

AMENDED AND RESTATED
BYLAWS OF
SEQUOIA FARMS OWNERS' ASSOCIATION,
A VIRGINIA NONSTOCK CORPORATION

THESE AMENDED AND RESTATED BYLAWS of Sequoia Farms Owners' Association ("Association") are made as of the _____ day of _____, 2017.

WITNESSETH

WHEREAS, under Section 4.4 of the Association's Bylaws, the Bylaws may be amended by the Association's Board of Directors at a meeting of the Board of Directors; and

WHEREAS, by vote of the Directors at a duly called meeting of the Board of Directors in accordance with Section 4.4 of the Bylaws, the Board voted in the affirmative to approve amendments to the Bylaws, which amendments are incorporated into and set forth below to form an amended and restated set of Bylaws, and as evidenced by the certification below.

NOW, THEREFORE, the Bylaws of Sequoia Farms Owners' Association are hereby amended and restated in their entirety as follows, which replace the original Bylaws as previously amended:

ARTICLE I

INTERPRETATIVE PROVISIONS

Definitions of terms and other interpretive provisions set forth in Article I of the Declaration of Covenants and Restriction for Sequoia Farms (the "Declaration") are equally applicable to these Bylaws and are hereby incorporated herein.

ARTICLE II

MEETINGS OF THE OWNERS

Section 2.1. Annual Meetings. ~~The first annual meeting of the Association shall be held, not later than the first anniversary of the incorporation of the Association, at such time and place as may be fixed by a resolution of the Board of Directors. Subsequent annual meetings of the Association shall be held during the second month preceding the beginning of each fiscal year at such time and place as may be fixed from time to time by resolutions of the Board of Directors.~~

Section 2.2. Special Meetings. Special meetings of the Association shall be held if sought (i) by ~~resolution vote~~ of the Board of Directors, (ii) by request of the President of the Association, or (iii) by petition(s) signed by ~~persons who own fee simple estates, or interests therein, in Owners of~~ at least one-fourth (1/4) of the Lots, ~~or (iv) while the Declarant is an Owner, by request of the Declarant; provided,~~

that such ~~resolution, request or~~ petition(s) must (i) specify ~~the place at which the meeting is to be held,~~ (ii) ~~either specify a time at which the meeting is to be held which will permit the Secretary to comply with Section 2.3 hereof, or else specify that the Secretary shall designate the time of the meeting,~~ (iii) specify the purpose(s) for which the meeting is to be held (with such purpose falling within the lawful and proper authority of the Owners), and (iv) be delivered to the Secretary. No business other than that stated in such ~~resolution, request or~~ petition shall be transacted at such special meeting.

Section 2.3. Notice of Association Meetings.

(a) Written notice stating the place, day and hour of each annual meeting and, in case of a special meeting, the purpose(s) for which the meeting is called, shall be given to each Owner ~~not less than ten (10) nor more than fifty (50) days before the date of the meeting, either personally or by mail,~~ by or on behalf of the Secretary or an Assistant Secretary to each Owner entitled to vote at such meeting. ~~If mailed, such notice shall be deemed to be given when deposited in the United States mail addressed to the Owner at his address as it appears on the records of the Association, with postage thereon prepaid. Notice of an annual meeting shall be given no less than 14 days nor more than 60 days prior to the meeting; and notice of a special meeting shall be given no less than 7 days nor more than 60 days prior to the meeting.~~

Commented [cwmeb1]: Notice methods are addressed in new Section in Article IV (Miscellaneous).

(b) Notwithstanding the provisions of subsection (a), notice of a meeting to act on an amendment to the Articles of Incorporation, or on a plan of merger or consolidation shall be given in the manner provided above not less than ~~twenty five (25) nor more than fifty (50)~~ days before the date of the meeting. Any such notice shall be accompanied by a copy of the proposed amendment or plan of merger or consolidation.

Commented [cwmeb2]: Per applicable provisions of POA Act Sec.55-510 and applicable provisions of Nonstock Corporation Act Sec. 13.1-842.

Commented [cwmeb3]: Per Nonstock Corp. Act Sec. 13.1-842.

Section 2.4. Waiver of Notice of Meetings.

(a) Whenever any notice is required to be given of any meeting of the Association, a waiver thereof in writing signed by a person entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice to that person.

(b) A person who attends a meeting shall be conclusively presumed to have had timely and proper notice of the meeting or to have duly waived notice thereof, unless he attends for the express purpose of objecting to the transaction of any business on the grounds that the meeting was not lawfully called or convened.

Section 2.5. Action by Owners Without Meeting. Any action required or permitted to be taken at a meeting of the Association may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the Owners entitled to vote with respect to the subject matter thereof. Such consent shall have the same force and effect as a unanimous vote of the Owners.

Section 2.6. Quorum. A quorum shall be deemed to be present throughout any meeting of the Association if persons entitled to cast at least ten percent (10%) of the votes of the Association membership are present, in person or by proxy, at the beginning of such meeting. If a quorum is present, the affirmative vote of the majority of the votes represented at the meeting and entitled to vote on the subject matter shall be the act of the Association unless the vote of a greater number is required by law or by the Declaration or Articles of Incorporation, and except that in elections of

Directors, those receiving the greatest number of votes shall be deemed elected, even though not receiving a majority.

Section 2.7. Absence of Quorum. In the absence of a quorum at any meeting of the Association, the Owners present in person or by proxy and entitled to vote thereat, ~~or, if no Owners entitled to vote are present in person or by proxy, any Officer authorized to preside at or act as Secretary of such meeting,~~ may adjourn the meeting from time to time, for periods not exceeding twenty (20) days at any one time, until a quorum shall be present. No notice of the time and place of the adjourned meeting need be given other than by announcement thereof at the time of adjournment. At any such adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting as originally called if a quorum had been present.

Section 2.8. Votes.

(a) ~~Until the expiration of seven (7) years from the date the Declarant ceases to be the only Owner, or until the Declarant ceases to be the Owner of at least twenty five percent (25%) of the Lots, whichever occurs first, the Association shall have two (2) classes of members as follows: (1) the Class A members shall consist of all Owners other than the Declarant; and (2) the Class B member shall be the Declarant. For the purposes of the preceding sentence only, the Declarant shall be deemed to be at any given time (1) the Owner of all Lots which have been created within the real estate described in Exhibits A and B to the Declaration and which have not been conveyed by the Declarant to another person and (2) in the case of any real estate described in the said Exhibit B which has not been subdivided into Lots, the Owner of the maximum number of Lots into which all such real estate may legally be subdivided under the subdivision ordinance(s) then applicable thereto. Thereafter, As provided in the Articles of Incorporation, each Owner of a Lot is a member of the Association, and if an Owner consists of more than one person, all of those co-owners of that Lot collectively constitute one member of the Association shall have one (1) class of members.~~ Each Owner shall have one (1) vote in the Association for each Lot owned by him, ~~except that the Class B members (so long as there are two (2) classes of members) shall have three (3) votes in the Association for each Lot owned by it.~~ Should the Association be an Owner, however, the Association shall not cast a vote with respect to any Lot it owns.

(b) Since an Owner may be more than one person, if only one of such persons is present at a meeting of the Association, that person shall be entitled to cast the Owner's vote(s). If more than one of such persons is present, the vote(s) appertaining to that Owner's Lot shall be cast only in accordance with their unanimous agreement, and such agreement shall be conclusively presumed if any one of them purports to cast the vote(s) appertaining to that Owner's Lot without protest being made forthwith by any of the others to the person presiding over the meeting.

(c) Since a "person" need not be a natural person ~~(but rather an entity)~~, any trustee, managing member, officer or director of an entity which, alone or together with others, constitutes an Owner may, on behalf of that entity, attend meetings of the Association and participate in the voting.

(d) The vote(s) appertaining to an Owner's Lot may be cast in person or pursuant to a proxy or proxies duly executed by or on behalf of the Owner, or in cases where the Owner is more than one person, by or on behalf of all such persons. No proxy appointment shall be valid after eleven months from its date unless otherwise ~~provided instated on~~ the proxy form. No proxy shall be revocable except when the revocation is brought to the attention of the person presiding over the meeting.

(e) Notwithstanding anything to the contrary in this section, ~~no Owner shall be eligible to vote, either in person or by proxy, who is shown on the books of the Association to be more than 60 days' past due in any the payment of any amounts due the Association~~ if the right of an Owner to vote is suspended pursuant to Section 4.3 hereof, the vote appertaining to that Owner's Lots shall not be cast or counted for any purpose.

Section 2.9. Manner of Voting. ~~Except as otherwise provided by the Association Documents, voting by Owners at a meeting shall be by voice vote unless any Owner present at the meeting, in person or by proxy, demands a vote by written ballots indicating the name of the Owner voting, the number of votes appertaining to his Lot, and the name of the Owner's proxy of such ballot if cast by a proxy. At each election for Directors, every Owner entitled to vote at such election shall have the right to cumulate his votes, in person or by proxy, by giving one candidate as many votes as the number of Directors to be elected at the time multiplied by the number of his votes shall produce, or by distributing such votes on the same principle among any number of such candidates.~~

Commented [cwmeb4]: Deleted. Conflicts with Sec. 3.1 below.

Section 2.10. Order of Business. At each meeting of the Association, the President, or in his absence ~~the~~ Vice President, shall act as chairman of the meeting. The Secretary, or in his absence such person as may be appointed by the chairman, shall act as Secretary of the meeting. So far as is consistent with the purposes of the meeting, the order of business shall be as follows:

- (1) Call to order.
- (2) Presentation of proof ~~of notices of due calling of the meeting.~~
- (3) Roll call ~~(confirmation of quorum) and presentation and examination of proxies.~~
- (4) Reading ~~and approval~~ of minutes of previous meeting or meetings ~~of the Association.~~
- (5) Reports of officers and committees.
- (6) The appointment of inspectors of votes, if any votes are to be taken other than by voice vote.
- (7) If the annual meeting, the election of Directors.
- (8) Unfinished business.
- (9) New business.
- (10) Adjournment.

ARTICLE III

DIRECTORS AND OFFICERS

Section 3.1. Number, and Selection and Qualification of Directors. The business and affairs of the Association shall be managed by a Board of Directors all of whom shall be Owners in the Association. Only one ~~person constituting~~ ~~an~~ Owner of any Lot may serve on the Board at ~~any the same~~ time. The Board shall consist of five (5) Directors ~~selected at the annual homeowners' meetings of the Association.~~

(a) Directors are elected to two-year terms unless otherwise provided below. Terms shall be and remain staggered. When necessary to reestablish staggered terms, the applicable term length (whether one or two years) shall be determined based on the highest number of votes received, with

the candidate(s) receiving the highest number of votes being elected to a full two-year term, so that there are two Directors serving two-year terms and three directors serving one-year terms; once staggered terms are reestablished, successor Directors are elected to full two-year terms unless being elected to serve the remaining unexpired term of a prior Director. At the first annual meeting immediately following the enactment of this amendment, the two (2) individuals receiving the two (2) highest numbers of votes will be elected to terms of two (2) years each, the three (3) individuals receiving the next three (3) highest numbers of votes will be elected to a term of one (1) year. Thereafter, at each annual meeting, the two individuals receiving the two highest number of votes at each annual election of the Board of Directors shall receive two year terms and any other director elected at that meeting shall receive a one (1) year term. The intent of this section is to create staggered terms of office for the Board of Directors. The Board of Directors shall have all necessary power and authority to insure that the staggered terms of office for ~~d~~Directors, hereby established, shall be maintained.

(b) Nomination for election to the Board of Directors may be made by a Nominating Committee appointed by the Board. Nominations may also be made from the floor at the Association meeting at which an election is to be held. The Nominating Committee, if appointed, shall consist of a chairperson, who shall be a Director who is not running for re-election at the next election of Directors, and two or more Owners. The Nominating Committee may make as many nominations for election to the Board of Directors as it shall in its discretion determine.

(c) Voting for the Board of Directors shall be by written ballot, except that the chairperson may announce the nominee(s) elected by acclamation if the number of nominated eligible candidates is equal to or less than the number of positions up for election in accordance with Article II, Section 2.9 of these By-laws. No cumulative voting shall be allowed and each Owner shall have a vote for each position on the Board of Directors to be filled at the meeting. In the event of a tie for the last position to be filled, a run-off election for that position will be immediately held (from among all the candidates not elected during the first round of voting) with the individual receiving the greatest number of votes elected to the final ~~Directorboard~~ position. The run-off election shall be conducted in the same manner as the regular election. Thereafter, at the first meeting of the Board of Directors, the newly elected Board of Directors ~~term shall commence on January 1 of the next calendar year, at that time the Board of Directors~~ shall elect the Officers of the Association who shall serve for a term of one (1) year.

Section 3.2. Vacancies in the Board of Directors. Except as provided in Section 3.3 ~~hereof or in the Articles of Incorporation~~, any vacancy occurring in the Board of Directors by reason of death, resignation, increase in the number of Directors or otherwise, may be filled by the vote of a majority of the remaining Directors regardless of whether the remaining Directors comprise a quorum of the Board. The person so appointed to fill the vacancy by the Board shall serve until the next annual meeting, at which ~~time~~ a successor shall be elected by the membership, in accordance with these ~~By-law~~ Bylaws, to any unexpired term of the Director initially creating the vacancy, if any.

Section 3.3. Removal of Directors. At a meeting of the Association called expressly for that purpose, any Director(s) identified in the meeting notice as being subject to the removal vote other than Directors appointed by the Declarant may be removed, with or without cause, by a majority vote, and a successor shall thereupon be elected by such majority to fill the vacancy or vacancies thereby created.

Commented [cwmeb5]: Consistent with Nonstock Corp. Act Sec. 13.1-857, a director's term expires at the annual meeting when a successor is elected, and thus a newly elected director's term commences upon being elected.

~~No Director may be removed, however, if a sufficient number of votes are cast against his removal which, if then cumulatively voted at an election of all Directors, would be sufficient to elect him.~~

Section 3.4. Resignation of Directors or Officers. Any Director or Officer may resign at any time by giving written notice to the Board of Directors or to the President or the Secretary. Unless otherwise specified in such written notice, such resignation shall take effect upon receipt thereof, and the acceptance of such resignation shall not be necessary to make it effective. ~~Except for Directors appointed by the Declarant and Officers appointed or elected by such Directors, if~~ any Director or Officer was an Owner at the time he became such a Director or Officer, he shall be deemed to have resigned at such time as he ceases to be an Owner.

Section 3.5. Meetings of Directors. The first meeting of each newly-elected Board of Directors shall be held immediately after the annual meeting of the Association, and no notice of such meeting shall be necessary to the newly-elected Directors in order legally to constitute the meeting, provided a quorum shall be present; or the newly-elected Board may convene at such time and place as shall be fixed by the consent ~~in writing of a majority of all~~ the Directors. Thereafter, the Board of Directors shall meet regularly without notice at such intervals, times and places as may be fixed from time to time by ~~resolutions vote~~ of the Board. Special meetings of the Board shall be held when called by the President or by a majority of the Directors with at least three (3) days' notice to the remainder of the Board, ~~or not less than twenty-four (24) hours after notice has been received by the remainder of the Board, whichever period is shorter~~. However, notice of a special meeting may be waived by any Director in writing or by attending the meeting, unless he attends for the express purpose of objecting to the transaction of any business on the grounds that the meeting was not lawfully called or convened.

Notwithstanding the above, notice to the Owners of any Board meetings shall be given to the extent required by, and consistent with, the Virginia Property Owners' Association Act as may be amended from time to time ("POA Act").

Section 3.6. Quorum of Directors. A majority of the ~~Board of~~ Directors constitute a quorum for the transaction of business. The act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 3.7. Actions of the Board Not Requiring Approval. Subject to any limitations created by law, the Declaration, the Articles of Incorporation, or Section 3.8 hereof, the Board of Directors shall have ~~the~~ power, ~~by and pursuant to its resolutions and~~ without the approval of any Owners or Mortgagees, to:

(1) Exercise all rights, powers and authority conferred on the Association or on the Board by ~~Section 13.1-204.1 of the Code of the POA Act or the~~ Virginia Nonstock Corporation Act or other law, by the Declaration, by the Articles of Incorporation, or by other provisions of these Bylaws or the Rules and Regulations, that are not expressly required to be done by the Owners as members of the Association;

(2) Do or cause to be done all other acts and things which the Association may do;

(3) Employ and dismiss managing agents, independent contractors, employees and such other persons as the Board may determine, and to fix their respective duties and rates of compensation; and

(4) Adopt and amend Rules and Regulations governing the use and enjoyment of the Property and other areas of Association responsibility.

Section 3.8. Actions of the Board Requiring Approval.

~~(a)~~ If (and only if) approved in each case by a majority of the votes cast at an annual or special meeting of the Association at which a quorum is present, the Board of Directors shall have power, ~~by or pursuant to its resolutions,~~ to:

(1) Borrow money on behalf of the Association; and

(2) Grant easements to public utility companies over and through the Property or any portion(s) thereof, ~~and~~

~~(3) Levy a special assessment which would cause the total of special assessments levied in that fiscal year to exceed one hundred dollars (\$100.00) in the case of any Lot.~~

~~(b) If (and only if) approved in each case as specified in subsection (a) above and by the holder(s) of the indebtedness secured by at least two-thirds (2/3) of the Mortgages on the Lots, the Board of Directors shall have power, by or pursuant to its resolutions, to:~~

~~(1) Cause liens to be placed on the Common Area to secure the payment of debts to the Association;~~

~~(2) Dedicate, convey, or otherwise transfer the Common Area or any portion(s) thereof or estate or interest therein except as contemplated by subsection (a)(2) hereof; and~~

~~(3) Use hazard insurance proceeds for losses to any property owned by the Association for other than the repair, replacement or reconstruction of such property.~~

Commented [cwmeb6]: Special Assessment authority is governed by the Declaration and the POA Act.

Commented [cwmeb7]: Mortgage company rights are governed by Art. VIII of the Declaration.

Section 3.9. Duties of the Board. It shall be the duty of the Board of Directors, on behalf of the Association, to:

(1) Cause to be kept a complete record of the proceedings and resolutions of the Board;

(2) Adopt the budget of the Association for the forthcoming fiscal year for presentation at the annual meeting of the Association, such budget to contain an adequate reserve fund for the upkeep of any elements improvements on the Common Area that must be replaced on a periodic basis;

(3) Levy and cause to be collected assessments against the Lots in accordance with Article VII of the Declaration;

~~(4) Cause the books and records required to be kept by the Treasurer to be audited whenever a resolution of the Association shall so direct;~~

~~(5)~~(4) Maintain fire and extended coverage insurance on insurable property of the Association on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value; and

~~(6)~~(5) Maintain public liability insurance on the Common Area in such amounts as the Board may from time to time determine by resolution.

Section 3.10. Election of Officers; Terms of Office. The Officers of the Association shall include a President, Vice President, Secretary and Treasurer, all of whom shall be members of the Board of Directors and elected by the Board of Directors. The Board of Directors shall have the authority to elect and appoint such other Officers ~~by resolution~~ as may be appropriate from time to time. All Officers of the Association shall serve for one (1) year or until their successors are elected. Upon an affirmative vote of a majority of the Board of Directors, any Officer may be removed, with or without cause, and his or her successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board of Directors called for such purpose. The offices of President, Vice President and Secretary must be held by different persons. ~~For the purposes of this section, all Chairpersons of Committees created and established by the Board of Directors shall be considered Officers of the Association.~~

Section 3.11. Residency of Officers/Vacancies. No officer of the Association need be a resident of the Property, ~~but if any officer is such a resident at the time of his appointment to office, he shall be deemed to have resigned that office at such time as he ceases to be such a resident. A vacancy in any officer position may be filled by appointment by the Board. The person appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.~~

Section 3.12. Committees. The Board of Directors may create and abolish from time to time such committees (including, without limitation, the Architectural Control Committee contemplated by Section 1 of Article V of the Declaration) as the Board may deem appropriate to aid in the administration of the affairs of the Association. Such committees shall have the powers and duties fixed by resolution of the Board of Directors from time to time. The Board of Directors shall appoint the chairman of each committee, and may either appoint the other members thereof or leave such appointment to the committee chairman. ~~The chairman and other members of any committee are Officers within the meaning of these Bylaws. The Club Facilities Committee shall be governed by the provisions of Article V and shall not be subject to being abolished by the Board as are other committees of the Board.~~

Section 3.13. Duties of Officers.

(a) President. It shall be the duty of the President to preside at the meetings of the Association and the Board of Directors; see to the execution of the resolutions of the Association and the Board and to report to each on any failure of any of its resolutions to be executed; and to appoint a Secretary pro tem at any meeting at which the Secretary is absent; and, subject to resolutions of the Board of Directors, to manage and control the affairs of the Association as its chief executive officer.

(b) Vice President. It shall be the duty of the Vice President to act in the place and stead of the President in the event of his absence or failure or inability to act.

Commented [cwmeb8]: Section 4.6 of Bylaws already requires an annual audit by an independent CPA.

(c) Secretary. It shall be the duty of the Secretary to keep the minutes and record the resolutions at all meetings of the Association and of the Board of Directors; to give all notices required by these Bylaws to be given to Owners and Directors; to give to each Owner notice of each assessment against his Lot(s) as soon as practicable after the assessment is made; to give notice and a copy of the Rules and Regulations and any amendment thereof to each Owner as soon as practicable after the adoption thereof; to make it possible for any Owner to inspect and copy, at reasonable times and by appointment, the records of the Association (other than records in the custody of the Treasurer) and of the Board; to give notice to each Owner of any dedication, conveyance and transfer by the Association of any property or of any easement or other estate or interest therein; and to give on behalf of the Board of Directors or any Architectural Control Committee the notice contemplated by Section 1 of Article V of the Declaration. The Board may delegate certain secretary duties (such as recordkeeping) to an authorized agent or contractor, in which such case the secretary shall have oversight responsibility for purposes of ensuring that the agent or contractor properly performs those delegated duties.

(d) Treasurer. It shall be the duty of the Treasurer to receive and deposit in appropriate insured accounts with financial institutions all income of the Association; to disburse the funds of the Association only in accordance with resolutions of the Board of Directors; to keep orderly books showing the income and expenditures of the Association and to make it possible for any Owner to inspect and copy the same at reasonable times and by appointment; and to prepare and deliver to the President or Vice President the certificate required by Section 8 of Article VII of the Declaration. The Board may delegate certain treasurer duties to an authorized agent or contractor, in which such case the treasurer shall have oversight responsibility for purposes of ensuring that the agent or contractor properly performs those delegated duties.

(e) All Officers. It shall be the duty of each Officer (including the foregoing officers), to perform such duties as are normally associated with his office in parliamentary organizations, except to the extent (if any) inconsistent with these Bylaws and the other Association Documents; and each Officer shall perform such other duties as are assigned to his office by law or resolution of the Association or of the Board of Directors.

~~Section 3.14. Committees. The Board of Directors may create and abolish from time to time such committees as the Board may deem appropriate to aid in the administration of the affairs of the Association. Such committees shall have the powers and duties fixed by resolution of the Board from time to time. The Board shall appoint the chairman of each committee, and may either appoint the other members thereof or leave such appointment to the chairman thereof.~~

Commented [cwmeb9]: Duplicative of Section 3.12.

Section 3.15. Actions by Directors or Committee Without Meeting. Any action required or permitted to be taken at a meeting of the Directors or of a committee may be taken without a meeting if a consent in writing, setting forth the action taken, shall be signed either before or after such action by all of the Directors, or all of the members of the committee, as the case may be. Such consent shall have the same force and effect as a unanimous vote.

Section 3.16. Conflicts of Interest.

(a) No contract or other transaction between the Association and one or more of its Directors or Officers, or in which one or more of its Directors or Officers are interested, and no contract or other transaction between the Association and any other corporation, partnership, joint venture, trust or other entity in which one or more of its Directors or Officers are directors or officers or are interested, shall be either void or voidable because of such relationship or interest or because such Director(s) are present at the meeting of the Board of Directors which authorizes, approves or ratifies such contract or transaction except as otherwise provided by Section 13.1-871 of the Virginia Nonstock Corporation Act (governing Director conflicts of interest) ~~or because his or their votes are counted for such purpose, provided that the material facts as to his or their relationship or interest are disclosed or known: (i) to the Board of Directors which authorizes, approves or ratifies the contract or transaction by a vote sufficient for the purpose without counting the votes of such interested Director(s), or (ii) to the Owners entitled to vote and they authorize, approve or ratify such contract or transaction by vote or written consent.~~

Commented [cwmeb10]: Under Virginia law, conflict of interest transactions are governed by the Nonstock Corporation Act.

~~(b) No contract or other transaction described in subsection (a) of this section shall be void or voidable despite failure to comply with parts (i) or (ii) of subsection (a), provided that such contract or transaction was fair and reasonable to the Association in view of all the facts known to any Director or Officer at the time such contract or transaction was entered into on behalf of the Association.~~

Section 3.17. Indemnification of Directors, Officers and Committee Members, Employees and Agents; Insurance.

(a) The Association shall indemnify any Director, Officer or authorized committee member ~~person~~ who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitrate or investigative (other than an action by or in the right of the Association) by reason of the fact that he is or was a Director, Officer, ~~employee or agent~~ committee member of the Association, ~~or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other entity,~~ against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement (if the settlement was approved by the Board) actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in the manner he reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful.

Commented [cwmeb11]: Would be addressed/covered by separate contract(s).

(b) The Association shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he is or was a Director, Officer, employee or agent of the Association, ~~or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other entity~~ against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with defense or settlement of such action or suit (if the settlement was approved by the Board), ~~if~~ he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association, ~~;~~ and except that no indemnification shall be made in respect of any claim, issue or

matter as to which such person shall have been adjudged to be liable for bad faith, gross negligence or intentional misconduct in the performance of his duty to the Association or as otherwise specified in the respective party's contract with the Association ~~unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expense which such court shall deem proper.~~

(c) To the extent that a Director, Officer, ~~employee or~~ committee member ~~agent of the Association~~ has been entirely successful on the merits or otherwise in defense of any action, suit or proceeding referred to in subsection (a) or (b), or in defense of any claim, issue or matter therein, he shall be indemnified by the Association against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

Commented [cwmeb12]: Consistent with Va. Nonstock Corp. Act Sec. 13.1-877.

(d) Any indemnification under subsections (a) and (b) (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the Director, Officer, ~~employee or agent or~~ committee member is proper in the circumstances because he has met the applicable standard of conduct set forth in subsections (a) and (b). Such determination shall be made (1) by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to such action, suit or proceeding, or (2) if such a quorum is not obtainable, or, even if obtainable a quorum of disinterested Directors so directs, by independent legal counsel in a written opinion, or (3) by the ~~O~~owners by vote at an Association meeting called for the purpose.

(e) Expenses (including attorneys' fees) incurred in defending an action, suit or proceeding, whether civil, criminal, administrative, arbitral or investigative, may be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized in the manner provided in subsection (d) upon receipt of a ~~signed~~ signed undertaking by or on behalf of the Director, Officer, ~~employee or~~ committee member ~~agent~~ to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this section.

~~(f) The Association shall have power to make any other or further indemnity, including criminal proceedings, to any person referred to in this section that may be authorized by any Bylaw made by the owners or any resolution adopted, before or after the event, by the owners, except an indemnity against his gross negligence or willful misconduct. Each such indemnity may continue as to a person who has ceased to have the capacity referred to above and may inure to the benefit of the heirs, executors and administrators of such a person.~~

~~(g)~~
~~(h)~~(f) The Association shall have power to purchase and maintain insurance on behalf of any person who is or was a Director, Officer, committee member, employee or agent of the Association, ~~or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, company, trust or other entity~~ against any liability asserted against him and incurred by him in any such capacity or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this section.

~~(f)(g)~~ For the purposes of this section, references to the “Association” include all constituent corporations absorbed in a consolidation or merger as well as the resulting or surviving corporation, so that any person who is or was a director, officer, employee or agent of such a constituent corporation ~~or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, company, trust or other entity~~ shall stand in the same position under the provisions of this section with respect to the resulting or surviving corporation as he would if he had served the resulting or surviving corporation in the same capacity.

Section 3.18. Compensation of Directors and Officers. No salary or other compensation shall be paid to any Director or Officer of the Association for serving or acting as such, but this shall not preclude the payment of salary or other compensation for the performance by such Director or Officer of other services to the Association.

ARTICLE IV
MISCELLANEOUS

Section 4.1. Fiscal Year. ~~The first fiscal year of the Association shall begin on the date of its incorporation and end on the last day of December.~~ Each ~~subsequent~~ fiscal year of the Association shall commence on January 1 and end on December 31.

Section 4.2. Books and Records. The Association shall keep correct and complete books and records of account and shall keep minutes of the proceedings of the meetings of the Association, the Board of Directors, and committees having any of the authority of the Board of Directors; and shall keep at its registered office or principal office in this State (which may include the office of the Association’s managing agent) a record of the names and addresses of its members entitled to vote. All books and records of an Association may be inspected by any Owner, or his agent or attorney, for any proper purpose at any reasonable time in accordance with the requirements and limitations of the POA Act. The record of the names of persons entitled to vote shall be prima facie evidence of the right to vote. Whenever any Owner conveys a Lot to a new Owner, it is the responsibility of the new Owner to notify the Secretary of the Association (or the Association’s managing agent) of the conveyance. Any books, records and minutes may be in written form or in any other form capable of being converted into written form within a reasonable time.

Section 4.3. Suspension of Rights and Assessment of Charges for Violations. The Board of Directors ~~or a committee created by the Board of Directors,~~ shall ~~constitute a tribunal having~~ the power to suspend the right of any Owner to ~~vote or~~ use the Common Area of the Association for any violation of the Association’s Declaration, Articles of Incorporation, By laws, or Rules and/or Regulations, and/or if the Owner is more than 60 days’ past due in the including non-payment of assessments. In addition, the Board of Directors ~~and/or the Committee~~ shall have the right to assess a charge for violations of ~~same Association documents~~ the Declaration and/or Rules and Regulations pursuant to 55-513 of the ~~Virginia Property Owners Association~~ POA Act and the Declaration. However, no such suspension of use rights or the assessment of violation charges shall occur without first providing the responsible Owner with notice, an opportunity to cure and an opportunity for a hearing to the extent required by the POA Act and applicable Board-adopted enforcement procedures.

Commented [cwmeb13]: Consistent with POA Act Sec. 55-513.

Commented [cwmeb14]: Consistent with Art. II, Sec. 2 of the Declaration.

Commented [cwmeb15]: Consistent with POA Act Sec. 55-513.

Section 4.4. Method of Amendment. These Bylaws may be amended at any meeting of the Association provided that the proposed amendment has been inserted in the notice of meeting or that all of the Owners are present in person or by proxy. These Bylaws may also be amended at any meeting of the Board of Directors provided that the proposed amendment has been inserted in the notice of the meeting (as published to the Owners in accordance with the POA Act) and provided at least two-thirds (2/3) of the total number of Directors shall be present at such meeting. ~~Notwithstanding the foregoing, the Federal Housing Administration or the Veterans Administration shall have the right to veto amendments while there is a Class B member of the Association.~~

Section 4.5. Execution of Association Contracts and Documents. With the prior authorization of the Board of Directors, all contracts, notes, certificates and other documents obligating or involving the Association shall be executed on behalf of the Association by either the President or, in the President's absence, the Vice President. The Board of Directors may by resolution from time to time appoint any other ~~Officer or member of the Board of~~ Directors to execute specific documents on behalf of the Association.

Section 4.6. Association Audit. At the close of each fiscal year, the books and records of the Association shall be audited by an independent Certified Public Accountant in accordance with the provisions of the Audit and Accounting Guidelines of the American Institute of Certified Public Accountants (AICPA).

Section 4.7. Notice/Use of Technology.

(a) Unless otherwise determined by the Board, notices required to be sent to an Owner by these Bylaws shall be sent by first-class mail, postage prepaid, to the Owner's mailing address as listed in the Association's records. If mailed, such notice shall be deemed to be given when deposited in the U.S. mail. It is each Owner's obligation to provide written notice to the Association (through its managing agent) of any change in such Owner's address, and unless written notice is given of a different address, the Owner's address of record shall be the Owner's Lot address.

(b) Subject to any specific limitations or requirements for notice imposed by the Declaration, the POA Act or other applicable law, the Board may provide for or allow notices, votes, consents or approvals to be accomplished using the most advanced technology available at the time in accordance with any applicable requirements and limitations imposed by Section 55-515.3 of the POA Act. If a provision of the Association Documents (other than the Declaration) provides for a vote, approval or consent of Owners at a meeting, then at the Board of Director's discretion, such vote, approval or consent may also, or in the alternative, be obtained by mail or electronic transmission in accordance with applicable law, and in such event, the minimum total number or percentage of Owners required to participate in the process shall be equal to the applicable quorum requirement had a meeting been held for that purpose, and such process shall be subject to the same amount of advance notice as would have to be given to Owners had a meeting been held for that purpose.

Section 4.8. Conflict. These Bylaws are subordinate and subject to all provisions of the Declaration and to the provisions of the Articles of Incorporation of the Association. In the event of an irreconcilable conflict between these Bylaws and the Declaration, the provisions of the Declaration shall control; and in the event of any such conflict between these Bylaws and the Articles of Incorporations of the Association, the provisions of the Articles of Incorporation shall control. In the event any provision

of these Bylaws is determined by a court to be invalid, void or unenforceable, such determination shall not render invalid, void or unenforceable any other provisions hereof which can be given effect.

ARTICLE V

CLUB FACILITIES

Section 5.1. Administration of the Club Facilities. In accordance with the Declaration, the Board of Directors may, on behalf of the Association, sell annual memberships to non-Owners (residing in other communities in the vicinity) for the use of the Club Facilities at a fee determined by the Board of Directors. These Non-Owner Club memberships ("Summer Membership") are on a per-home/household basis (rather than a per-person basis). The Board may adopt Rules and Regulations pertaining to Summer Memberships, and shall require such non-Owners to sign a membership agreement binding the non-Owner to the terms and conditions of membership as approved by the Board and all applicable Rules and Regulations. As part of the annual budgeting process, the Board will consider whether the annual Summer Membership fee should be revised for the next fiscal year.

Section 5.1.1. The Club Facilities Committee.

~~———— The Club Facilities shall be managed by the Club Facilities Committee (hereinafter sometimes "the Committee") of seven members which shall serve without compensation. The Vice President of the Association shall automatically serve as a member of the Committee. In addition, at least one member of the Committee shall be appointed by the Board of Directors from Club members in good standing who are not residents of the Sequoia Farms subdivision; provided, however, if the number of members from outside of the Sequoia Farms subdivision is less than twenty (20) then no voting member of the Committee need be appointed from outside of Sequoia Farms subdivision but those members outside of Sequoia Farms may have a non-voting member on the Committee. The appointment of a Committee member from outside of the Sequoia Farms subdivision will be contingent upon the availability and willingness of such a Club member to serve.~~

~~———— Section 5.1.2. Qualifications for Committee Membership. Committee members must be Club members in good standing, except that during the period when the Association has both Class A and Class B membership, the Committee members may be nonmembers.~~

~~———— Section 5.1.3. Meetings. The Committee shall meet at least once a month from April to September. The Chairman or any two Committee members may also call special meetings at any time.~~

~~———— Section 5.1.4. Authority. The Committee will act in an advisory capacity to the Board of Directors on all issues relating to the Club Facilities, including but not limited to:~~

~~Transactions involving the general business of the Club, including the construction, expansion, maintenance and repair of its facilities;~~

~~a. Establishment of initiation fees, annual assessments and guest fees, annual dues, special limited membership fees, maintenance fees and other fees for keys, passes, certificates and the like;~~

- b. ~~Establishment and enforcement of rules for the Club Facilities;~~
- c. ~~Action on membership matters, including acceptance of memberships, membership status and suspension and expulsion of members;~~
- d. ~~Employment of the services of commercial management firms;~~
- e. ~~Arrangements for surety bonds;~~
- f. ~~Preparation of a financial report of the Club Facilities to be submitted at the annual meetings of the Association; and~~
- g. ~~Arrangement for a competent annual audit of the records of the Club Facilities.~~

Section 5.2. ~~Regular Use of Club Facilities by Owners Memberships. All Each Owner's of Lots in Sequoia Farms shall as a right to use and enjoy the Club Facilities is governed by the Declaration and any applicable Rules and Regulations of the Association, including, for instance, the incident of ownership of their Lot(s) be obligated to pay (as a part of the Association's total annual assessment levied against all that Owner's Lots by the Board) in Sequoia Farms an annual assessment for the Club Facilities ("annual dues") for the Club Facilities as said annual dues become due and payable on or before January 30 of each year. In the event the annual dues are not paid by January 30, the Committee shall have the option of offering any unpaid Regular Club Memberships as Special Limited Club Memberships as defined in Section 5.4 for the upcoming season only. In the event the Committee elects to offer any said unpaid Regular Club Membership as a Special Limited Club Membership and said offer is accepted and annual dues paid therefore, the Owner whose Regular Club Membership was unpaid as of January 30 shall automatically be deemed to have forfeited its Regular Club Membership and shall be put on inactive status for the next year. Inactive status releases the Owner for that year from the obligation to pay annual dues. Said released Owner shall also lose his/her voting rights during the period of his/her release. The release shall be for one year only and shall be of the annual dues portion only of the annual assessment. In the event the Committee elects not to offer an unpaid Regular Club Membership as a Special Limited Club Membership or elects to make said offer but said offer is not fully and properly accepted, the Owner shall continue to be liable for the annual dues subject to and in accordance with Article VII of the Declaration. Regular Club Memberships may not be sold or otherwise transferred except to the purchaser of the Sequoia Farms home of the Regular Club member.~~

~~Section 5.3. Special Unlimited Club Memberships.~~

~~Section 5.3.1. Generally. Special Unlimited Club memberships shall be available to such lots within a two mile radius of the Club Facilities when and as the Club Facilities Committee deems~~

~~appropriate. Total memberships for all types of members shall not exceed 450. A Special Unlimited Club membership shall require the payment of a membership fee of One Thousand Dollars (\$1,000.00). In addition, Special Unlimited Club Members shall be obligated to pay annual dues as they become due and payable. In the event annual dues are unpaid by January 30 for the year, the Club Facilities Committee may employ the procedure set forth above in Section 5.2 with respect to unpaid Regular Club Memberships in order to put Unlimited Club Members on inactive status.~~

~~Section 5.3.2. Transfer of Special Unlimited Club Membership with Sale of Home. Special Unlimited Club Members in good standing may transfer their membership to the purchasers of their home regardless of any waiting list.~~

~~Section 5.3.3. Redemption of Special Unlimited Club Memberships. If such a Special Unlimited Club Member in good standing moves from the area of the Club, the Club shall redeem the Special Unlimited Club membership at least at face value provided the redemption does not place an undue financial burden on the Club. In addition, the Board of Directors may redeem at the Board of Director's discretion other Special Unlimited Club memberships at face value. Furthermore, if there is a membership waiting list, the departing member or any other member may redeem their membership for the current value of a membership as established by the Board of Directors. Redemption of Special Unlimited Club memberships from expelled members shall only be made at face value less any fees or damages owed the Club.~~

~~The face value of a Special Unlimited Club membership is the purchase value, when purchased from the Club, or the value established by the Board of Directors for a membership which was in effect at the time of purchase or transfer from a previous member.~~

~~Section 5.3.4. Sale or Transfer of Special Unlimited Club Memberships. With the exception of the provisions of Section 5.3.2 of this Article, memberships may not be sold or otherwise transferred unless they are first offered to the Club in writing. In the event the Club declines to redeem the membership or fails to act within 45 days to redeem such membership, such membership may be sold or otherwise conveyed to another family unit within a two (2) mile radius of the Club Facilities, provided, however, that the Club must be notified of any sale or transfer of a membership. After a sale or transfer has been approved by the Club, a new certificate of membership will be issued to the new member. Further, the use of a membership is not transferable except with the membership itself and thus a membership may not be assigned except as provided in Section 5.5.4. of this Article.~~

~~Section 5.34. Limit on Number of Special Limited Club Memberships. A limited number of Club memberships will be available to sell to non club members residing within a two (2) mile radius of the Club Facilities for use of the Club Facilities in order to reduce the cost to members; provided, however, To the extent required by any county approvals or permits applicable to the Club Facilities, that the total number of Club memberships shall not exceed 450. In calculating the total number of memberships at any one time in the Club, the total number of Lots shall be added to the total number of Summer Memberships sold pursuant to Section 5.1, any Regular or Special Unlimited Club Members that have been placed in inactive status shall not be included during the period of that inactive status. Special Limited Club Memberships may be limited in duration and shall not carry with them a right to sell or transfer the Special Limited Club Membership under any circumstances including a sale or transfer to the purchasers of the Special Limited Club Member's home.~~

Section 5.45. General Provisions Governing Summer Membership.

Section 5.45.1. Waiting Lists. After the authorized number of memberships is reached, new applications will be placed in a file by date of application. This file will be used in approving additional memberships whenever vacancies occur.

Section 5.45.2. Issuance of Club-Summer Memberships. ~~Club-Summer membership~~ certificates (or other evidence of membership approved by the Board) will be issued to one adult member of each family unit upon payment of the applicable membership fee. The name of the designated adult family member may be changed at any time by written request of the member or the spouse of a deceased member. Membership certificates will be signed by the Association's president or other director, officer or agent designated by the Board ~~Chairman and the Secretary of the Committee~~ and will be affixed with the Association's seal. ~~A record of active certificates will be maintained. Upon the sale or transfer of a Club membership as permitted below, the old certificates will be cancelled and a new certificate issued.~~

~~Club-Summer Membership~~ entitles all persons in the family unit to use the Club Facilities as long as the Summer Club membership remains in good standing. A family unit includes all immediate family members permanently residing together, except that the Committee Board may, upon written request, authorize additional persons to be considered within the family unit although not of the same immediate family.

Section 5.45.3. Summer Club Memberships in Good Standing. Summer Club Memberships are considered in good standing as long as all fees ~~and dues~~ are paid and the Club member and all those within his family unit ~~the Bylaws of the Association and rules of~~ are in full compliance with the Summer Membership's terms and conditions and the Rules and Regulations applicable to the Club Facilities ~~are complied with.~~

Section 5.45.4. Lessees/Tenants of Club Members. Club members in good standing may permit ~~lessee/tenants~~ of their homes to use their club Summer membership upon notification in writing to the Club Facilities Committee/Association. Persons in the lessee's/tenant's family who are also residing in the same home may then use the Club Facilities ~~instead of the Club member and his family unit place of the lessors. Club memberships shall remain in the names of the lessor(s), who shall retain voting rights as a club member.~~ A small fee may be imposed by the Committee/Association on the Club members' tenants/lessors to cover incidental expenses relating to the lessees'/tenants' use of the lessors' Club memberships.

Section 5.45.5. Guests. Guests of Club members may use the Club Facilities subject to limitations and guest fees as may be established by the Committee Board.

Section 5.45.6. Sale or Transfer of Club-Summer Membership. Summer Memberships shall not be sold or transferred without the prior written approval of the Board. ~~No purchaser of a Club Membership, whether the purchase is in conjunction with or separated from the purchase of a Club Members home, shall be entitled to the benefits of Club Membership unless and until the Club Membership is in good standing.~~

Section 5.45.7. Expulsion and Suspension. Club members (or their family units or guests) who do not comply with the Summer Membership's terms and conditions and the Rules and Regulations

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~~applicable to Bylaws and rules of the Club Facilities or whose conduct is detrimental to the Club Facilities~~ are subject to suspensions or expulsion. The ~~Committee Board~~ may authorize ~~the Association's managing agent and pool lifeguards and tennis managers~~ to suspend ~~Club Summer Membership~~ privileges for up to seven days as a disciplinary measure ~~for noncompliance after a verbal warning~~. ~~Club Summer Membership~~ privileges may be suspended for longer periods or a Club member expelled, upon the affirmative vote of ~~four Committee Members~~ the Board, after being granted an opportunity for a hearing before the ~~Committee Board~~.

Failure to pay ~~annual assessments and/or annual dues~~ the annual Summer Membership fee for the Club Facilities or ~~for any other applicable~~ fees or ~~costs (e.g., for damages)~~ when due will result in action being taken in accordance with Article VII of the Declaration and may cause Club Summer Membership privileges to be ~~suspended or~~ terminated in accordance with ~~this sub~~ Sections 5.2 and 5.3 herein. ~~Club members may be expelled for repeated failure to pay such annual assessments or any fees or damages when due. Any Club member may be reinstated by a majority vote of the Board of Directors after an opportunity to be heard has been granted to the former Club member.~~

Section 5.5-8. Liability of Club Members

Club members are liable for property damaged by ~~that Club members~~ or by that Club member's ~~of their~~ family unit or their guests and ~~tenants/lessees~~ who are authorized to use the Club Facilities.

IN WITNESS WHEREOF, the Board of Directors, acting on behalf of the Association, has caused these Amended and Restated Bylaws to be executed by the Association's President, and certified by the Association's Secretary, with an immediate effective date.

SEQUOIA FARMS OWNERS' ASSOCIATION

President

CERTIFICATION

I, the undersigned, do hereby certify:

I am the duly elected Secretary of Sequoia Farms Owners' Association, a Virginia nonstock corporation and property owners' association, and that the foregoing Amended and Restated Bylaws were adopted by the required vote of the Directors at a duly called meeting in accordance with Section 4.4 of the Bylaws.

In witness whereof, I have hereunto subscribed my name this _____ day of _____, 2017.

Secretary,
Sequoia Farms Owners' Association