

AMENDED AND RESTATED BYLAWS OF THE TENTH MOUNTAIN DIVISION FOUNDATION, INC.

These Bylaws replace all previous Bylaws.

ARTICLE I NAME

The name of the corporation shall be the:

TENTH MOUNTAIN DIVISION FOUNDATION, INC.

It may be referenced in these Bylaws as “the Corporation”.

ARTICLE II OFFICES, PURPOSES AND POWERS

Section 1: Offices and Registered Agent. The Corporation is a Colorado corporation and shall have and continuously maintain in Colorado a registered office and a registered agent, whose office shall be identical with the registered office. The Principal office, and such other offices as the Board may see fit to establish, may be located within or outside Colorado, at such locations as the Board of Directors (the “Board”) may from time to time determine.

Section 2: The Exempt Purposes of the Corporation are as follows:

- A. To honor and memorialize the World War II 10th Mountain Division, and the veterans who served in it, especially those who gave their lives in the service of their country, and to do so by charitable, educational, and public service programs including scholarships and educational programs;
- B. To honor and support the current 10th Mountain Division of the United States Army, and the veterans who have served and are serving in it, especially those who gave their lives in the service of their country and to do so by charitable, educational and public service programs;
- C. To conduct any other legal activity in support of its primary charitable, educational and public service mission;
- D. The following activities are presently devoted to the achievement of those purposes:
 1. To follow the corporate mission statement. To engage in any lawful business or activity which honors and memorializes the 10th Mountain Division and the veterans who served in it. To do so by charitable, educational and public service programs.
 2. New programs may be initiated, and old programs modified or discontinued, at the discretion of the Board of Directors but must provide that all programs meet the current requirements of Section 501(C)(3) of the internal revenue code.
- E. Definitions: “10th Mountain Division” is defined as all military units that served at any time, for any length of time as any part of the United States Army’s 10th Mountain Division.

A 10th Mountain Division Veteran is any soldier who served in any of those units noted above.

Section 3: The Powers of the Corporation

The Corporation is organized exclusively for charitable, scientific, literary or educational purposes within the meaning of §501(c)(3) of the Internal Revenue Code of 1986, as amended, or the corresponding section of any future federal tax code (the “Code”). The Corporation may carry on any other lawful activity consistent with its Articles of Incorporation, these Bylaws, the Code and the Colorado Revised Nonprofit Corporation Act (the “Act”).

ARTICLE III BOARD OF DIRECTORS

Section 1: Powers and Duties of the Board of Directors, (the Board). All the rights, powers, duties and responsibilities relative to the management and control of the affairs of the Corporation are vested in the Board of Directors as a group. The Board shall have all powers authorized by the Colorado Revised Nonprofit Corporation Act, excepting any of those powers, which would violate the requirements of Section 501(c)(3) of the Internal Revenue Code. The members of the Board have a legal duty to exercise reasonable care and prudence in the administration and affairs of the Corporation and are responsible for seeing that the funds and property received by the Corporation are disbursed only for the purposes for which they were given. The Board of Directors may not delegate this responsibility and shall require a regular accounting of all funds disbursed by the Corporation.

Section 2: Composition of Board. The Board of Directors of the Corporation shall consist of not fewer than five and not more than twenty members, all of whom shall serve without pay or compensation of any kind, except as provided in Article VII, Section 5. Except as otherwise provided herein, the Active Board members shall be American citizens, over the age of eighteen (18), and veterans of the World War II 10th Mountain Division, or lineal descendants of those veterans. The board may nominate and elect additional outside persons of interest with talents and expertise which can benefit the overall mission of the Corporation. The Board may waive these criteria by a two thirds (2/3) vote of all Directors. All board members are to be nominated through the governance process. The President of the National Association of the 10th Mountain Division, Inc. shall serve as a member of the Board of Directors with the right to vote.

The President of the 10th Mountain Division Descendants, Inc. shall serve as a full member of the Board of Directors with the right to vote.

All Chapter Presidents of the National Association of the 10th Mountain Division, Inc. shall serve as members of an Advisory Board to provide advice and assistance to the Board. They shall not have the right to vote.

Section 3: Resignations, Removals, and Vacancies of Directors

- A) Resignations Any Director may resign at any time by delivering a written resignation to the President or Secretary of the Corporation.

- B) Removal Any Director may be removed at any time, with or without cause, by a majority vote of the Directors then in office.
- C) Vacancies Vacancies on the Board of Directors may be filled at any time by a majority vote of the Directors pursuant to the above nomination process. Any newly elected director shall have immediate voting privileges.

Section 4: Honorary Directors In full recognition and deep appreciation of long and outstanding service as a Director of the Foundation, the Board of Directors may, from time to time, bestow the title of Honorary Director of the Corporation. The term of an Honorary Director shall be for life. Honorary Directors may attend any meeting of the Board, but shall not have a vote. The Board of Directors may re-elect Honorary Members to the active Board, in which case the Honorary Member's right to vote is restored. Re-election does not rescind the Honorary designation.

ARTICLE IV **OFFICERS**

Section 1: Titles and Qualifications of Officers The principal officers of the Corporation shall be a Chairman of the Board, President, Executive Vice President, Secretary and Treasurer. The principal officers must be members of the Board of Directors, but the Board may appoint other officers or assistant officers when and as needed. These officers may only be selected from current members of the board.

Section 2: Election and Term of Office The Officers shall be elected annually by the Board of Directors. There are no term limits. Each officer shall hold office until a successor has been elected and qualified, or until the officer becomes incapacitated, resigns, or is removed.

Section 3: Duties

A) Chairman of the Board: The Chairman of the Board shall serve in an advisory capacity and in addition provide consistent visionary leadership and direction towards the principals and goals set forth in the Foundation's mission statement.

B) President: The President shall be the Chief Executive Officer of the Corporation and shall preside at all of the meetings of the Board and of the Executive Committee and shall have such other powers and duties as may be assigned by the Board.

C) Executive Vice President: The Executive Vice President shall, in the absence of the President, have all of the powers and duties normally vested in the President.
Senior Vice President. The Senior Vice President(s) shall have the powers and duties assigned to them by the President.

D) Secretary: The Secretary shall be responsible for maintaining:

- 1) All the original records and documents of the Corporation;
- 2) The Minutes of all meetings of the Board and the Executive Committee;
- 3) A current list of the Directors and their addresses;
- 4) The filing of all reports required by federal or state government agencies;
- 5) The performance of all other duties incident to the office of Secretary.

E) Treasurer: The Treasurer shall be responsible for:

- 1) Accurate current records of all receipts and disbursements of corporate funds.
- 2) Complete and current records of all assets of the Corporation.
- 3) Written reports to the Board at the annual Board meetings, summarizing all financial activities for the preceding calendar year and presenting a statement of financial position as of December 31st of the preceding calendar year.
- 4) Making available financial records to any Director (or designee of a director) upon reasonable request.
- 5) Timely filing of all tax and other financial reports legally required of the Corporation.
- 6) Appropriate liaison with auditors.
- 7) Performance of all other duties normally incident to the office of Treasurer or that may be assigned by the Board or President.
- 8) Promptly alerting the President to any financial problems or irregularities.

Section 4: Resignation, Removal, and Vacancies of Officers

- A) Resignation of Officers: Any Officer may resign at any time by delivering a written resignation to the President or Executive Vice President.
- B) Removal of Officers: Any Officer may be removed at any time with or without cause, by a vote of a majority of the Directors then in office.
- C) Vacancies: Any vacant office may be filled at any time by a majority vote pursuant to the nomination process.

ARTICLE V COMMITTEES

Section 1: The Executive Committee Except as otherwise restricted in these Bylaws, the Board of Directors may, by resolution, delegate its power to manage, direct and control the operational affairs of the Corporation to an Executive Committee which is responsible to further the direction of the corporation in its efforts to meet its operational goals. The Executive Committee shall consist of all the principal officers (Chairman of the Board, President, Executive Vice President, Secretary and Treasurer) of the Corporation and such other persons as the Board shall select at its discretion.

Section 2: Restrictions The Executive Committee may not (1) change the Articles or Bylaws of the Corporation or (2) select or remove officers or directors, or (3) adopt plans of merger, consolidation or distribution of assets, authorize a sale, lease, exchange or mortgage of corporate assets, or dissolution of the Corporation, (4) change any resolution that prohibits such changes, or (5) any other action prohibited by the Act.

Section 3: Term of Office Each member of the Executive Committee is asked to serve for a minimum term of one (1) year or until their resignation or removal. Members may serve consecutive terms.

Section 4: Meetings The Executive Committee shall meet as necessary. Reasonable written notice, but at least five (5) days in advanced, of the time and place of the meetings shall be given by the President or Secretary to all members of the Committee. A majority of the members of the Executive Committee must be present to constitute a quorum and each member of the Committee shall exercise one vote. In the event of a tie, the vote of the member holding the highest office at the time of the vote shall determine the outcome of the vote. Members of the Committee may attend in person, by proxy pursuant to Article VI, Section 7 given to the Secretary in advance of the meeting, or may participate by electronic means.

Section 5: Additional Committees The Board of Directors may establish and appoint other committees to help achieve operational objectives of the corporation. The board at any time and at its discretion may determine whether committees are to be standing or ad hoc committees. The powers, terms, and rules of procedure shall be determined by the Board. All Committee Chairs are responsible to report to the President who at his or her discretion may delegate to the Vice President for oversight and advisory purposes.

ARTICLE VI BOARD MEETINGS

Section 1: Annual Meeting

A) Venue

The Annual Meeting of the Board of Directors shall be held on the third Thursday of the month of July at a place and time determined by the President, unless an alternate date is otherwise determined due to exceptional circumstances deemed necessary and approved by a majority of the board.

B) Notice

- 1) Notice of the Annual Board Meeting shall be communicated to each director not less than thirty (30) business days before the day on which the meeting is to be held.
- 2) The notice shall state the date, time and place of the meeting.
- 3) The notice shall include a list of the major issues to be voted on, other than scholarships, and a summary of the pros and cons of each issue. This does not preclude discussion and action on new or unforeseen matters that may be introduced at the meeting.
- 4) A summary of the year's financial statements shall accompany the notice, in such detail as the President and Treasurer shall determine.

C) Reports

- 1) The President and the Treasurer shall present summary written reports at each annual meeting.
- 2) Other reports shall be presented as requested by the President.

Section 2: Special Meetings

- 1) All meetings other than the Annual Meeting are Special Meetings.
- 2) A Special meeting may be called at any time by the President or any three (3) directors acting in concert.
- 3) Except in emergencies, notice of special meetings shall be given by any timely and

appropriate means at least sixty (60) days before the day of the meeting and shall state the time and place of the meeting (includes teleconferences and electronic venues) and the purposes for which the meeting is called.

- 4) Votes must be by a two-thirds (2/3) majority of all Directors in office at the time of the meeting. Directors may vote in person or by proxy pursuant to Section 7 below.
- 5) Emergency Meetings may be called by the Senior Officer available at the time of the emergency and should be called only in situations where delay could cause serious harm to the Corporation or the Corporation's goals. The Senior Officer available shall determine: the procedures to be used to call the meeting, the agenda, and any communication of the results of the meeting to interested parties..

Section 3: Waivers of Notice Any Director may waive notice of any meeting. The attendance of a Director at a meeting shall constitute a waiver of notice, except where a member attends a meeting for the express purpose of objecting to the transaction of any business, because the meeting is not lawfully called or convened.

Section 4: Organization and Conduct of Board Meetings. The President (or the Executive Vice-President in the absence of the President) shall preside over each meeting of the Board. The order of business at any annual or special meeting of the Board of Directors shall be:

- 1) Calling the role.
- 2) Secretary's proof of notice.
- 3) Reading and approval of minutes.
- 4) Reports of Officers, if scheduled.
- 5) Unfinished business.
- 6) New business.
- 7) Adjournment

Section 5: Quorum A quorum for any meeting of the board shall consist of at least one half (1/2) of the Directors in office on the date of the meeting. Each director may be represented in person or by proxy pursuant to Section 7 below. If a quorum is not represented, no official decisions may be made, other than to adjourn the meeting and continue it to another date.

Section 6: Voting Each director shall have one vote and, if a quorum is represented, a majority vote may decide any matter, unless a larger number is required by law, by the Articles of Incorporation, or by the Bylaws.

Section 7 Voting by Proxy. For purposes of determining a quorum with respect to a particular proposal, and for purposes of casting a vote for or against a particular proposal, a Director may be deemed to be present at a meeting and to vote if the Director has granted a signed written proxy to another Director who is present at the meeting, authorizing the other Director to cast the vote that is directed to be cast by the written proxy with respect to the particular proposal that is described with reasonable specificity in the proxy. Except as otherwise provided in this Section 7 and as permitted by Section 8, the Board of Directors may not vote or otherwise act by proxy.

Section 8 Action Without Meeting.

(1) Any action required or permitted to be taken at a meeting of the Board or any committee thereof may be taken without a meeting if each and every member of the Board or committee in writing either: (i) votes for such action; (ii) votes against such action; or (iii) abstains from voting. Each Director or committee member who delivers a writing described in this Section 8 to the Corporation shall be deemed to have waived the right to demand that action not be taken without a meeting.

(2) Action is taken under this Section 8 only if the affirmative vote for such action equals or exceeds the minimum number of votes that would be necessary to take such action at a meeting at which all of the Directors or committee members then in office were present and voted.

(3) No action taken pursuant to this Section 8 shall be effective unless writings describing the action taken and otherwise satisfying the requirements of Section 8(a), signed by all Directors or committee members and not revoked pursuant to Section 8(d), are received by the Corporation. Any such writing may be received by the Corporation by facsimile, electronic mail, or other form of wire or wireless communication permitted by the Act. Action taken pursuant to this Section 8 shall be effective when the last writing necessary to effect the action is received by the Corporation unless the writings describing the action taken set forth a different effective date.

(4) Any Director or committee member who has signed a writing pursuant to this Section 8 may revoke such writing by a writing signed and dated by the Director or committee member describing the action and stating that such member's prior vote with respect thereto is revoked, if such writing is received by the Corporation before the last writing necessary to effect the action is received by the Corporation.

(5) Action taken pursuant to this Section 8 has the same effect as action taken at a meeting of the Board of Directors or committee members and may be described as such in any document.

(6) All signed written instruments necessary for any action taken pursuant to this Section 8 shall be filed with the minutes of the meetings of the Board or the appropriate committee.

Section 9 Telecommunication Meetings. Directors or the members of any committee of the Board may participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all members participating may hear each other during the meeting. A Board Member or committee member participating in a meeting by this means is deemed to be present in person at the meeting.

ARTICLE VII

FISCAL PROCEDURE AND RESTRICTIONS ON TRANSACTIONS

Section 1: Fiscal Year The fiscal year of the Corporation shall end on December 31st. A summary of the Corporation's receipts and expenditures and a balance sheet listing all its assets and liabilities shall be prepared within (120) days after the end of each fiscal year.

- Section 2: Deposits and Withdrawals of Funds** All funds of the corporation shall be deposited in reliable depositories as selected by the Executive Committee, or by the Treasurer if so authorized by the Board.
- Section 3: Investments** The Board of the Corporation shall establish an investment policy regarding the investment goals of the Corporation. The Board, in its discretion, may establish an Investment Committee to monitor and approve the investment of available corporate funds and to engage such other advisers, as it deems prudent. A report of investments and their performance shall be given at every annual meeting.
- Section 4: Signing Contracts** Subject to the prior approval of the Board or the Executive Committee, the Chairman, President or Executive Vice President of the Corporation may enter into a contract or execute and deliver an instrument in the name of the Corporation. The Board or the Executive Committee may authorize other officer(s) or agent(s) to enter into contracts or execute and deliver instruments in the name of the Corporation. Such authorization may be general or restricted.
- Section 5: Compensation of Directors and Officers** The Directors and Officers of the Corporation shall serve without compensation of any kind, direct or indirect, but the Board may authorize the payment of reasonable expenses incurred in the performance of their duties (or per diems) and reasonable compensation for special services.
- Section 6: Contracts with Officers and Directors** The Corporation shall not do business with or enter into any contract with a person or business in which a Director or Officer of the Corporation has a financial interest unless the contract is approved in advance by a majority of the Executive Committee or the Board and every member of the Board has been fully informed of the proposed contract before it is executed. The interested Director or Officer shall not participate in any decision in which that person has a financial interest.
- Section 7: Conflicts of Interest** The Corporation shall adopt and maintain a Conflict of Interest Policy, to which all Directors must consent in writing upon joining the Board of Directors.

ARTICLE VIII

INDEMNIFICATION

To the extent permitted or required by the Act and any other applicable law, if any Director or Officer (as defined below) of the Corporation is made a party to or is involved in (for example as a witness) any proceeding (as defined below) because such person is or was a Director or Officer of the Corporation, the Corporation (i) shall indemnify such person from and against any judgments, penalties, fines (including but not limited to ERISA excise taxes), amounts paid in settlement and reasonable expenses (including but not limited to expenses of investigation and preparation, and fees and disbursements of counsel, accountants or other experts) incurred by such person in such proceeding, and (ii) shall advance to such person expenses incurred in such proceeding.

(a) The Corporation may in its discretion (but is not obligated in any way to) indemnify and advance expenses to an employee or agent of the Corporation to the same extent as to a Director or Officer.

(b) The foregoing provisions for indemnification and advancement of expenses are not exclusive, and the Corporation may at its discretion provide for indemnification or advancement of expenses in a resolution of its members or Directors, in a contract or in its articles of incorporation.

(c) Any repeal or modification of the foregoing provisions of this **Error! Reference source not found.** for indemnification or advancement of expenses shall not affect adversely any right or protection stated in such provisions with respect to any act or omission occurring prior to the time of such repeal or modification. If any provision of this **Error! Reference source not found.** or any part thereof shall be held to be prohibited by or invalid under applicable law, such provision or part thereof shall be deemed amended to accomplish the objectives of the provision or part thereof as originally written to the fullest extent permitted by law, and all other provisions or parts shall remain in full force and effect.

(d) As used in this **Error! Reference source not found.**, the following terms have the following meanings:

(1) Director or Officer. The term “director” or “officer” means (i) a director or officer of the Corporation and (ii) while an individual is a director or officer of the Corporation, the individual’s serving at the Corporation’s request as a director, officer, partner, member, manager, trustee, employee, fiduciary, or agent of another domestic or foreign Corporation, nonprofit Corporation, or other person or of an employee benefit plan, and (iii) any other position (not with the Corporation itself) in which a director or officer of the Corporation is serving at the request of the Corporation and for which indemnification by the Corporation is permitted by the Act.

(2) Proceeding. The term “proceeding” means any threatened, pending or completed action, suit, or proceeding whether civil, criminal, administrative or investigative, and whether formal or informal.

Section 1.2 Limitation. Notwithstanding any other provision of this **Error! Reference source not found.**, during any period that the Corporation is a “private foundation” within the meaning of §509 of the Code, the Corporation shall not indemnify any person against such expenses, judgment, fines, or amounts paid or necessarily incurred, nor shall the Corporation purchase or maintain such insurance, to the extent that any such indemnification, purchase, or maintenance would be determined to be an act of self-dealing within the meaning of §4941 of the Code, or to be otherwise prohibited under the Code, unless and to the extent (i) a court orders such indemnification, or (ii) the purchase or maintenance of such insurance can be treated as reasonable compensation to such person.

ARTICLE IX **AMENDMENTS**

Section 1: Amendments of Bylaws and Articles of Incorporation. The Bylaws and Articles of Incorporation of the Corporation may be amended at any annual meeting by a two-thirds (2/3) majority vote of all Directors in office at the time of the meeting. Directors may vote in person or by proxy.

Approved and adopted by vote of Directors present at the Annual Meeting of the Board on July 11, 2013, such Directors representing more than two thirds of all directors in office on this date.

Secretary of the Corporation

Date