic Meetings. If authorized by the Board of Directors in its sole discretion, and subject to the requirements of consent in California Corporations Code Section 20(b) and guidelines and procedures the Board of Directors may adopt, voting members not physically present in person (or, if proxies are allowed, by proxy) at a meeting of members may, by electronic transmission by and to the Chapter or by electronic video screen communication, participate in a meeting of members, be deemed present in person

<sup>33</sup> All the provisions of this Article, as well as Article 6, should be carefully checked against the applicable provisions of the state nonprofit corporation (or other applicable) law, which may specify meeting, quorum and notice requirements, etc. [NOTE: Edits to align the provisions of Articles 5 and 6 with the requirements of the California Nonprofit Mutual Benefit Corporation Law have been made.](#)

<sup>34</sup> Subject to state law, the chapter has wide latitude on when chapter meetings occur. Among other options, this provision might specify how frequently the meetings will take place (for example, four times each calendar year), months during which meetings will take place, etc. To allow greater flexibility, it might take a more general approach, such as this: "This Chapter shall hold regular meetings on such dates as the Board may direct." [NOTE: California Corporation Code Section 7510\(b\) states: "A regular meeting of members shall be held on a date and time, and with the frequency stated in or fixed in accordance with the bylaws, but in any event in each year in which directors are to be elected at that meeting for the purpose of conducting such election, and to transact any other proper business which may be brought before the meeting."](#)

<sup>35</sup> State law may prescribe the percentage of members that may call a special meeting by petition. Check the applicable law in your state. [NOTE: Edits to Section 5.03 have been proposed for technical compliance with California Corporations Code Sections 7510\(e\), 7511\(a\), and 7511\(c\).](#)

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(or, if proxies are allowed, by proxy), and vote at a meeting of members whether that meeting is to be held at a designated place or in whole or in part by means of electronic transmission by and to the Chapter or by electronic video screen communication, subject to the requirements of these bylaws.

- 2) Requirements for Electronic Meetings. A meeting of the members may be conducted, in whole or in part, by electronic transmission by and to the Chapter or by electronic video screen communication (a) if the Chapter implements reasonable measures to provide voting members in person (or, if proxies are allowed, by proxy) a reasonable opportunity to participate in the meeting and to vote on matters submitted to the members, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with those proceedings, and (b) if any member votes or takes other action at the meeting by means of electronic transmission to the Chapter or electronic video screen communication, a record of that vote or action is maintained by the Chapter. Any request by a Chapter to a member pursuant to California Corporations Code Section 20(b) for consent to conduct a meeting of members by electronic transmission by and to the Chapter shall include a notice that absent consent of the member pursuant to Corporations Code Section 20(b), the meeting shall be held at a physical location in accordance with Section 5.04 of these bylaws.

## 5.1 NOTICE, QUORUM, MINUTES FOR CHAPTER MEETINGS

5.11 Notice of Chapter Meetings. A written notice of each meeting of this Chapter, stating the date, time and place where the meeting will be held and the means of electronic transmission by and to the Chapter or electronic video screen communication, if any, by which voting members may participate in the meeting, shall be given by the Secretary, personally or by mail in accordance with Sections 5.111 and 5.112, to each member entitled to vote at the meeting. The notice of any meeting at which members of the Board of Directors are to be elected shall include the names of all persons who are nominees when notice is given. The notice of the annual meeting or any regular meeting shall state the matters that the Board of Directors, at the time notice is given, intends to present for action by the voting members.

5.111 Manner of Giving Notice. Notice shall be given not less than ~~(ten/—)~~ nor more than 90 days before the date fixed for the meeting. The notice shall be given either personally, by electronic transmission by the Chapter, or by first-class, registered, or certified mail, and shall be addressed to each member entitled to vote, at the address of that member as it appears on the books of the Chapter or at the address given by the member to the Chapter for purposes of notice. If no address appears on the Chapter's books and no address has been so given, notice shall be deemed to have been given if either (1) notice is sent to that member by first-class mail or facsimile or other written communication to the Chapter's principal office or (2) notice is published at least once in a newspaper of general circulation in the county in which the principal office is located. ~~Notice is sufficient if published in the Chapter newsletter and sent to members in time for them to receive it at least (ten/—) days prior to the meeting.~~<sup>36</sup>

### 5.112 Electronic Notice.

(A) Notice given by electronic transmission by the Chapter shall be valid only if: (1) Delivered by (a) facsimile telecommunication or electronic mail when directed to the facsimile number or

<sup>36</sup> State law may provide specific notice requirements. Check the applicable law in your state. NOTE: Edited Section 5.11 and added 5.111 and 5.112 for technical compliance with California Corporations Code Section 7511.

electronic mail address, respectively, for that recipient on record with the Chapter; (b) posting on an electronic message board or network that the Chapter has designated for those communications, together with a separate notice to the recipient of the posting, which transmission shall be validly delivered on the later of the posting or delivery of the separate notice of it; or (c) other means of electronic communication; (2) To a recipient who has provided an unrevoked consent to the use of those means of transmission for communications; and (3) That creates a record that is capable of retention, retrieval, and review, and that may thereafter be rendered into clearly legible tangible form.

(B) Notwithstanding the foregoing: (1) An electronic transmission by this Chapter to a voting member is not authorized unless, in addition to satisfying the requirements of this Section, the consent to the transmission has been preceded by or includes a clear written statement to the recipient as to (a) any right of the recipient to have the record provided or made available on paper or in non- electronic form, (b) whether the consent applies only to that transmission, to specified categories of communications, or to all communications from the Chapter, and (c) the procedures the recipient must use to withdraw consent; and (2) Notice shall not be given by electronic transmission by the Chapter after either of the following: (a) the Chapter is unable to deliver two consecutive notices to the voting member by that means or (b) the inability so to deliver the notices to the voting member becomes known to the Secretary or any other person responsible for the giving of the notice.

5.12 Quorum at Meetings. At any meeting of this Chapter, (ten/\_\_\_) percent of the membership entitled to vote shall constitute a quorum for the transaction of any business. The voting members present may adjourn the meeting, despite the absence of a quorum, by the vote of a majority of the votes represented in person or, if proxies are allowed, by proxy.<sup>37</sup>

5.13 Minutes of Meetings. Written minutes of every meeting of this Chapter, recording the matters considered at the meeting and the actions taken, shall be kept by the Secretary. The minutes of each meeting shall be signed by the Secretary after they are approved at a subsequent meeting of the Chapter and thereafter filed in the Chapter's records.

5.14 Notice of Certain Agenda Items. Approval by the voting members of any of the following proposals, other than by unanimous approval by those entitled to vote, is valid only if the notice or written waiver of notice states the general nature of the proposal or proposals:

- 1) Removing a member of the Board of Directors without cause;
- 2) Filling vacancies on the Board of Directors;
- 3) Amending the Articles of Incorporation;
- 4) Electing to wind up and dissolve the Chapter;
- 5) Approving a contract or transaction between the Chapter and one or more Board members, or between the Chapter and any entity in which a Board member has a material financial interest; or

<sup>37</sup> State law may require a minimum quorum. Check the applicable law in your state. NOTE: As a default, California Corporations Code Section 7512 provides that one-third of the voting power, represented in person or by proxy, constitutes a quorum at a meeting of statutory members. Section 7512 permits a nonprofit mutual benefit corporation to specify a lower quorum in a bylaw provision (see California Corporations Code Section 7512(b)), but if the quorum percentage is less than one-third, the following language should be added to the bylaws provision: "If, however, the attendance at any regular or annual meeting, whether in person or, if proxies are allowed, by proxy, is less than one-third of the voting power, the members entitled to vote may vote only on matters as to which notice of their general nature was given under Section 5.11 of these bylaws."

- 6) Approving a plan of distribution of assets, other than money, not in accordance with liquidation rights of any class or classes as specified in the Articles of Incorporation or bylaws, when the Chapter is in the process of winding up.

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## 5.2 DECISIONS AT MEETINGS, ELIGIBILITY FOR VOTING

5.21 Majority Vote. ~~Every decision at a Chapter meeting shall be by a majority vote of those members in good standing who are present and voting, unless otherwise required by law or these bylaws. If a quorum is present, the affirmative vote of a majority of the voting power represented at the meeting, entitled to vote and voting on any matter, shall be deemed the act of the members unless the vote of a greater number, or voting by classes, is required by the California Nonprofit Mutual Benefit Corporation Law, the Articles of Incorporation, or these bylaws.~~

5.22 Roll Call Vote. A roll call vote shall be taken at the call of the presiding officer or whenever one-third of the voting members present so request.

5.23 Proxies. Unless otherwise required by law, there shall be no voting by proxy at a meeting of this Chapter.<sup>38</sup>

\*5.24 Limitations on Voting Eligibility. Only assigned members<sup>39</sup> in good standing may vote on the following matters:

- 1) Matters so designated elsewhere in these bylaws;
- 2) Elections of Representatives to the Institute Strategic Council, delegates to meetings of the Institute, and representatives to the Regional and State Organization;
- 3) Instructions to delegates;
- 4) Any matters relating to membership;
- 5) Dues and assessments for Architect members. Voting on such matters shall be limited to Architect members; or
- 6) Other matters relating to the government, meetings, affiliations, budget and finances of the Institute.

5.25 Mail-Written Ballot. Any vote that may be taken at a meeting of this Chapter may be taken without a meeting by direct mail-written ballot of the voting members of this Chapter, provided that ~~the matters voted on have been introduced and discussed at a regular or special meeting of this Chapter~~Sections 5.251 through 5.253 are complied with.<sup>40</sup>

### 5.251 Solicitation of Written Ballots.

<sup>38</sup> Check your state law on proxy requirements. If it is decided to permit proxy voting, this section might read, "Any member entitled to vote at a meeting of this Chapter may authorize another person or persons to act for him or her by proxy. Every proxy must be in writing and signed by the member. No proxy shall be valid after the expiration of eleven months from the date it is signed unless otherwise provided by law or in the proxy. Every proxy shall be revocable at the pleasure of the member executing it, except as otherwise provided by law." NOTE: The California Nonprofit Mutual Benefit Corporation Law allows statutory members to vote by proxy unless proxy voting is specifically prohibited in the corporation's Articles of Incorporation or bylaws. (See California Corporations Code Section 7613.) If proxy voting will be prohibited, the Chapter might consider changing Section 5.23 to read: "No voting member is allowed to vote by proxy." However, see California Corporations Code Section 7613(f). If proxy voting will be permitted, the Chapter might consider the language suggested above at the beginning of this note, but might also add: "Any revocable proxy covering matters for which a vote of the members is required shall not be valid unless the proxy sets forth the general nature of the matter to be voted on."

<sup>39</sup> Chapters that allow Allied members to vote might change this reference to "assigned members" to "voting members" – since, in the context of a Chapter that allows Allied member to vote, the term "voting members" means both assigned members and Allied members.

<sup>40</sup> State law may not permit action by mail ballot or may require authorization in the articles of incorporation. NOTE: The California Nonprofit Mutual Benefit Corporation Law permits statutory members to act by written ballot without a meeting, although the right to use written ballots may be limited or prohibited by the Articles of Incorporation or bylaws. (See California Corporations Code Sections 7513-7514.)

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(A) This Chapter shall distribute one written ballot to each member entitled to vote on the matter. The ballot and any related material may be sent by electronic transmission by the Chapter that meets the requirements of Section 5.112 of these bylaws, and responses may be returned by electronic transmission to the Chapter. “Electronic transmission to the Chapter” means a communication (1) delivered by (a) facsimile telecommunication or electronic mail when directed to the facsimile number or electronic mail address, respectively, which the Chapter has provided from time to time to voting members for sending communications to the Chapter, (b) posting on an electronic message board or network which the Chapter has designated for those communications, and which transmission shall be validly delivered upon the posting, or (c) other means of electronic communication, (2) as to which the Chapter has placed in effect reasonable measures to verify that the sender is the voting member purporting to send the transmission, and (3) that creates a record that is capable of retention, retrieval, and review, and that may thereafter be rendered into clearly legible tangible form.

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(B) All solicitations of votes by written ballot shall (1) state the number of responses needed to meet the quorum requirement; (2) state, with respect to ballots other than for election of Board members, the percentage of approvals necessary to pass the measure or measures; and (3) specify the time by which the ballot must be received in order to be counted.

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(C) Each ballot so distributed shall (1) set forth the proposed action; (2) give the voting members an opportunity to specify approval or disapproval of each proposal; and (3) provide a reasonable time in which to return the ballot to the Chapter. If the Chapter has 100 or more voting members, any written ballot distributed to ten or more voting members shall provide, subject to reasonable specified conditions, that where the person solicited specifies a choice in any such matter, the vote shall be cast according to that specification.

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(D) In any election of Board members, a written ballot that a voting member marks “withhold,” or otherwise marks in a manner indicating that authority to vote is withheld, shall not be voted either for or against the election of a Board member.

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5.252 Approval Requirements for Action by Written Ballot. Approval by written ballot shall be valid only when (1) the number of votes cast by ballot (including ballots that are marked “withhold” or otherwise indicate that authority to vote is withheld) within the time specified equals or exceeds the quorum required to be present at a meeting authorizing the action, and (2) the number of approvals equals or exceeds the number of votes that would be required for approval at a meeting at which the total number of votes cast was the same as the number of votes cast by written ballot without a meeting.

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5.253 Written Ballots as Irrevocable. A written ballot may not be revoked.

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## ARTICLE 6 THE BOARD OF DIRECTORS

### 6.0 AUTHORITY OF BOARD OF DIRECTORS

6.01 Powers. ~~Subject to the provisions and limitations of the California Nonprofit Mutual Benefit Corporation Law and any other applicable laws, and subject to any limitations of the Articles of Incorporation or bylaws regarding actions that require approval of the voting members, the business, activities, and affairs of this Chapter shall be managed, and all corporate powers shall be exercised, by or under the direction of the Board of Directors, which.~~

6.02 Number of Board Members. ~~The Board of Directors shall be composed of the officers (and directors<sup>41</sup>) of this Chapter and shall exercise all authority, rights and powers granted to it by the laws of the State of \_\_\_\_\_, by the articles of incorporation, and by these bylaws.<sup>42</sup>~~

~~6.011 Custodianship. The Board of Directors shall be and act as the custodian of the properties and interests of this Chapter except those specifically placed by these bylaws in the custody of or under the administration of the Treasurer. Within the appropriations made therefor, the Board of Directors shall do all things required and permitted by these bylaws to forward the objects of this Chapter.~~

6.02 Delegation of Authority. Neither the Board of Directors nor any officer or director of this Chapter shall delegate any of the authority, rights or power conferred by law or these bylaws, unless such delegation is specifically prescribed or permitted by these bylaws and is not contrary to law.

6.03 Freedom from Commitments. No committee, commission, officer, director, member, employee or agent of this Chapter shall initiate or carry on any activity that may commit the Chapter to an expense, policy or activity until the matter shall have been reviewed and approved by the Board of Directors.

### 6.1 ELECTION OF OFFICERS (AND DIRECTORS)<sup>43</sup>

6.11 Nominations. Nominations for each office (and for each directorship) of this Chapter about to become vacant shall be made at the annual meeting from the floor. In addition, at a meeting of the Board of Directors held at least one month prior to the annual meeting, the [President/Board of Directors] may

<sup>41</sup> Many components are managed by the officers, who collectively constitute the Board of Directors or Executive Committee. Components may, but are not required to, have directors in addition to the officers. Each component has the discretion, but not the obligation, to include Associate and International Associate members as officers of that component. In any event, however, Associates and International Associates may not hold more than two seats or one-third of the total seats (whichever number is greater) on the component's Board of Directors.

<sup>42</sup> Unless a provision stating the number of members of the Board of Directors is included in the Articles of Incorporation (in which case the provision can only be changed by amending the Articles), the bylaws shall set forth the number of Board members of the corporation, or the method of determining the number of Board members, or shall set forth a range with a stated minimum and stated maximum number of Board members, with the exact authorized number to be fixed, within the limits specified, by approval of the Board or the voting members. (See California Corporations Code Section 7151(a).) If the Chapter's Board consists only of the 4 officers, this Section 6.02 could be reworded to read as follows: "The Board of Directors shall be composed of the four (4) officers of this Chapter." If the Chapter's Board consists of the 4 officers plus a fixed number of additional directors (5 will be used by way of example), this Section 6.02 could be reworded to read as follows: "The Board of Directors shall be composed of the four (4) officers of this Chapter, plus five (5) additional directors, such that the total authorized number of members of the Board of Directors shall be nine (9)." If it is appropriate to set forth a range for the number of Board members, this Section 6.02 could be reworded to read as follows (with the minimum and maximum numbers filled in as appropriate): "The Board of Directors shall be composed of the officers and directors of this Chapter. The total authorized number of members of the Board of Directors shall be at least \_\_\_\_\_ but no more than \_\_\_\_\_ unless changed by amendment to these bylaws. The exact number of members of the Board of Directors shall be fixed from time to time, within those limits, by a resolution adopted by the Board of Directors."

<sup>43</sup> In California nonprofit mutual benefit corporations with statutory members, Board members are normally chosen by election by the statutory members. However, it is permissible for all or any portion of the authorized number of Board members to hold office by virtue of designation or selection by a specified designator. (See California Corporations Code Section 7220(d).) AIA Chapters in California should consult with local counsel if they desire to include provisions regarding designated directors in their bylaws.

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select a nominating committee to prepare and present to the members a slate or slates of candidates to be nominated for offices (and directorships).

6.12 Elections. The nominee for an office (or directorship) who receives a [plurality/majority] of the ballots cast at the annual meeting shall be elected thereto. ~~If there is only one nominee for any office (or directorship), the Secretary may be directed by the meeting to cast a ballot for the full number of votes of the meeting for that nominee, whereupon the President shall declare the nominee to be elected by acclamation. Otherwise the name of each nominee for each office (and each directorship) shall be placed by the Secretary on ballots for voting by secret ballot.~~

6.13 Tellers/Inspectors of Election. ~~Inspectors of election may be appointed in accordance with, and shall have the powers and duties set forth in, Section 7614 of the California Nonprofit Mutual Benefit Corporation Law. The President may appoint (three/\_\_\_\_) tellers, who shall be members qualified to vote at the meeting, and who shall tally the qualified votes for each nominee, tabulate the results and immediately notify the Secretary thereof.~~

6.14 Tie Votes. In the event of a tie vote, the list of nominees for each office (and each directorship) in question shall be restricted to those involved in the tie, and the nominee receiving a majority in the runoff election shall be elected to the office.

6.15 Results. The President shall announce to the meeting the results of all balloting, and shall declare all elections.

## 6.2 TERMS OF OFFICE OF OFFICERS (AND DIRECTORS)

6.21 Term. Each officer (and director) shall serve a term of one year or until a successor has qualified.<sup>44</sup> (In no event shall any officer serve more than (\_\_\_\_) consecutive term(s) in any one office.)

6.22 Vacancies. If a vacancy occurs in the membership of the Board of Directors other than on account of the regular expiration of a term of office (including a vacancy occurring by reason of the removal of a member of the Board of Directors)<sup>45</sup>, the Board of Directors shall fill the vacancy for the unexpired term of office.

6.23 Resignation. Any officer (or director) may resign at any time, in writing, which shall take effect immediately upon receipt by the President or the Secretary unless a different time is stated in the resignation. No resignation shall discharge any accrued duty or obligation of an officer (or director).

6.24 Removal of Officer (or Director). Any or all of the officers (and directors) may be removed for or without cause by vote of the voting members, or for cause by vote of the Board of Directors when there is a quorum of not less than a majority at the meeting at which the vote is taken.

## 6.3 OFFICERS

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<sup>44</sup> Components may adjust the terms of office of their officers and directors in these bylaws to accommodate their unique situations. NOTE: The California Nonprofit Mutual Benefit Corporation Law permits Board members to be elected for terms up to 4 years. The bylaws may provide for staggering the Board members' terms; the terms of office of each group, and the number of Board members in each group, need not be uniform. (See California Corporations Code Section 7220(a).)

<sup>45</sup> The language in parentheses must be approved by the statutory members. (See California Corporations Code Section 7224(a), stating: "Unless the articles or a bylaw approved by the members (Section 5034) provide that the board can fill vacancies occurring in the board by reason of the removal of directors, or unless the corporation has no members pursuant to Section 7310, such vacancies may be filled only by approval of the members (Section 5034)."

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6.31 Officers. The officers of this Chapter shall be the President, Vice President/President-elect, Secretary and Treasurer.

6.32 The President. The President shall exercise general supervision over the affairs of this Chapter, except those matters placed by these bylaws or by the Board of Directors under the administration and supervision of the Secretary and/or the Treasurer; preside at meetings of this Chapter and of the Board of Directors; ~~appoint, with the concurrence of the Board of Directors, all committees;~~ sign all contracts and agreements to which this Chapter is a party; have charge of and exercise general supervision over the offices and employees of this Chapter; and shall perform all other duties usual and incidental to the office.

6.321 Authority. The President shall act as spokesperson of this Chapter and as its representative at meetings with other organizations and committees unless otherwise delegated by the Board of Directors. The President shall not obligate or commit this Chapter unless the obligation or commitment has been specifically authorized by the Board of Directors.

6.33 The Vice President/President-elect. The Vice President/President-elect shall possess all the powers and perform all the duties of the President in the event of the absence of the President or of the President's disability, refusal, or failure to act and shall perform such other duties as are properly assigned by the Board of Directors or the President.

6.331 Succession. The Vice President/President-elect shall succeed to the office of President upon expiration of the term of office of the President.

6.34 The Secretary. The Secretary shall act as the recording and corresponding secretary of the Chapter and the Board of Directors, and shall attend all their meetings and keep minutes of the proceedings; have custody of and shall safeguard and keep in good order all property of this Chapter, except property that is placed under the charge of the Treasurer; issue all notices of this Chapter; keep its membership roll; sign all instruments and matters that require the attestation or approval of this Chapter, except as otherwise provided in these bylaws; keep its seal, and affix it on such instruments as require it; prepare the reports of the Board of Directors and this Chapter; in collaboration with the President, have charge of all matters pertaining to the meetings of this Chapter; and shall perform all other duties usual and incidental to the office.

6.341 Reports. The Secretary shall furnish the Institute, ~~the Regional Organization~~ and the State Organization with such reports as may be required from time to time and at least annually shall furnish the Secretary of each of those organizations with the names and addresses of all officers (and directors) of this Chapter and report changes in the membership as may be required to keep the records of those organizations up-to-date and complete.

6.342 Delegation of Authority. The Secretary may delegate to an assistant secretary or other assistant employed by this Chapter the actual performance of any or all duties as recording or corresponding secretary, but shall not delegate responsibility for the property of this Chapter, or the making of any attestation or certification required to be given by the Secretary, or the signing of any document requiring the signature of the Secretary.

6.35 The Treasurer. The Treasurer shall have charge and shall exercise general supervision of the financial affairs and keep the records and books of account of this Chapter; prepare the budgets, collect amounts due this Chapter, and give receipts for and have the custody of its funds and monies and make all disbursements of funds; have custody of its securities and of its instruments and papers involving

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finances and financial commitments; conduct the correspondence relating to the office; and perform all duties usual and incidental to the office.

6.351 Reports. The Treasurer shall make a written report to each annual meeting of this Chapter and a written report to each regular meeting of the Board of Directors. Each of said reports shall set forth the financial condition of this Chapter, and its income and expenditures for the period of the report and the Treasurer's recommendations on matters relating to the finances and general welfare of this Chapter.

6.352 Delegation of Authority. The Treasurer shall not authorize any person to sign any order, statement, agreement, check or other financial instrument of this Chapter that requires the signature of the Treasurer, unless such delegation is expressly permitted in these bylaws. The Treasurer may delegate to an assistant treasurer or other assistant employed by this Chapter the actual performance of any or all duties as Treasurer, but shall not delegate responsibility for the property of this Chapter, or the signing of any document requiring the signature of the Treasurer.

6.353 Liability. The Treasurer shall not be personally liable for any loss of money or funds of this Chapter or for any decrease in the capital, surplus, income or reserve of any fund or account resulting from any acts performed in good faith and with reasonable care in conducting the usual business of the office.

~~6.36 Officer Pro Tem. If any officer is absent or unable to act, the Board of Directors may elect from its membership a chairman pro tem, a secretary pro tem or a treasurer pro tem, as necessary, who shall serve until the regularly elected officer is able to act, and during such period shall perform the duties and exercise the power and authority of the office.~~

## 6.4 MEETINGS OF THE BOARD OF DIRECTORS

6.41 Meetings Required. Except as otherwise provided in these bylaws, the Board of Directors must actually meet in a regular or special meeting in order to transact business.

6.411 Regular Meetings. The Board of Directors may hold regular meetings without notice at a time and place determined by it.

6.412 Special Meetings. A special meeting of the Board of Directors shall be held if requested in writing by one-third of the members of the Board of Directors, or at the call of the President. At least four days prior to the date of the special meeting, ~~the~~ Secretary shall issue a written call and notice of ~~each~~ the special meeting, stating the time, place and purpose of the meeting and the business to be transacted, and only the business stated in the call and notice shall be transacted at the special meeting.

6.413 Waiver of Notice. Either the call and notice of a special meeting or any limitations as to the business to be transacted, or both, may be waived by the written consent of every member of the Board of Directors. Any irregularity in or failure of notice of a meeting of the Board of Directors shall not invalidate the meeting or any action taken.

6.414 Meeting Requirements. Any one or more members of the Board may participate in a meeting of the Board by conference telephone or similar equipment that allows all persons participating in the meeting to hear one another at the same time. Participation by such means

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shall constitute presence in person at such a meeting. For the avoidance of doubt, meetings shall not be conducted by email.

6.415 Voting. Each member of the Board of Directors shall have one vote on each matter presented to the Board of Directors for action. No member of the Board of Directors may vote by proxy. Voting shall not be conducted by email except as set forth in Section 6.416.

6.416 Action by Unanimous Written Consent Without Meeting. Subject to the requirements of Section 7211(b) of the California Nonprofit Mutual Benefit Corporation Law, ~~the~~ Board may take action without meeting if all members of the Board consent in writing to the adoption of a resolution authorizing the action.<sup>46</sup> All such written consent or consents shall be filed with the minutes of the proceedings of the Board and shall have the same force and effect as the unanimous vote of the Board. The Chapter may solicit such written consent from members of the Board by, and any such member of the Board may provide his or her written consent to the Chapter by, email or other electronic transmission, provided that (a) for electronic transmissions from the Chapter, the Chapter has obtained an unrevoked written consent from the recipient to the use of such means of communication; (b) for electronic transmissions to the Chapter, the Chapter has in effect reasonable measures to verify that the sender is the individual purporting to have sent such transmission; and (c) the transmission creates a record that can be retained, retrieved, reviewed, and rendered into clearly legible tangible form.

6.42 Quorum and Vote. [A majority/ \_\_\_\_\_ members/~~a majority of the voting members~~<sup>47</sup>] of the Board of Directors shall constitute a quorum for the transaction of its business.<sup>48</sup> Except as otherwise provided by law, or unless the vote of greater than a majority is required by the Articles of Incorporation or these bylaws, the vote of a majority of the Board's ~~[members/voting members]~~ present at the time of the vote shall be the act of the Board of Directors if a quorum is present. If a quorum is not present, those present may adjourn the meeting from day to day, or to a later date.

6.43 Minutes. The Secretary shall keep written minutes of each meeting of the Board of Directors, recording the matters considered at the meeting and the actions taken. Minutes shall be distributed to the members of the Board of Directors for approval at the next meeting and thereafter signed by the Secretary and filed with the Chapter's records.

## 6.5 REPORTS OF THE BOARD OF DIRECTORS

6.51 Report to Members. The Board of Directors shall ~~render a full report in writing to each annual meeting of this Chapter of the condition, interests, activities and accomplishments of this Chapter, making such recommendations with respect thereto as it deems proper, cause an annual report to be prepared within 120 days after the end of the Chapter's fiscal year. That report shall contain the following information in appropriate detail:~~

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<sup>46</sup> The provisions in this section should be included only if they are consistent with your state law. NOTE: Edited for compliance with the California Nonprofit Mutual Benefit Corporation Law.

<sup>47</sup> The references in Section 6.42 to "voting members of the Board" have been removed; under the California Nonprofit Mutual Benefit Corporation Law there is no such thing as a "non-voting member of the Board." In other words, a person is either a member of the Board, with all the attendant duties and rights (including voting rights) of any other member of the Board, or a person is not a member of the Board. (See California Corporations Code Sections 7211(c) and 5047.)

<sup>48</sup> Pursuant to California Corporations Code Section 7211(a)(7), the default quorum rule is "a majority of the number of directors authorized in or pursuant to the articles or bylaws." The articles or bylaws can vary from this default rule and provide for a different quorum, but may not provide that a quorum shall be less than one-fifth the number of directors authorized in or pursuant to the articles or bylaws, or less than two, whichever is larger (unless the number of directors authorized in or pursuant to the articles or bylaws is one, in which case one director constitutes a quorum). (See California Corporations Code Section 7211(a)(7).) The foregoing rule should be kept in mind if a California AIA Chapter will state the quorum in terms of a fixed number of Board members. If the Chapter will state the quorum in terms of a "majority," it is suggested to be clear whether this means a majority of the authorized number of Board members, or a majority of the number of Board members then in office.

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- 1) A balance sheet as of the end of the fiscal year, an income statement, and a statement of cash flows for the fiscal year, accompanied by an independent accountant's report or, if none, by the certificate of an authorized officer of the Chapter that they were prepared without audit from the Chapter's books and records;
- 2) A statement of the place where the names and addresses of current voting members are located; and
- 3) Any information required by Section 6.52 of these bylaws.

This Chapter shall annually notify each voting member of the member's right to receive a copy of the financial report under this Section. Except as provided in the next paragraph of this bylaw, on written request by a voting member, the Board shall promptly cause the most recent annual report to be sent to the requesting member. If the Board approves, the Chapter may send the report and any accompanying material sent pursuant to this Section by electronic transmission.

This Section shall not apply if the Chapter receives less than \$10,000 in gross revenues or receipts during the fiscal year.

6.52 Annual Statement of Certain Transactions and Indemnifications. As part of the annual report to all voting members, or as a separate document if no annual report is issued, the Chapter shall annually prepare and mail, deliver, or send by electronic transmission to its voting members and furnish to its Board members a statement of any transaction or indemnification of the following kinds within 120 days after the end of the Chapter's fiscal year:

- 1) Unless approved by voting members under Corporations Code §7233(a), any transaction (a) to which the Chapter, its parent, or its subsidiary was a party, (b) which involved more than \$50,000 or was one of a number of such transactions with the same person involving, in the aggregate, more than \$50,000, and (c) in which either of the following interested persons had a direct or indirect material financial interest (a mere common directorship is not a material financial interest): (i) Any Board members of the Chapter, its parent, or its subsidiary; (ii) Any holder of more than 10 percent of the voting power of the Chapter, its parent, or its subsidiary. The statement shall include a brief description of the transaction, the names of interested persons involved, their relationship to the Chapter, the nature of their interest in the transaction, and, when practicable, the amount of that interest, except that, in a partnership in which such person is a partner, only the partnership interest need be stated.
- 2) A brief description of the amounts and circumstances of any loans, guaranties, indemnifications, or advances aggregating more than \$10,000 paid during the fiscal year to any Board member of the Chapter, unless the loan, guaranty, indemnification, or advance has already been approved by the voting members, or the loan or guaranty is not subject to Corporations Code §7235(a).

6.53 Report to Institute. The Board of Directors or the Secretary shall make a written report to the Institute at such times as the Institute requests of the matters and in the form required by it.

## 6.6 COMMITTEES AND COMMISSIONS

6.61 Formation and Composition. Subject to and in compliance with Sections 6.611 through 6.613, ~~T~~he Board of Directors may form committees and commissions to carry out the work of the Chapter. The charge and duration of each committee or commission shall be determined by the Board of

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~~Directors. The members of committees and commissions shall be appointed by the President with the concurrence of the Board of Directors.~~

~~6.611 Board Committees. The Board of Directors, by resolution adopted by a majority of the members of the Board then in office, provided that a quorum is present, may create any number of “Board Committees,” each consisting of two or more members of the Board, and no one who is not a member of the Board, to serve at the pleasure of the Board. Appointments to any Board Committee shall be by a majority vote of [the members of the Board then in office/the number of Board members authorized in or pursuant to the [Articles of Incorporation/bylaws]].<sup>49</sup> Any such Board Committee may be delegated and may act with the authority of the Board to the extent and with the scope provided by the Board.~~

~~6.612 Advisory Committees. The Board of Directors, by resolution adopted by a majority of a quorum of members of the Board present at the meeting, may establish one or more “Advisory Committees” to the Board. The members of any Advisory Committee may include both members of the Board and persons who are not members of the Board. Appointments to any Advisory Committee shall be by [a majority of a quorum of members of the Board present at the meeting/the President with the concurrence of the Board of Directors].<sup>50</sup> Advisory Committees may not exercise the authority of the Board to make decisions on behalf of this Chapter, but shall be restricted to making recommendations to the Board or Board Committees, and implementing Board or Board Committee decisions and policies under the supervision and control of the Board or Board Committee.~~

~~6.613 Limitations. Notwithstanding the foregoing provisions of this Section 6.61, no committee, whether a Board Committee or an Advisory Committee, may:~~

- ~~1) Take any final action on any matter that, under the California Nonprofit Mutual Benefit Corporation Law, also requires approval of the voting members or approval of a majority of all voting members;~~
- ~~2) Fill vacancies on the Board of Directors or any Board Committee;~~
- ~~3) Fix compensation of members of the Board for serving on the Board or any committee;~~
- ~~4) Amend or repeal any bylaws or adopt new bylaws;~~
- ~~5) Amend or repeal any resolution of the Board that by its express terms is not so amendable or repealable;~~
- ~~6) Create any other Board Committees or appoint the members of Board Committees;~~
- ~~7) Expend corporate funds to support a nominee for director or officer if more people have been nominated than can be elected; or~~
- ~~8) With respect to any assets held in charitable trust, approve any contract or transaction between this Chapter and one or more of its Board members or between this Chapter and an entity in which one or more of its Board members have a material financial interest, subject to the approval provisions of California Corporations Code Section 5233(d)(3).~~

<sup>49</sup> See California Corporations Code Section 7212(a).

<sup>50</sup> California Corporations Code Section 7212(b), which authorizes a board to create so-called Advisory Committees, does not address the manner in which appointments to such committees must be made; accordingly, it would seem permissible for the bylaws to provide for the President to make such appointments.

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## ARTICLE 7 FINANCES<sup>51</sup>

### 7.0 FINANCES

7.01 Budgets and Appropriations. Prior to the beginning of every fiscal year, the Board of Directors (by the concurring vote of two-thirds of its total membership) shall adopt an annual budget showing in detail the anticipated income and expenditures of this Chapter for the immediately succeeding year.

#### 7.02 Expenditure Limitations.

7.021 General. No member, officer, director, committee, commission, employee or agent of the Chapter shall have any right, authority or power to expend any money of the Chapter, incur any liability for or in its behalf, or make any commitment that will or may be deemed to bind the Chapter to an expense or liability unless such expenditure, liability or commitment has been budgeted and authorized by the Board of Directors or a specific resolution at a meeting of the Chapter.

7.022 The Board of Directors. The Board of Directors shall not expend or authorize expenditures in any fiscal year that exceed the estimated income of the Chapter for the year unless specifically authorized to do so (by two-thirds majority vote) at a duly called meeting of the members (provided, however, that the Board of Directors may enter into leases and employment contracts for terms longer than one year and may set aside a reserve to be funded with a portion of the Chapter's income in one or more fiscal years, which may be expended in subsequent years without regard to estimated or actual income or expenditures for such years).

7.03 Fiscal Year. The fiscal year of this Chapter shall be \_\_\_\_\_.

### 7.1 REAL AND PERSONAL PROPERTY

7.11 Authority. In order to carry on its affairs and exercise its powers this Chapter may acquire and dispose of real and personal property for its own use.

7.12 Gifts. Only the Board of Directors shall have any right or authority to solicit or accept any gift, bequest or devise for or on behalf of this Chapter; it shall not accept any gift, bequest or devise that will not promote the objects and purposes of this Chapter, or that will place an undue financial or other burden on this Chapter.

### 7.2 DIVIDENDS PROHIBITED

An unencumbered balance of income at the close of a fiscal year shall never be distributed as profits, dividends or otherwise to the members of this Chapter.

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<sup>51</sup> These provisions should be carefully checked against the applicable provisions of the state nonprofit corporation (or other applicable) law, and of state and federal tax laws relating to tax-exempt organizations.

### \*7.3 INSTITUTE PROPERTY INTERESTS

This Chapter shall not have any title to or interest in any property of the Institute nor be liable for any debt or other pecuniary obligation of the Institute. The Institute shall not have any title to or interest in the property of this Chapter, and the Institute shall not be liable for any debt or other obligation of this Chapter.

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## ARTICLE 8 GENERAL PROVISIONS

### 8.0 EXECUTIVE OFFICE

The administrative and executive offices of the Chapter shall be in the charge of the Executive Director, who shall be [employed/retained under contract] by and report to the Board of Directors. The Executive Director shall be responsible for the administration of the affairs of the Chapter and such other duties as the Board of Directors may assign. Specifically, the Executive Director shall:

1. Serve as assistant Secretary and assistant Treasurer to perform such duties as the Secretary and Treasurer may delegate;
2. Employ such staff as the Board of Directors may authorize to perform the duties assigned by the Board of Directors;
3. Attend all meetings of the Board of Directors ~~as a member ex officio without vote~~; and <sup>52</sup>
4. Make reports to the Board of Directors on the affairs and business of the Chapter when requested by the Board of Directors.

### 8.1 RECORDS OPEN TO MEMBERS

The correspondence and the minute books, the Treasurer's books of account and the Secretary's records of this Chapter, except confidential matters relating to membership applications and bestowal of honorary memberships, shall be open to inspection at the executive offices of this Chapter during the business hours fixed by the Board of Directors, by any member of this Chapter in good standing.<sup>53</sup>

### 8.2 PARLIAMENTARY AUTHORITY

The rules contained in the most current version of Robert's Rules of Order, Newly Revised shall supplement the rules and regulations adopted by this Chapter and shall govern this Chapter, the Board of Directors, and the Chapter committees in all cases in which such rules are applicable and are not inconsistent or in conflict with law, these bylaws or the rules and regulations adopted by this Chapter or by the Board of Directors.

### 8.3 LIABILITY, INDEMNIFICATION AND INSURANCE

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<sup>52</sup> This should be checked with reference to state law, which may require that each Board member have a right to vote. NOTE: As noted in the initial footnote to Section 6.42, the California Nonprofit Mutual Benefit Corporation Law does not recognize non-voting Board members. If a person is designated as a Board member (including by use of the term "ex officio director" or "ex officio Board member"), without any restriction on voting rights as a Board member, then the person is a Board member for all purposes; if a person's voting rights as a Board member are restricted, then the person, regardless of title, is not a Board member for any purpose. (See California Corporations Code Section 5047.) If the Chapter's Executive Director is not a Board member, the Chapter should consider whether, as a policy matter, it is appropriate/desirable to enshrine in the bylaws a requirement that the Executive Director "attend all meetings of the Board of Directors." While it does not violate California law to include such a requirement in the bylaws, there may be situations where it would not be appropriate for the Executive Director to attend (for example, a closed/executive session of the Board).

<sup>53</sup> This reviewer is of the view that while Section 8.1 does not outright conflict with the member inspection provisions of the California Nonprofit Mutual Benefit Corporation Law, it arguably goes beyond what the California Nonprofit Mutual Benefit Law would otherwise require. (See California Corporations Code Section 8310 et seq.) Note also that as currently drafted, Section 8.1 extends inspection rights to all members of the Chapter (whereas the California Nonprofit Mutual Benefit Corporation Law would only require the chapter to allow statutory members (i.e., voting members) to inspect its records). AIA Chapters in California that wish to utilize a records inspection provision that more closely aligns with the statutory language of Corporations Code Section 8333 might consider substituting the following for Section 8.1: "RECORDS OPEN TO VOTING MEMBERS. On written demand on the Chapter, any voting member may inspect, copy, and make extracts of the accounting books and records and the minutes of the proceedings of the voting members, the Board of Directors, and Board Committees at any reasonable time for a purpose reasonably related to the voting member's interests as a voting member. Any such inspection and copying may be made in person or by the voting member's agent or attorney." (Note that this suggested language does not address inspection rights as regards membership lists, which are dealt with separately (see, e.g., California Corporations Code Section 8330.)

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**8.31 Liability.** In the absence of misconduct, fraud or bad faith, the present and former officers, directors and employees of this Chapter shall not be personally liable for its debts, obligations or liabilities.

**8.32 Indemnification.** If a director or officer of the Chapter is made a party to any ~~civil or criminal action or~~ proceeding (as such term is defined in California Corporations Code Section 7237(a)) arising from the performance by the director or officer of his or her duties on behalf of the Chapter, then, to the full extent permitted by law, upon a determination by (i) the Board of Directors by affirmative a majority vote of a quorum of its members who are not parties to the action or proceeding, (ii) approval of the voting members, with the person(s) to be indemnified not being entitled to vote thereon, or (iii) the court in which the proceeding is or was pending, that indemnification of the director or officer is proper under the circumstances because the director or officer has met the applicable standard of conduct set forth in California Corporations Code Section 7237(b) or (c), the Chapter may indemnify such director or officer for all sums paid by him or her in the way of against expenses (as such term is defined in California Corporations Code Section 7237(a)), judgments, fines, settlements, and other amounts reasonable expenses, including attorney's fees actually and necessarily reasonably incurred, in connection with the action or proceeding.

**8.33 Insurance.** The Board of Directors may authorize the purchase and maintenance by this Chapter of such insurance on behalf of the present and former officers, directors, employees and persons acting in any other capacity at the request of this Chapter as may protect them against any liability asserted against them in such capacity, whether or not this Chapter would have the power to indemnify such persons under applicable law.<sup>54</sup>

## 8.4 ETHICS<sup>55</sup>

**8.41 Ethics Charges.** This Chapter shall not adjudicate any claims of violations of the Code of Ethics and Professional Conduct. All such claims shall be referred to the Institute's National Ethics Council for adjudication.

## 8.5 ELECTRONIC TRANSMISSIONS

8.51 Consent to the Use of Electronic Transmissions. An electronic transmission by the Chapter to a voting member or Board member is valid only if the voting member or such Board member has affirmatively consented (and has not withdrawn consent) to the use of electronic transmissions. The Chapter may utilize consent forms in substantially the forms attached hereto as Exhibits A-1 and A-2 to obtain such consent from voting members and Board members.

<sup>54</sup> The indemnification obligation may be covered by insurance. This provision authorizes the Board of Directors to purchase such insurance. This provision should be carefully checked by an attorney and reviewed by an insurance adviser.

<sup>55</sup> This provision is optional. It is within the component's discretion to include this provision strictly at its own discretion.

## ARTICLE 9 AMENDMENTS<sup>56</sup>

### 9.0 AMENDMENTS AT MEETINGS OF THIS CHAPTER

9.01 Notice of Proposed Amendments. These bylaws may be amended at any meeting of this Chapter by two-thirds vote<sup>57</sup> of the voting members present, provided that a quorum is present and provided that notice of the proposed amendment and the meeting at which it will be voted on is given to the membership not less than 30 days prior to the date of the meeting.

9.02 Bylaws Relating to Assigned Members and Classes. It shall require a vote of not less than two-thirds<sup>58</sup> of the assigned members of this Chapter who are present at the meeting to amend a bylaw relating to such assigned members. Without limiting the generality of the foregoing, it shall require approval by the members of a class of voting membership if the adoption, amendment, or repeal of a bylaw would (a) materially and adversely affect the rights, privileges, preferences, restrictions, or conditions of that class as to voting, dissolution, redemption, or transfer in a manner different than such action affects another class; (b) materially and adversely affect such class as to voting, dissolution, redemption, or transfer by changing the rights, privileges, preferences, restrictions, or conditions of another class; (c) increase or decrease the number of memberships authorized for such class; (d) increase the number of memberships authorized for another class of voting membership; (e) effect an exchange, reclassification, or cancellation of all or part of the memberships of such class; or (f) authorize a new class of voting membership.

### 9.1 AMENDMENTS BY THE BOARD OF DIRECTORS

\*9.11 Conformity with Institute Bylaws. The Board of Directors, without action by a meeting of this Chapter, [shall/may] amend any of these bylaws as may be necessary for conformity with Institute Bylaws. These bylaws, and any amendments to them, shall be forwarded to the Secretary of the Institute for review for conformity with Institute Bylaws.

9.12 Delegation of Authority. The Board of Directors shall be authorized to amend specific provisions of these bylaws if the power to do so has been delegated to it by a two-thirds vote of the members of this Chapter eligible to vote thereon.

9.13 Restrictions on Board's Power to Amend Bylaws. Notwithstanding any other provision of these bylaws, without the approval of the voting members, the Board of Directors shall not have the power to:

- 1) Adopt a bylaw (a) specifying or changing a fixed number of Board members; (b) specifying or changing the maximum or minimum number of Board members; or (c) changing from a fixed number of Board members to a variable number of Board members or vice versa;
- 2) Adopt, amend, or repeal any bylaw that would (a) increase or extend the terms of officers or directors; (b) allow any officer or director to hold office by designation or selection rather than by election by the voting members; (c) increase the quorum for meetings of the voting members; (d) repeal, restrict, create, expand, or otherwise change proxy rights; (e) authorize

<sup>56</sup> These provisions should be carefully checked against the applicable requirements of the state nonprofit corporation (or other applicable) law.

<sup>57</sup> The two-thirds approval threshold is not contrary to California law but is also not required by California law; as a general matter a majority of a quorum of voting members can approve bylaw amendments. (See California Corporations Code Section 7150(b).)

<sup>58</sup> See previous note.

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cumulative voting; or (f) provide that the Board may fill vacancies occurring in the Board by reason of the removal of a Board member; or

- 3) Adopt, amend, or repeal any bylaw if such action would (a) materially and adversely affect the rights of voting members as to voting, dissolution, redemption, or transfer; (b) increase or decrease the number of voting members authorized in total or for any class; (c) effect an exchange, reclassification, or cancellation of all or part of the voting memberships; or (d) authorize a new class of voting membership.

## 9.2 AMENDING SUPERMAJORITY REQUIREMENTS

9.21 Supermajority Requirements. Any provision of these bylaws that requires the vote of a larger proportion of the Board than is otherwise required by law, or that requires the vote of a larger proportion of the voting members than is otherwise required by law, may not be altered, amended, or repealed except by that greater vote.

**EXHIBIT A-1**

**FORM OF CONSENT TO THE USE OF ELECTRONIC TRANSMISSIONS BY OFFICER  
OR DIRECTOR**

In accordance with California Corporations Code §§20, 21, and 5079, and the bylaws of [Insert name], a California nonprofit mutual benefit corporation (the “Chapter”), the undersigned officer/director of the Chapter hereby agrees to the following:

1. The Chapter may send meeting notices, annual reports, and all other materials (“Records”) to me by electronic transmission at the email address or facsimile number listed below.

2. The Chapter may rely on communications sent by me to the Chapter by electronic transmission from the email address or facsimile number listed below for any purposes, including action by written consent. I hereby certify that the Chapter may reasonably conclude that I am the author of communications so sent.

3. I understand that I have the right to have all Records provided or made available on paper or in nonelectronic form, but only if requested by me in writing. Requested Records shall be provided within a reasonable period of time.

Electronic transmissions may be sent and received as follows:

By email: \_\_\_\_\_

By facsimile: \_\_\_\_\_

This consent shall remain in full force and effect until I revoke it in writing and so notify the Chapter.

Date: \_\_\_\_\_

\_\_\_\_\_  
[Signature]

\_\_\_\_\_  
[Typed/Printed Name]

**EXHIBIT A-2**

**FORM OF CONSENT TO THE USE OF ELECTRONIC TRANSMISSIONS BY VOTING MEMBER**

In accordance with California Corporations Code §§20, 21, and 5079, and the bylaws of [Insert name], a California nonprofit mutual benefit corporation (the “Chapter”), the undersigned voting member of the Chapter hereby agrees to the following:

1. The Chapter may send meeting notices, annual reports, and all other materials (“Records”) to me by electronic transmission at the email address or facsimile number listed below.

2. The Chapter may rely on communications sent by me to the Chapter by electronic transmission from the email address or facsimile number listed below for any purposes, including action by written consent. I hereby certify that the Chapter may reasonably conclude that I am the author of communications so sent.

3. I understand that I have the right to have all Records provided or made available on paper or in nonelectronic form, but only if requested by me in writing. Requested Records shall be provided within a reasonable period of time.

Electronic transmissions may be sent and received as follows:

By email: \_\_\_\_\_

By facsimile: \_\_\_\_\_

(4. The Chapter may conduct meetings of the members by electronic transmission by and to the Chapter. I understand that if I do not sign and return this consent to the Chapter, meetings of the members shall be held at a physical location in accordance with the Chapter’s bylaws.)

This consent shall remain in full force and effect until I revoke it in writing and so notify the Chapter.

Date: \_\_\_\_\_

\_\_\_\_\_  
[Signature]

\_\_\_\_\_

[Typed/Printed Name]