

BUSINESS CORPORATIONS CODE OF THE YUROK TRIBE

Whereas the Yurok Tribal Council is the governing body of the Yurok Tribe pursuant to The Constitution of the Yurok Tribe as approved on November 19, 1993, and

Whereas the Yurok Tribal Council is authorized by Article IV of the Constitution of the Yurok Tribe to charter and regulate corporations and commercial entities of all kinds;

Now, therefore, be it resolved that the following ordinance governing creation of tribally owned and operated corporations is hereby enacted and shall be effective upon the date of approval by the Tribal Council.

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DEFINITIONS

Agent: An individual who performs an act on behalf of the corporation, and is subject thereby to the corporation's direction and control, either through its Board of Directors, Officers or other Agents.

Fiduciary Duty: Absolute duty of any corporate officer, agent, employee, or shareholder to act in good faith, fairness, and loyalty,

Mutual Benefit Corporation: Any corporation, including any non-profit cooperative that is not a public benefit corporation.

Promoter: An individual who materially promotes the corporation to potential investors; and who forms, organizes, or otherwise performs any and all work with regard to forming the corporation.

Public Benefit Corporation: Any corporation that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code; or any corporation, unless its Articles of incorporation provide that it is a mutual benefit corporation, that is organized and operated exclusively for one or more of the following purposes: religious, charitable, scientific, testing for public safety, literary, educational, or prevention of cruelty to children or animals; or any corporation organized primarily for a public purpose and which is designated in its Articles of incorporation as a public benefit corporation.

PART I. FORMATION OF CORPORATIONS BY TRIBAL CHARTER

Section 1. Scope.

- 1.1 Unless otherwise provided, the provisions of this Code apply to all corporations, whether for-profit or non-profit, formed under the sovereign power of the Yurok Tribe,
- 1.2 Any member of a federally-recognized Indian tribe, over 18 years-of-age, wishing to incorporate a non-profit corporation may apply to the Tribal Council for issuance of a Certificate of incorporation under this Code.

- 1.3 Any member of a federally-recognized Indian tribe, over 18 years of age, wishing to incorporate either a for-profit business or cooperative may apply to the Tribal Council for issuance of a Certificate of Incorporation under this Code, provided that, if shares are to be issued, the Articles of Incorporation shall provide that all issued shares are subject to one or both of the following restrictions on transfer:
- (a) The Shareholder must offer first right to acquire his/her shares to the corporation, or one or more Shareholders of the corporation, or to any designated person, or to any combination of the foregoing;
 - (b) The corporation, or holders of shares entitled to vote, must consent to any proposed transferee.
- 1.4 The provisions of this Code shall be liberally construed and applied to promote its underlying purposes and policies.

Section 2. Fees

- 2.1 The Tribal Secretary shall charge and collect for:
- (a) Filing Articles of Incorporation and issuing a certificate of incorporation (\$50.00);
 - (b) Filing Articles of Amendment and issuing a Certificate of Amendment; (\$50.00);
 - (c) Filing a statement of change of address of registered office or change of registered agent, or both; (\$25.00);
 - (d) Filing Articles of Dissolution; (\$50.00);
 - (f) Filing any other statement or report, including an annual report (\$10.00);
 - (g) Indexing each document filed, except an annual report; (\$5.00);
 - (h) Furnishing a certified copy of any document, instrument, or paper relating to a corporation (\$5.00);
 - (i) Furnishing a certificate as to the existence of a fact relating to a corporation (\$10.00).

The Tribal Secretary is authorized to make regulation providing for reasonable fees for other services not listed in this Section or to changes by regulation in any and all fees for services set out in this Chapter.

Section 3. Annual Report

- 3.1 Every corporation, whether for-profit, or non-profit, shall prepare an annual report setting forth:
- (a) The name of the corporation; and
 - (b) The address of its registered office and name of its registered agent; and
 - (c) A brief statement of the nature of the business affairs the corporation is actually conducting; and
 - (d) The names and respective addresses, including street and number, if any, of the Directors and Officers of the corporation.
- 3.2 The annual report shall be made on forms prescribed and furnished by the Clerk of the Tribal Council, or his/her designee. It shall be executed by the corporation; through its president, vice-president, secretary, or assistant secretary, treasurer, or assistant treasurer; or lithe corporation is in the hands of a receiver or receivers, or trustee, it shall be executed by such receiver(s) or trustee.
- 3.3 Annual reports of a corporation shall be delivered to the Clerk of the Tribal Council, or his/her designee. If the Clerk, or his/her designee, following review for the period between the first day of January and the first day of March of each calendar year, deems that the report conforms with this Chapter, he/she shall file the same. If he/she determines that it does not so conform, he/she shall promptly return the report to the corporation for any necessary correction, in which event the penalties hereinafter prescribed shall not apply, provided that such report is corrected to conform to the requirements of this Chapter and returned to the Clerk, or his/her designee in sufficient time to be filed before the first day of July of the year in which it is due.
- 3.4 Each corporation, whether for-profit or non-profit, that fails or refuses to file its annual report for any year within the time prescribed by this Chapter shall be subject to a penalty of fifty dollars (\$50.00), to be assessed by the Clerk of the Tribal Council, or his/her designee.
- 3.5 All certificates issued by the Clerk of the Tribal Council, or his/her designee, and all copies of documents filed in his/her office, when certified by him/her, shall be taken and received in all Courts, public offices, and official bodies as prima Jack evidence of the facts therein stated, A certificate by the Clerk of the Tribal Council, or his/her designee, under the seal of his/her office, as to the existence or non-existence of the facts relating to corporations that would not appear from a certified copy of any of the foregoing documents or certificates shall be taken and received in all courts, public offices and official bodies as prima Jack evidence of the existence or non-existence of the facts therein stated.
- 3.6 All reports required by this Chapter shall be made on forms to be prescribed and furnished by the Clerk of the Tribal Council, or his/her designee. All other documents to

be filed in the office of the Clerk of the Tribal Council, or his/her designee shall be furnished by the Clerk or his/her designee upon request. The use of these documents, unless otherwise specifically prescribed in this Chapter, shall not be mandatory.

Section 4. General Powers of Business Corporations.

4.1 Unless the Articles of Incorporation provide otherwise, every corporation, whether for-profit or non-profit, that has been formed pursuant to provisions of this Code, has perpetual duration and succession in its corporate name; and possesses the same powers as an individual to do all things necessary to legally carry on its business, including:

- (a) To sue and be sued in its corporate name;
- (b) To create and use a corporate seal;
- (c) To make and amend bylaws for managing and regulating corporate business affairs in a manner not inconsistent with its Articles of Incorporation or laws of the Yurok Tribe;
- (d) To purchase, receive, lease, or acquire by gift, devise, bequest or otherwise real or personal property, wherever located;
- (e) To own, improve, use and engage in any transactions involving real or personal property, or any legal or equitable interest, in real or personal property, wherever located;
- (f) To sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all, or any part of, its real or personal property;
- (g) To purchase, receive, subscribe for, or otherwise acquire; own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of; and engage in transactions with; holders of other interests in, or obligations of, any other entity created for a lawful purpose;
- (h) To make contracts and guarantees, incur liabilities, borrow money, issue notes, debentures, bonds, and other obligations that may be convertible into, or include the option to purchase, other securities of the corporation, and to secure any of its obligations by mortgage or pledge on any of its property, franchises or income;
- (i) To invest and reinvest corporate funds, and to receive and hold real and personal property as security for repayment;
- (j) To serve as a promoter, partner, member, associate, or manager of any partnership, joint venture, trust or other entity;
- (k) To conduct corporate business, structure and restructure corporate operations, locate offices, and exercise the powers granted by this Code, whether on or off the Reservation;

- (l) To elect Directors and appoint Officers, Employees, and Agents of the corporation; and define their duties, fix their compensation, if any, and lend money and credit so long as funds so lent are properly accounted for and used in furtherance of corporate business and for the benefit of the corporation exclusively;
- (m) To make donations for the public welfare, or for charitable, scientific, or educational purposes, provided that such donations are properly and routinely documented and maintained in accordance with generally- acceptable accounting principles;
- (n) To transact any lawful business in furtherance of government policy;
- (o) To make payments or donations, or do any other act, not inconsistent with Tribal law, and not in violation of state or federal law, that furthers the business affairs of the corporation;
- (p) To wind up corporate business activities and dissolve the corporation.

Section 5 Defense of Ultra Vires Acts.

5.1 Neither an action by the Board of Directors, nor conveyance or transfer of real or personal property to, or by, a for-profit corporation, shall be invalid merely because the Board of Directors lacked capacity or power to take such action, or make or receive such conveyance or transfer, unless:

- (a) A Shareholder initiates a proceeding in Tribal Court against the corporation to enjoin the allegedly unauthorized act or transfer.
 - (i) If the unauthorized act or transfer sought to be enjoined is to be either performed, or made, pursuant to any contract to which the corporation is party, the Tribal Court may set aside and enjoin the performance of such contract if all parties to the contract are parties to the proceeding, and then, only if deemed equitable.
 - (ii) The corporation initiates a proceeding either acting directly, or through a receiver, trustee, or other legal representative, or through Shareholders via a direct or derivative suit, against the incumbent or former Directors or Officers of the corporation.
 - (iii) The Tribal Council orders dissolution of the corporation, or enjoins the corporation from transacting unauthorized business.

Section 6. Articles of Incorporation.

6.1 The Articles of Incorporation for any for-profit corporation formed under this Code shall set forth:

- (a) The name of the Corporation;
- (b) The period of duration, which may be perpetual or for a stated term of years;
- (c) The purpose(s) for which the corporation is organized;
- (d) The aggregate number of shares the corporation shall have authority to issue; and a statement of whether such shares to be divided into classes.
 - (i) If the shares are to be divided into classes, each class must be expressly designated, including a statement setting forth preference and voting rights;
- (e) If the corporation intends to issue preferred shares in a series, each series shall be expressly designated, including a statement of variations in the relative rights and preferences as between series, and a statement of authority to be vested in the Board of Directors to establish series, and fix and determine variations in the relative rights and preferences as between series;
- (f) Any provision limiting or denying to Shareholders the preemptive right to acquire additional shares of the corporation;
- (g) The name and address of its initial registered agent(s) and the address of its principal place of business;
- (h) A description of any election to operate without a Board of Directors;
- (i) The number of Directors constituting the initial Board of Directors;
- (j) Names and addresses of the persons serving on the Initial Board of Directors until the earliest of either the first annual meeting of Shareholders or their successors are qualified and elected.
 - (i) If all persons who have agreed to purchase shares decide to operate the corporation without a Board of Directors, that fact shall be recited in the Articles of Incorporation and the names and addresses of holders of voting shares shall be listed instead;
- (k) The name and address of each incorporator;
- (l) Any restrictions on the transfer of shares;
- (m) The following notice, conspicuously written as below:

“This is a dose corporation formed pursuant to the Yurok Tribe Business Corporations Code, ORDINANCE _____ OF THE YUROK TRIBAL CODE The rights of shareholders in this corporation may differ materially from the rights of shareholders in other corporations. Copies of documents restricting transfers and affecting voting and other rights may be obtained by a shareholder on written request to the corporation.”

5.2 Additionally, the Articles of Incorporation may also contain provisions not inconsistent with the law regarding:

- (a) Business management and regulation of corporate affairs;
- (b) The definition, limitation, and regulation of the powers of the corporation, Directors, Officers, Employees, Agents, Shareholders, or any class of Shareholders;
- (c) The stated or par value of any authorized shares of class of shares; and
- (d) Any provision under this Code either required or permitted to be set forth in the Bylaws.

Section 7. Filing Articles of Incorporation.

7.1 Duplicate originals of the Articles of Incorporation shall be delivered to the Clerk of the Tribal Council, or his/her designee. If the Clerk of the Tribal Council, or his/her designee finds that the Articles of Incorporation are in conformity with this Code, and all required fees are paid, the Clerk, or his/her designee, shall.

- (a) Endorse on each original the word, “Filed” and the effective date of the filing thereof.
- (b) Create a file for the original and store same pursuant to current tribal policies regarding retention of official documents.
- (c) Notify the Tribal Council, in writing, that said filing has occurred.

7.2 At the next scheduled Tribal Council meeting, the Tribal Council shall authorize the Clerk of the Tribal Council to issue a Certificate of Incorporation to which the other original shall be affixed.

7.3 The Clerk of the Tribal Council shall then return the Certificate of Incorporation, together with the original Articles of Incorporation affixed thereto, to the incorporators or their representatives.

Section 8. Effect of Certificate of Incorporation.

- 8.1 Corporate existence begins on the date the Certificate of Incorporation is issued. The Certificate of Incorporation constitutes conclusive evidence of compliance with all conditions precedent required under Section 5 of This Code. The Certificate of Incorporation cannot be used against the Yurok Tribe in a proceeding to cancel or revoke the Certificate of Incorporation, or for involuntary dissolution of the corporation.

Section 9. Initial Meeting of Directors,

- 9.1 As soon as practicable, but in any event, no later than 90 days following issuance of the Certificate of incorporation, the initial meeting of the Board of Directors named in the Articles of incorporation shall be held.

- 9.2 The purpose of the initial meeting shall be:

- (a) To adopt bylaws not inconsistent with this Code,
- (b) To elect officers
- (c) To transact any business that may arise.

- 9.3 Procedure:

- (a) The Directors calling the meeting shall give at least three days' notice thereof by mail to each Director required to attend.
- (b) The notice shall state the time and place of meeting.
- (c) Any action scheduled for the initial meeting may be taken without a meeting only if each Director executes and signs an instrument which states, in detail, the action so taken.

PART II SHARES, SHAREHOLDERS AND DISTRIBUTIONS

Section 1. Authorized Shares.

- 1.1 Each corporation shall have power to create and issue the number of shares specified in its Articles of Incorporation. Such shares may be divided into one or more classes or

series, Unless otherwise provided in the Articles of Incorporation, such shares shall carry preemptive rights.

1.2 Where a corporation issues shares as “preferred”:

- (a) The corporation may reserve the right to redeem the shares at the price fixed by the Articles of Incorporation;
- (b) The holders thereof are entitled to payment of dividends.
- (c) The shares shall have preference over other classes of shares with regard to payment of dividends,
- (d) Holders of preferred shares shall have preference in the distribution of corporate assets should the corporation undergo dissolution.
- (e) Preferred shares are convertible into either shares of any other class, or shares of any series of the same, or any other class, except a class having prior or superior rights and preferences as to dividends or distribution of assets upon dissolution.

Section 2. Share Certificates.

2.1 Shares of a corporation must be represented by certificates. Each share certificate must conspicuously state:

- (a) The name of the issuing corporation; and
- (b) A recitation that it is organized under the laws of the Yurok Tribe; and
- (c) The name of the person to whom the certificate is issued; and
- (d) The number, class of shares, and designation of the series, if any, the certificate represents.

2.2 If the issuing corporation is authorized to issue different classes of shares, or different series within a class, the designations, relative rights, preferences, and limitations applicable to each class; and variations in rights, preferences, and limitations determined for each series; and authority of the Board of Directors to determine variations for future series; must be summarized conspicuously on each certificate. Alternatively, each certificate may state conspicuously that the corporation will furnish the Shareholder this information on request in writing and without charge.

2.3 Each share certificate:

- (a) Must be signed (either manually or by facsimile) by either the Board of Directors or two Officers designated in the bylaws; and
 - (b) May bear the corporate seal or its facsimile, if any.
- 2.4 Validity of a certificate is not affected where the individual who signed (either manually or by facsimile) the certificate no longer holds office when the certificate is issued.
- 2.5 No certificate shall be issued for any share until consideration established for its issuance is actually received by the corporation.

Section 3. Subscription for Shares.

- 3.1 A subscription for shares of a corporation not yet organized shall be in writing, and shall remain irrevocable for a period of six months, unless otherwise provided by the express terms of the subscription agreement, or unless all subscribers consent to revocation of the subscription.

Section 4. Price of Shares.

- 4.1 The powers granted in this Section are subject to restriction by the Articles of Incorporation.
- 4.2 The Board of Directors can either:
- (a) Establish a minimum price per share; or
 - (b) Establish a formula or method by which the price per share may be determined.
- 4.3 Consideration for shares may consist of cash, services actually performed, written contracts to provide for future services, or any other tangible property. If shares are issued for consideration other than cash, the Board of Directors shall determine the value of the consideration, so long as the price of goods and services neither exceeds

nor undercuts to a significant degree, fair market value of the goods or services as of the date tendered for Board assessment.

- 4.4 Shares issued when the corporation receives the consideration are deemed validly issued, fully paid, and non-assessable.
- 4.5 A good faith judgment of the Board of Directors as to the value of the consideration received for shares is conclusive. That good faith judgment may be based on information provided by accountants,
- 4.6 The corporation may place shares issued for a contract for future services in escrow, or make other arrangements to restrict transfer of the shares, and may credit distributions relating to the shares against their purchase price, until the services are performed. If the services are not performed, all shares escrowed or restricted, shall be removed from escrow and offered for sale; and all distributions credited may be retained as surplus by the corporation and distributed pursuant to dividend provisions in the Articles of Incorporation..

Section 5. Expenses of Organization.

- 5.1 All reasonable expenses incurred in both organizing the corporation, and sale or underwriting of its shares, may be paid or allowed by such corporation out of consideration received in payment for its shares without rendering such shares assessable thereby.

Section 6. Shareholder Liability.

- 6.1 A holder of, or subscriber to, shares of a corporation shall be under obligation to the corporation or its creditors with respect to such shares, with the exception of the obligation to pay to the corporation full consideration for which such shares were issued, or were to be issued, except that he or she may become personally liable by reason of his or her own acts or conduct.

Section 7 Stated Capital; Determination of Amount.

- 7.1 Consideration received by a corporation for its shares shall constitute stated capital. If the shares have been assigned a par value, the consideration received shall constitute stated capital to the extent of the par value of such shares. Any excess of such consideration shall constitute capital surplus.
- 7.2 A corporation may increase its stated capital by a resolution of the Board of Directors that contains express language to the effect that all or part of the surplus of the corporation shall be transferred to stated capital. The Board of Directors may direct that the amount of surplus so transferred shall be deemed to be stated capital with respect of any designated class of shares.
- 7.3 Dividends shall not be paid out of stated capital.

Section 8. Payment of Deficits.

- 8.1 A corporation formed under this Code may pay in full, or reduce, amounts in deficit resulting from losses from both earned surplus and capital surplus.
- 8.2 Authorization to pay any amount in deficit shall be by resolution of the Board of Directors.
- 8.3 Earned surplus must be the primary source for payment of amounts in deficit.
- 8.4 Capital surplus may only be used to pay amounts in deficit where earned surplus amounts are insufficient.

Section 9. Insolvent Corporation Prohibited From Purchasing Own Shares.

- 9.1 No purchase of or payment for its own shares shall be made by a corporation at a time when the corporation is insolvent or when such purchase or payment would make it insolvent.

Section 10. Restrictions on Transfer of Shares.

- 10.1 Except as otherwise provided in the Articles of Incorporation, no interest in shares of a corporation formed under this Code may be transferred, by operation of law or otherwise, whether voluntary or involuntary.
- 10.2 Section 10.1 above shall not apply to a transfer:
- (a) To the corporation or any other Shareholder of the same class of shares;
 - (b) To members of the Shareholder's immediate family, or to a trust, all of whose beneficiaries are members of the holder's immediate family. A Shareholder's immediate family shall include his or her spouse, parents, lineal descendants (including any adopted children and stepchildren) and spouse of any lineal descendants, and brother and sisters;
 - (c) That has been consented to, in writing, by all Shareholders of the corporation's common shares having voting rights;
 - (d) To an executor or administrator upon the death of a Shareholder or to a trustee or receiver as a result of a bankruptcy, insolvency, dissolution, or similar proceeding brought by or against a Shareholder;
 - (e) By merger, consolidation or a share exchange of existing shares for other shares of a different class or series in the corporation;

Section 11 Offer to Sell Shares.

- 11.1 Any Shareholder desiring to transfer shares to a third party pursuant to a contract of sale shall obtain a written offer from that third party; and shall deliver written notice of the third party offer to the corporation's registered office.
- 11.2 The third party offer must state the number and classification of shares offered, the offering price, all other material terms of the offer, and the name and address of the third party offeror.
- 11.3 No transfer shall be made to a third party unless:
- (a) The third party is eligible to become a qualified Shareholder under provisions of any federal, state, or tribal tax statute applicable to corporation; and
 - (b) The third party shall agree, in writing, not to take any action to terminate the election without the approval of the remaining Shareholders;
 - (c) The transfer will not result in imposition of a personal holding company tax, or any similar tribal, state, or federal penalty tax on the corporation.
- 11.4 The offer specified in subsection 11.2 shall constitute an offer to sell the shares to the corporation on the terms of the third party offer.

- 11.5 Within 20 days after the corporation receives the notice specified in subsection 11.1, the corporation shall call a special meeting of Shareholders - which shall be held not more than 40 days after the call - for the purpose of determining whether to purchase no less than all shares offered. Approval of an action to purchase shall be by a affirmative vote of the holders of a majority of the shares entitled to vote, excluding holders of offered shares.
- 11.6 Once the purchase is so approved, the corporation may allocate some, or all, of the shares to one or more Shareholders, or to other persons. But, if the corporation has more than one class of shares, the remaining holders of the class of shares being offered for sale shall have the exclusive right to exercise a first option to purchase any shares not purchased by the corporation, in proportion to their shareholdings, or in such proportion as shall be agreeable to those desiring to participate in the purchase.
- 11.7 Written notice accepting the third party's offer shall be dispatched, either by mail or personal delivery, to the third-party offeror at the address specified in his/her notice to the corporation; or, absent any written directive otherwise, to his/her last known address as reflected in the records of the corporation, within 75 days after receipt of the third party's offer. Notice sent by U.S. mail shall be deemed timely if it is deposited in the mail prior to midnight on the 75th day following the date the offer from the third party was received by the corporation.
- 11.8 If the notice of acceptance from the corporation contains terms of purchase different from those contained in the third party's offer, the different terms shall be deemed a counteroffer, Unless the Shareholder wishing to transfer shares tenders written acceptance of the counteroffer, or the Shareholder and corporation otherwise resolve by written agreement the differences between the offer and counteroffer, within 15 days after receipt by the third party, the notice containing the counteroffer shall be deemed ineffective as an acceptance,
- 11.9 Once the contract to sell is created, the Shareholder shall deliver all share certificates, duly endorsed, within 20 days of receipt of the notice of acceptance. If the shares are not in the form of a certificate, the Shareholder shall, within the 20 day period, deliver to the corporation the required instruction requesting that the transfer be made.
- 11.10 Material breach of any terms of the contract shall entitle the non-breaching party to any remedy at law or equity allowed for breach of contract, including, without limitation, specific performance.
- 11.11 If the third party offer is not accepted by the corporation, the Shareholder shall be entitled to transfer to the third party offeror not less than all of the offered shares within 120 days after delivery of the Shareholder's notice.

Section 12. Notice of Transfer Restrictions on Issued Shares.

- 12.1 All share certificates issued by a corporation formed under this Code shall conspicuously display a summary of any and all restrictions on transfer.
- 12.2 If the summary of share transfer restrictions required under subsection 12.1 is too long to fit practicably on the certificates, the following notice may be used instead:

CAUTION: SHARES IN THIS CORPORATION CANNOT BE TRANSFERRED BY SALE, GIFT OR OTHERWISE, EXCEPT AS ALLOWED BY THE ARTICLES OF INCORPORATION, BYLAWS, AND SHAREHOLDER AGREEMENTS, COPIES OF WHICH MAY BE OBTAINED UPON WRITTEN REQUEST TO THE CORPORATION.

- 12.3 All persons claiming an interest in shares of a close corporation complying with the notice requirements of section 12 of this Code shall be bound by the terms of documents referred to in the notice.
- 12.4 All persons claiming an interest in shares of a close corporation not complying with the requirement of Section 12 shall be bound by the terms of any documents associated therewith based upon actual knowledge, actual notice, or where the circumstances indicate the holder knew, or reasonably should have known, of the existence of the transfer restrictions.

Section 13. Transfer of Shares in Breach of Transfer Restrictions.

- 13.1 Any attempted transfer of shares of a corporation formed under this Code in violation of any transfer restriction binding on the transferee shall be ineffective.
- 13.2 Any attempted transfer of shares in a corporation formed under this Code in violation of any transfer restriction not binding on the transferee due to lack of notice required under Section 12 of this Code shall give the corporation the option to purchase the shares for the same price, and on the same terms and conditions as those imposed on the transferee. The option to purchase shall be exercised by tender of written notice to the transferor and transferee, and payment within 30 days after presentation of the shares for registration in the name of the transferee.

Section 14. Sale of Assets — Shareholder Approval.

- 14.1 Unless otherwise provided in the Articles of Incorporation, a sale, lease, exchange, or other disposition of all, or substantially all, property and assets of a corporation formed under this Code, if not made in the ordinary course of business, shall require the affirmative vote of all holders of outstanding shares of each class of shares of the corporation, whether or not otherwise entitled to vote thereon.

Section 15. Election Not to Have a Board of Directors.

15.1 A corporation formed under this Code may operate without a Board of Directors if expressly stated in the Articles of Incorporation.

15.2 For whatever term the corporation elects to operate without a Board of

Directors:

- (a) All corporate powers shall be exercised by, or under the authority of, the Shareholders; and
 - (b) All business affairs of the corporation shall be managed at the direction of the Shareholders, and
 - (c) All powers and duties conferred, or imposed, upon the Board of Directors by this Code shall be exercised by the Shareholders; and
 - (d) Liability that would otherwise be imposed on the Directors shall be imposed on Shareholders by virtue of any act or omission only where the Shareholders were entitled to vote on the action; and
 - (e) Any requirement that an instrument filed with any government agency contain a statement that a specified action has been taken by the Board of Directors shall be satisfied by a statement that the corporation is formed under the Yurok Tribe Business Corporations Code; that the corporation does not have a Board of Directors; and that the action was duly approved by the Shareholders in compliance with the Code; and
 - (f) The Shareholders may appoint, by resolution, one or more Shareholders to sign any documents as "Designated Directors."
 - (g) Unless otherwise provided in the Articles of Incorporation, any action requiring Director approval, or both Director and Shareholder approval, shall be sufficiently authorized by Shareholder approval alone; and any action otherwise requiring the vote of a majority of the Board of Directors shall require the affirmative vote of the holders of a majority of voting shares, or the majority of shares within a class entitled to vote thereon.
- 15.3 Any amendment to the Articles of Incorporation must be approved by the holders of all shares of the corporation, whether or not they are otherwise entitled to vote thereon; or by all the subscribers to such shares; or by the incorporators. Any amendment to the Articles of Incorporation proposing to delete the election to operate without a Board of Directors must be approved by the affirmative vote of the holders of all of the shares of the corporation, whether or not they are otherwise entitled to vote thereon.

Section 16. Shareholder Agreements.

- 16.1 The Shareholders of a corporation formed under the Yurok Tribe Business Corporations Code may, by consensus, enter into one or more written agreements to regulate the exercise of the corporate powers and manage the business of the corporation, or the relations among the Shareholders.
- 16.2 Any agreement authorized by Section 16 shall be valid and enforceable according to its terms, notwithstanding:
- (a) Elimination of the Board of Directors;
 - (b) Any restriction on the discretion or powers of the Board of Directors;
 - (c) Any proxy or weighted voting rights given to Directors;
 - (d) That the effect of the agreement is to treat the corporation as if it were a partnership; and relations among Shareholders, or between Shareholders and the corporation, would otherwise be appropriate only among partners.
- 16.3 If the corporation has a Board of Directors, the effect of an agreement authorized by Section 16 that restricts the Board's discretionary powers shall be to relieve the Directors of liability for acts or omissions imposed by law on the Directors, and impose liability instead upon the person or persons on whom such discretion or powers have vested under the agreement.
- 16.4 Any election not to have a Board of Directors in the form of an agreement authorized by Section 16 shall not be valid unless the Articles of Incorporation expressly contain a statement to that effect in accordance with Section 15 of this Code.
- 16.5 A Shareholder agreement authorized by this Section shall not be amended except by the unanimous, written consent of all Shareholders unless otherwise provided in the agreement.
- 16.6 Any action Shareholders are permitted to take under Section 16 may be taken by subscribers to shares of the corporation, if no shares have been issued at the time of the agreement.
- 16.7 All provisions otherwise required to be stated in corporate bylaws may be contained, and be accorded equal effect, in a Shareholder's agreement.
- 16.8 Section 16 shall neither prohibit, nor serve as a bar to, any other agreement among two or more Shareholders not otherwise prohibited by law.

Section 17. Shareholders' Right to Inspect Records.

- 17.1 A corporation shall keep the following records, which shall be made available for Shareholders to inspect and copy at the corporation's principal place of business:
- (a) Minutes of all Shareholder and Board of Directors meetings; and
 - (b) Accounting records subject to prohibitions on public disclosure; and

- (c) Names and addresses of all Shareholders, including the number and class of shares held by each; and
- (d) Current Articles of Incorporation, Bylaws and Shareholder agreements, if any; and
- (e) M resolutions adopted by the Board of Directors.

17.2 Upon five (5) days written notice, a Shareholder is entitled to inspect and copy records referred to in Section 17.1(a) through (e), subject to the following requirements:

- (a) The Shareholder's demand must be made in good faith, and for a proper purpose; and
- (b) The Shareholder must describe, with reasonable particularity, his/her her purpose, and the records he/she desires to inspect; and
- (c) The records must be relevant to the Shareholder's purpose; and
- (d) The corporation may impose a reasonable charge for the documents to cover costs associated with the photocopying process; provided, however, that the charge may not exceed any estimate of such costs provided to the Shareholder.

17.3 A Shareholder's agent or attorney has the same right to inspect and copy as the Shareholder he/she represents. The agent or attorney must, however, produce proof in a form acceptable to the corporation indicating said authority has been actually delegated and/or assigned.

17.4 A corporation may take reasonable steps to prevent the dissemination of trade secrets, proprietary information, or other commercially-sensitive information to persons other than Shareholders.

Section 18. Annual Meeting.

18.1 A corporation formed under the Yurok Tribe Business Corporations Code may establish a date on which the annual meeting of Shareholders shall be held in its Articles of Incorporation, bylaws, or Shareholder agreements.

- 18.2 If no date for the Shareholder's annual meeting is established, the date shall be the first business day after May 3
- 18.3 Unless otherwise provided in the Articles of Incorporation, no annual meeting need be held unless a written request thereof is delivered to the corporation by any Shareholder no less than 30 days before the date specified for the meeting.

Section 19. Special Meetings of Shareholders.

- 19.1 A corporation shall hold a special meeting of Shareholders:
- (a) If called by the Board of Directors, or person or persons a to do so by the Articles of Incorporation or Bylaws; or
 - (b) If the holder(s) of shares accounting for at least 10 percent of all voting shares on the issue proposed for consideration at the proposed special meeting sign, date, and deliver one or more written demands for the meeting describing the purposes for which it is to be held to the corporation's secretary.
- 19.2 Special Shareholder's meetings may be held on, or off the Reservation, at the location stated in the bylaws.
- 19.3 If no location is specified in the bylaws, special meetings shall be held at the corporation's principal place of business.
- 19.4 Only business for the purposes described in the notice sent to Shareholders may be conducted at a special Shareholder's meeting.

Section 20. Notice of Shareholder's Meeting.

- 20.1 A corporation shall notify Shareholders of the date, time, and place of each annual and special meeting no fewer than 10, nor more than 60, days before the meeting,
- 20.2 Unless otherwise provided in the Yurok Tribe Business Corporations Code or Articles of Incorporation, the corporation is required to give notice only to Shareholders entitled to vote at the meeting.
- 20.3 Notice shall be given by mail or telephone, using the most recent address or telephone number supplied to the corporation by each Shareholder.
- 20.4 If an annual or special Shareholder's meeting is adjourned to a different date, time, and place, notice need not be given of the new date, time, or place if that information is announced prior to adjournment of the meeting,

Section 21. Shareholder Sale Option at Death,

- 21.1 If the Articles of Incorporation of a corporation formed under the Yurok Tribe Business Corporations Code expressly provide that Section 21 shall apply to the corporation, the executor or administrator of the estate of any deceased Shareholder shall, subject to any directions in the deceased Shareholder's last will and testament, have the right to require the corporation to elect either to purchase all shares of the deceased, or to be dissolved.
- 21.2 A modification of the provisions in Section 21 shall be valid if it is set forth or referred to in the Articles of Incorporation.
- 21.3 Any amendment to the Articles of Incorporation to provide that either Section 21 shall apply, or to delete or modify the provisions of Section 21, shall be approved by consensus of the Shareholders within each class of shares affected by the proposed deletion or modification, whether or not they are otherwise entitled to vote thereon. If the corporation has no Shareholders at the time of the proposed amendment, the amendment may be passed by consensus of all the subscribers, or incorporators.
- 21.4 A person exercising rights under Section 21 shall, within six (6) months following the date of death of the beneficial owner of the shares at issue, deliver written notice to the corporation's registered office specifying:

- (a) The number and class of all shares beneficially owned by the deceased Shareholder; and
 - (b) Stating that an offer by the corporation to purchase such shares is being solicited pursuant to Section 21 of the Yurok Tribe Business Corporations Code.
- 21.5 Within 20 days following the date of receipt of the notice, the President of the corporation shall call a special meeting of Shareholders, which shall be held not more than 40 days after the call, for the purpose of determining whether to offer to purchase the shares.
- 21.6 Approval of the action to offer to purchase the shares shall be by affirmative vote of the majority of Shareholders entitled to vote, excluding shares covered by the notice.
- 21.7 Subject to the consent of all Shareholders entitled to vote for approval, the corporation may allocate some, or all, of the shares to one or more Shareholders; or to other persons. But if the corporation has more than one class of shares, the remaining holders of the class of shares being offered for sale shall have the exclusive first option to purchase the shares that are not purchased by the corporation in proportion to their shareholdings, or in such proportion as shall be agreeable to those desiring to purchase.
- 21.8 Written notice either of any offer to purchase approved by the Shareholders, or that no offer to purchase was approved, shall be dispatched by way of mail or personal delivery to the person exercising his/her rights under Section 21 within 75 days following delivery of the notice soliciting the offer to purchase.
- 21.9 Any offer to purchase shall be accompanied by copies of the corporation's balance sheets as of the end of, and profit and loss statements for, the two accounting years preceding the offer, and any available interim balance sheet and profit and loss statement.
- 21.10 The price and other terms for purchasing shares of a transferring Shareholder by the corporation or remaining Shareholders that are fixed; or are to be determined pursuant to provisions in the Articles of Incorporation, the bylaws, or written Shareholder agreement, shall be binding; except that, in the event of a default in any payment due, the person exercising his/her rights under Section 21 shall have the right to petition for dissolution of the corporation. Any offer to purchase shall be accepted or rejected in writing within 15 days.

- 21.11 If an offer to purchase is rejected, or if no offer to purchase is made, the person exercising rights under Section 21 may commence an action in the Tribal Court.
- 21.12 The jurisdiction of the Tribal Court shall be plenary and exclusive.
- 21.13 The corporation shall be made a party defendant in such action and shall, at its expense, give notice of the commencement of the action to all Shareholders and such other persons as the court may direct.
- 21.14 The court shall have the discretion to determine the fair market value of the shares of the person exercising rights under Section 21; and shall enter an order requiring the corporation to purchase the shares at the fair market value so established or give such person the right to demand dissolution.
- 21.15 Upon petition of the corporation, the court may modify its order of payment if it finds that the changed financial or legal ability of the corporation, or other purchasers of the shares, to complete the purchase justifies a modification.
- 21.16 Any person making a payment in order to prevent or cure any default by any purchaser shall be entitled to recover the excess payment from the party in default.
- 21.17 If the corporation, or other purchaser, fails to make any payment specified in the court order within 30 days following the due date for such payment, the court shall, upon petition of the person to whom the payment is due, and absent a showing of good cause by the corporation, enter an order dissolving the corporation.
- 21.18 If the fair market value of the shares, as determined by the court, does not materially exceed the last offer made by the corporation prior to commencement of the action; and the court finds that the failure of the person exercising rights under Section 21 to accept the corporation's last offer was arbitrary and capricious, or not otherwise in good faith, the court may assess all, or a portion, of the costs and expenses of the action against such person.
- 21.19 If the fair market value of the shares, as determined by the court, materially exceeds the amount of the last offer made by the corporation prior to the time a petition was filed, and the court finds that the corporation's last offer was not made in good faith, the court

may assess all, or a portion, of the costs and expenses of the action against the corporation.

- 21.20 Expenses assessable under subsections 21.18 and 21.19 shall include: reasonable compensation for, and reasonable expenses of, any appraisers appointed by the court; and the reasonable fees and expenses of counsel for and experts employed by any party.
- 21.21 Except as provided in subsections 21.18 and 21.19, legal costs of an action filed shall be assessed on an equal basis between the corporation and any party exercising rights under Section 21. All other fees and expenses shall be borne by the party incurring the fees and expenses.
- 21.22 Any Shareholder may waive his /her personal and his /her estate's and heirs' rights under Section 21 by submitting a signed, written waiver writing to the corporation's principal place of business.
- 21.23 This Section shall not be construed to prohibit any other agreement not prohibited by law that provides for the purchase of shares of the corporation, nor shall it prevent a Shareholder from enforcing any other remedy he or she may have at law, or in equity.

Section 22. Actions by Shareholders.

- 22.1 Any Shareholder of record, the beneficial owner of share held by a nominee, or the holder of voting trust certificates of a corporation formed under the Yurok Tribe Business Corporations Code may file a petition in the Tribal Court for relief on the following grounds:
- (a) The Board of Directors has, or will have, conducted the business and affairs of the corporation in a manner which is not in good faith, and is unfair or oppressive as to the petitioner.
 - (b) Such conduct shall include, but is not be limited to:
 - (i) Unfairly depriving the Shareholder of the benefit of his/her investment in preference to other Shareholders by failing to pay dividends which, in good faith, ought to be paid; or

- (ii) Using the payment of wages as an unfair device to divert income from the petitioner.

(c) Conditions exist that would be grounds for judicial dissolution of the corporation.

22.2 In determining whether one or more of the conditions specified in subsection 22.1(a) through (c) exist, the court shall give due consideration to the strict fiduciary duty which Shareholders of corporations formed under the Yurok Tribe Business Corporations Code owe one another.

22.3 The jurisdiction of the Tribal Court shall be plenary and exclusive.

22.4 If the court finds that one or more of the conditions specified in subsection 22.1(a) through (c) exist, it shall order such relief as it deems appropriate, including, without limitation:

- (a) Canceling, altering or enjoining any resolution or other act of the Board of Directors or Shareholders;
- (b) Directing or prohibiting any act of the Board of Directors or Shareholders, Directors, officers, or other persons party to the action;
- (c) Canceling or altering any provision contained in the Articles of Incorporation or bylaws;
- (d) Removing or appointing any Director or Officer;
- (e) Requiring an accounting with respect to any matters in dispute;
- (t) Appointing a trustee to temporarily manage the business of the corporation;
- (g) Appointing a provisional Director who shall have all the rights, powers, and duties of a duly elected Director, to serve for the term, and under conditions, established by the court;
- (h) Ordering the payment of dividends;
- (i) Awarding damages to any aggrieved party in addition to, or in lieu of, any other granted relief.

- 22.5 If the court finds the relief specified in subsection 22.4(a) through (l) is, or would be, inadequate or inappropriate, it may order a winding up of corporate affairs, liquidation of assets, and dissolution of the corporation unless:
- (a) Either the corporation, or one or more of the remaining Shareholders, has purchased all of the shares of another Shareholder at their fair market value by a designated date; and
 - (b) The fair market value of the shares and terms of the purchase shall be determined as provided in the Yurok Tribe Business Corporations Code.
- 22.6 In the event the purchase of shares is not completed, and the corporation is dissolved, any Shareholder whose shares were to be purchased shall have the same rights and priorities to the assets of the corporation as he/she would have had, had no purchase been ordered by the court.
- 22.7 In determining whether to enter a judgment under subsection 22.4, the court shall take into consideration the financial condition of the corporation, but shall not refuse to order liquidation solely on the grounds that the corporation has earned surplus, or current operating profits.
- 22.8 If the court determines that any party to a proceeding brought under this Section 22 has acted arbitrarily, capriciously, or otherwise not in good faith, it may award reasonable expenses, including attorneys, fees and the costs of any appraisers or other experts, to one or more of the other parties.
- 22.9 If the court orders relief pursuant to subsection 22.1, the court shall:
- (a) Determine the fair market value of the shares to be purchased, taking into account:
 - (i) Any agreement among the Shareholders fixing a price, or specifying a formula for determining the value of the corporation's shares; and
 - (ii) The recommendations of any appraiser appointed by the court; and
 - (iii) Any legal constraints on the ability of the corporation to acquire the shares to be purchased; and
 - (iv) A other relevant evidence.

- (b) Enter an order specifying the identity of the purchaser and expressly stating that the terms of the purchase were found to be proper under the circumstances. Said order shall include such provisions as are deemed proper concerning:
 - (i) Payment of the purchase price in two or more installments; and/or
 - (ii) Payment of interest on the installments; and/or
 - (iii) Subordination of the obligation to the rights of other creditors of the corporation; and/or
 - (iv) Security for the deferred purchase price; and/or
 - (vi) Covenants not to compete, or other restrictions on the selling Shareholder.
- (c) Order that the selling Shareholder shall, concurrent with payment of the purchase price, or in the event of an installment purchase, concurrently with payment of the initial payment called for in the order, make delivery of all shares.
- (d) From the date of the Order issued in subsection 22.9(c), the selling Shareholder shall have no rights or claims against the corporation, its Directors, Officers, or Shareholders by reason of having been a Director, Officer, or Shareholder of the corporation, except the right to receive the unpaid balance of the amount awarded under Section 22, and any amounts due under any agreement with the corporation for the remaining Shareholders that are not terminated by the court's order.
- (e) Order that if the purchase is not completed in accordance with the court's Order, the corporation shall be dissolved.

22.10 The rights of a Shareholder to file a proceeding under Section 22 are in addition to, and not in lieu of, any other rights or remedies the Shareholder may have. No Shareholder shall be eligible to file an action under Section 22 until he/she has exhausted non-judicial remedies for resolution of the issues in dispute to which the Shareholder has agreed in writing.

Section 23 Limited Liability.

- 23.1 Failure of a corporation to observe usual corporate formalities, requirements relating to exercise of its corporate powers, or management of its business shall not be grounds for imposing personal liability on the Shareholders for obligations of the corporation.

PART III DIRECTORS AND OFFICERS.

Section 1. Duties of Board of Directors.

- 1.1 Unless the Shareholders elect to operate without a Board of Directors, all corporate powers shall be exercised by, or at the direction of; its Board of Directors, subject to limitations set forth in the Articles of Incorporation.

Section 2. Qualifications of Directors.

- 2.1 The Articles of Incorporation or bylaws may prescribe qualifications for Directors.
- 2.2 A Director need not be a resident of the Yurok Reservation unless the Articles of Incorporation so mandate.
- 2.3 A Director shall be at least years of age.

Section 3. Terms of Directors.

- 3.1 The term of the initial Board of Directors expires at the first Shareholders' meeting at which the post-incorporation Board of Directors are elected.
- 3.2 Nothing contained in Part III Section 3, shall be construed to mean that the same Individuals who served on the initial Board of Directors cannot subsequently be elected to serve on the Board of Directors once the corporation is formed,

- 3.3 Terms of all other Directors expire at the annual Shareholders' meeting following their election, unless the Articles of Incorporation call for staggered terms.
- 3.4 A decrease in the number of Directors does not shorten an incumbent Director's term.
- 3.5 The term of a Director elected to fill a vacancy expires at the next Shareholders' meeting at which Directors are elected.
- 3.6 Despite expiration of a Director's term, he or she shall continue to serve until a successor is elected and qualifies; or until there is a decrease in the number of Directors.

Section 4. Removal of Directors by Shareholders.

- 4.1 Shareholders may remove one or more Directors with or without cause, unless the Articles of Incorporation provide that Directors may be removed only for cause.
- 4.2 If a Director is elected by a voting group of Shareholders, only the Shareholders of that voting group may participate in the vote to remove that Director.
- 4.3 A Director may be removed by the Shareholders only at a meeting called for that purpose; and the meeting notice must state that the purpose, or one of the purposes, of the meeting is removal of the Director.

Section 5. Removal of Directors by Judicial Proceeding.

- 5.1 The Tribal Court may remove a Director from office following a proceeding commenced either by the corporation, or Shareholders holding at least 10 percent of the outstanding shares of any class, if the court finds:
- (a) The Director engaged in fraudulent or dishonest conduct, or conduct evidencing a gross abuse of authority or discretion, with respect to the corporation; and

(b) Removal is in the best interests of the corporation.

5.2 If the court orders a Director removed, it may bar the Director from re election for a period prescribed by the court.

5.3 If Shareholders commence a proceeding under subsection 5.1, they shall make the corporation a party defendant.

Section 6. Meetings.

6.1 The Board of Directors may hold regular or special meetings on, or off, the Reservation.

6.2 Unless the Articles of incorporation or bylaws provide otherwise, the Board of Directors may permit any or all Directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all Directors participating may simultaneously hear each other during the meeting.

6.3 A Director participating in a meeting by means of electronic media is deemed to be present in person at the meeting.

Section 7. Action Without Meeting.

7.1 Unless the Articles of Incorporation or bylaws provide otherwise, action required or permitted by the Yurok Tribe Business Corporations Code to be taken at the Board of Directors' meeting maybe taken without a meeting if the action is taken by all members of the Board.

7.2 The action must be evidenced by one or more written statements of consent describing the action taken, signed by each director, and included in the minutes or filed with the corporate records reflecting the action taken.

7.3 Action taken under Section 7 is effective on the date the last Director signs the consent, unless the consent specifies a different effective date.

- 7.4 A consent signed under Section 7 has the effect of a meeting vote and may be described as such in any document.

Section 8. Notice of Meeting.

- 8.1 Unless the Articles of Incorporation or bylaws provide otherwise, regular meetings of the Board of Directors may be held as provided in the bylaws without notice to Directors of the date, time, place, or purpose of the meeting.
- 8.2 Unless the Articles of Incorporation or bylaws provide for a longer or shorter period, special meetings of the Board or Directors must be preceded by at least two days' notice of the date, time, and place of the meeting. The notice need not describe the purpose of the special meeting unless required by the Articles of incorporation, bylaws, or provisions of the Yurok Tribe Business Corporations Code.

Section 9. Waiver of Notice.

- 9.1 A Director may waive any notice required by the Yurok Tribe Business Corporations Code, the Articles of Incorporation, or bylaws before, or after, the date and time stated in the notice.
- 9.2 A waiver must be in writing, signed by the Director entitled to the notice, and filed with the minutes or corporate records.
- 9.3 A Director's attendance at, or participation in, a meeting waives any required notice to him or her unless that Director, at the beginning of the meeting or promptly upon his or her arrival, objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

Section 10. Quorum and Voting.

- 10.1 Unless the Articles of Incorporation or bylaws require a greater number, a quorum of the Board of Directors consists of a majority of the number of Directors present at the meeting.
- 10.2 The Articles of Incorporation or bylaws may authorize a quorum to consist of no fewer than one-third of the number of Directors.
- 10.3 If a quorum is present when a vote is taken, the affirmative vote by a majority of Directors present constitutes an act of the Board of Directors, unless the Articles of Incorporation or bylaws require the affirmative vote of a greater number of Directors.
- 10.4 A Director who is present at a meeting of the Board of Directors when corporate action is taken is deemed to have assented to the action unless:
- (a) The Director objects at the beginning of the meeting, or promptly upon his or her arrival, to either holding the meeting, or transacting business at the meeting; and/or
 - (b) The Director's dissent or abstention from the action is taken in the minutes of the meeting; or
 - (c) The Director delivers written notice of dissent or abstention to the presiding officer of the meeting before its adjournment, or to the corporation immediately after adjournment of the meeting. The right of dissent or abstention is not available to a Director who votes in favor of the action taken.

Section 11. General Standards for Directors.

- 11.1 A Director of either a for-profit or non-profit corporation formed pursuant to this Code shall faithfully discharge his or her duties, including duties as member of a committee:
- (a) In good faith;
 - (b) Exercising the care a reasonable person, under the same or similar circumstances, would exercise; and
 - (c) In a manner the Director reasonably believes to be in the best interests of the corporation.

- 11.2 In discharging his/her duties, a Director may rely on information, opinions, reports, or statements, including financial statements and other financial data., if prepared or presented by:
- (a) One or more Officers or Employees of the corporation whom the Director reasonably believes to be reliable and competent in the matters presented;
 - (b) Legal counsel, certified public accountants, or other persons as to matters the Director reasonably believes are within the person's professional expertise, so long as any professional so retained presents for corporate records a copy of any license evidencing fitness to practice their profession within the State of California.
 - (c) A committee of the Board of Directors of which he or she is not a member if the Director reasonably believes the committee decision merits confidence and is in compliance with all applicable laws.
- 11.3 A Director is not acting in good faith if the Director either knows, or should have known, that reliance on the third party otherwise permitted by subsection 11.2 is unwarranted.
- 11.4 A Director is not liable for any action taken as a Director, or any failure to take any action, if he or she performed the duties of office in compliance with Section 11.

Section 12. Director Conflict of Interest.

- 12.1 A conflict of interest is created whenever a Director has a direct, or indirect, individual and personal interest in any transaction undertaken with the corporation.
- 12.2 Any such transaction is voidable by the corporation unless:
- (a) The material facts of the transaction and Director's interest were disclosed or known to the Board of Directors, or committee of the Board of Directors; and
 - (b) The Board of Directors or committee authorized, approved, or ratified the transaction; or

- (c) The material facts of the transaction and the Director's interest were disclosed or known to the Shareholders entitled to vote, and they authorized, approved, or ratified the transaction; or
- (d) The transaction was in the best interests of the corporation.

12.3 For purposes of this Section, a Director has an indirect interest in the transaction if

- (a) Another corporation, sole proprietorship, cooperative, or any other form of business for profit in which the Director has any financial interest, or in which he or she is a general partner, is a party to the transaction; or
- (b) Another entity of which he or she is a Director, Officer, or trustee is a party to the transaction, and the transaction is, or should be considered by the Board of Directors of the corporation.

12.4 For the purposes of this Section, a conflict of interest transaction is authorized, approved, or ratified if it receives the affirmative vote of a majority of the Board of Directors, or committee members, who have no direct or indirect interest in the transaction.

12.5 A transaction may not be authorized, approved, or ratified under Section 12 by a single Director. If a majority of the Directors who have no direct or indirect interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum is present for the purpose of taking action under Section 12. The presence of or a vote cast by, a Director with a direct or indirect interest in the transaction does not affect the validity of any action taken under this Section if the transaction is otherwise authorized, approved or ratified by the Board of Directors or Shareholders.

12.6 A conflict of interest transaction is authorized, approved or ratified if it receives the vote of a majority of the Shareholders entitled to vote. Shares owned by, or voted under, the control of a Director who has a direct, or indirect, interest in the transaction, and shares owned by or voted under the control of an entity described herein, may not be counted in a vote of Shareholders to determine whether to authorize, approve or ratify a conflict of interest transaction. The vote of those shares, however, is counted in determining whether a transaction is approved under other Sections of the Yurok Tribe Business Corporations Code. A majority of shares entitled to be counted in a vote on the transaction under this subsection, constitutes a quorum for the purpose of taking action.

Section 13. Liability for Unlawful Distributions.

- 13.1 A Director's vote for, or assent to, a distribution made in violation of the Yurok Tribe Business Corporations Code, or the Articles of Incorporation, shall render the Director personally liable to the corporation for the amount of distribution in excess of the value of the distribution had no violation occurred.
- 13.2 A Director held liable for an unlawful distribution under subsection 13.1 is entitled to contributions:
- (a) From every other Director who voted for, or assented to, the distribution without complying with the applicable standards of conduct; and financial interest, or in which he or she is a general partner, is a party to the transaction; or
 - (b) Another entity of which he or she is a Director, Officer, or trustee is a party to the transaction, and the transaction is, or should be considered by the Board of Directors of the corporation.
- 12.4 For the purposes of this Section, a conflict of interest transaction is authorized, approved, or ratified if it receives the affirmative vote of a majority of the Board of Directors, or committee members, who have no direct or indirect interest in the transaction.
- 12.5 A transaction may not be authorized, approved, or ratified under Section 12 by a single Director. If a majority of the Directors who have no direct or indirect interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum is present for the purpose of taking action under Section 12. The presence of or a vote cast by, a Director with a direct or indirect interest in the transaction does not affect the validity of any action taken under this Section if the transaction is otherwise authorized, approved or ratified by the Board of Directors or Shareholders.
- 12.6 A conflict of interest transaction is authorized, approved or ratified if it receives the vote of a majority of the Shareholders entitled to vote. Shares owned by, or voted under, the control of a Director who has a direct, or indirect, interest in the transaction, and shares owned by or voted under the control of an entity described herein, may not be counted in a vote of Shareholders to determine whether to authorize, approve or ratify a conflict of interest transaction. The vote of those shares, however, is counted in determining whether a transaction is approved under other Sections of the Yurok Tribe Business

Corporations Code. A majority of shares entitled to be counted in a vote on the transaction under this subsection, constitutes a quorum for the purpose of taking action.

Section 13. Liability for Unlawful Distributions.

- 13.1 A Director's vote for, or assent to, a distribution made in violation of the Yurok Tribe Business Corporations Code, or the Articles of Incorporation, shall render the Director personally liable to the corporation for the amount of distribution in excess of the value of the distribution had no violation occurred.
- 13.2 A Director held liable for an unlawful distribution under subsection 13.1 is entitled to contributions:
- (a) From every other Director who voted for, or assented to, the distribution without complying with the applicable standards of conduct; and
 - (b) From each Shareholder in the amount the Shareholder accepted knowing the distribution was made in violation of the Yurok Tribe Business Corporations Code or the Articles of Incorporation.

Section 14. Officers.

- 14.1 Officers charged with managing the day-to-day business of the corporation may be appointed by the Board of Directors in accordance with the bylaws.
- 14.2 An Officer may delegate his/her authority to other Officers, or Assistant Officers, as authorized in the bylaws or by the Board of Directors.
- 14.3 The bylaws, or Board of Directors, shall designate one Officer to prepare minutes of Board of Directors' and Shareholder meetings.

- 14.4 An individual may simultaneously occupy the position of secretary, treasurer, and president or vice-president of a corporation.
- 14.5 Each Officer shall execute the duties set forth in the bylaws or, to the extent not inconsistent with the bylaws, any duties prescribed by the Board of Directors; or at the direction of another Officer authorized by the Board of Directors to delegate such duties.

Section 15. Standards of Conduct for Officers.

- 15.1 An Officer with discretionary authority shall discharge his or her duties under that authority:
- (a) In good faith;
 - (b) With the same care a reasonable person under the same, or similar, circumstances would exercise; and
 - (c) In a manner the Officer reasonably believes to be in the best interests of the corporation.
- 15.2 An Officer is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:
- (a) One or more Directors, Officers, Agents or Employees of the corporation the Officer reasonably believes to be reliable and competent in the matters presented; or
 - (b) Legal counsel, certified public accountants, or other persons as to matters the Officer reasonably believes are within the person's professional expertise, so long as any professional so retained presents for corporate records a copy of any license evidencing fitness to practice their profession within the State of California.
- 15.3 An Officer is not acting in good faith if the Officer either knows, or should have known, that reliance on the third party otherwise permitted by subsections 15.2 was unwarranted.

- 15.4 An Officer is not liable for any act or omission if the Officer performed the duties of office in compliance with this Section.

Section 16. Resignation and Removal of Officers.

- 16.1 An Officer may resign at any time by providing written notice to the corporation.
- 16.2 A resignation is effective on the date the notice is delivered, unless the notice specifies a later effective date.
- 16.3 If resignation is made effective at a later date, and the corporation accepts the thture effective date, the Board of Directors may hire someone to fill the pending vacancy prior to the effective date, but cannot place that person in office until start of business on the effective date,
- 16.4 A Board of Directors may remove any Officer at any time with or without cause.

Section 17. Indemnification.

- 17.1 A corporation may indemnify any person who was a party, or potentially may become a party, to any threatened, pending, or adjudicated action, suit, or proceeding, whether civil, criminal, administrative, or investigative, based on his/her activities as Director, Officer, Employee, or Agent of the corporation.
- 17.2 The corporation may also indemnify a party, or potential party, with regard to causes of action stated in subsection 17.1 who are serving at the request of the corporation as a Director, Officer, Employee, or Agent of another corporation, partner, joint venture, trust, or other enterprise whose business activities have materially-benefited the corporation.
- 17.3 The amount of indemnification shall be limited to expenses including: attorneys' fees, judgments, fines and amounts paid in settlement actually, or reasonably connection with the action, suit or proceeding.

- 17.4 Indemnification will only be permitted where the individual seeking indemnification acted in good faith and in a manner he or she reasonably believed to be in the best interest of the corporation; or, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful.
- 17.5 No indemnification shall be made pursuant to this Section wherein the person seeking indemnification shall have been adjudged liable to the corporation either for ultra vires or criminal acts.
- 17.6 No person shall be indemnified pursuant to this Section wherein improper, or unlawful, personal benefit is alleged, whether or not involving action taken within the scope of his or her duties, in which he or she has been adjudged liable on the basis that personal benefit was improperly received by him or her,

Section 18. Mandatory Indemnification.

- 18.1 Unless limited by the Articles of Incorporation, a corporation shall indemnify a Director or Officer who was successful, on the merits, in defending against any proceeding to which he or she was a party due to his or her position as Director or Officer of the corporation, for reasonable expenses incurred in connection with the proceeding.

Section 19. Insurance.

- 19.1 A corporation may purchase and maintain insurance on behalf of an individual who is, or was, a Director, Officer, Employee, or Agent of the corporation against liability asserted against, or incurred by him or her in their official capacity, or arising from his or her status as a Director, Officer, Employee, or Agent, whether or not the corporation would have power to indemnify that individual against the same liability under this Code.
- 19.2 A corporation may purchase and maintain insurance on behalf of an individual who, while a Director, Officer, Employee, or Agent of the corporation, is, or was, serving at the request of the corporation as a Director, Officer, Employee, Agent, partner, or trustee of another foreign or domestic corporation, partnership, joint venture, trust, employee benefit plan, or other lawful business enterprise, whether or not the corporation would have power to indemnify that individual against the same liability under this Code.

PART IV. AMENDING ARTICLES OF INCORPORATION

Section 1. Resolution for Proposed Amendment

- 1.1 The Board of Directors shall adopt a resolution setting forth a proposed amendment to the Articles of Incorporation, and directing that it be submitted to a vote at a meeting of the Shareholders, which may be either an annual or special meeting. There is no limit on the number of proposed amendments that may be submitted to Shareholders for a vote at any given meeting.

Section 2. Notice of Proposed Amendment.

- 2.1 Written notice, expressly stating that an amendment has been proposed to the Articles of Incorporation, or a summary of the changes to be effected thereby, shall be provided to each Shareholder of record entitled to vote, lithe meeting at which amendment will be voted upon is an annual meeting, the proposed amendment or summary may be included in notice of the annual meeting.

Section 3. Vote at Shareholders Meeting.

- 3.1 A vote of the Shareholders shall be taken on each proposed amendment. Except as otherwise provided in this Code, the proposed amendment shall be deemed adopted upon receiving the affirmative vote of two-thirds of the shares entitled to vote thereon. If any class of shares is entitled to vote, the proposed amendment shall be adopted upon receiving the affirmative vote of two-thirds of the shares of each class of shares entitled to vote, unless a greater majority is required by the provisions of this Code.

Section 4. Classes of Shares Entitled to Vote.

- 4.1 Persons holding outstanding shares of a class shall be entitled to vote on a proposed amendment as a class, whether or not entitled to vote thereon by the provisions of the Articles of Incorporation, if the effect of the amendment would be to:
- (a) Increase or decrease the aggregate number of authorized shares of that class;
 - (b) Increase or decrease the value of the shares of that class;
 - (c) Effect an exchange, reclassification, or cancellation of all, or parts of, the shares of that class;
 - (d) Effect an exchange, or create a right of exchange, of all, or any part of; the shares of another class into the shares of that class;
 - (e) Alter the designations, preferences, limitations, or relative rights of the shares of that class;
 - (f) Split the shares of that class, whether with or without par value, into the same or a different number of shares, either with or without par value, of the same class or another class or classes;
 - (g) Create a new class of shares having rights and preferences prior, and superior, to the shares of that class;
 - (h) Increase the rights and preferences of any class having rights and preferences prior, or superior, to the shares of that class;
 - (i) In the case of a preferred or special class of shares, divide shares not yet issued into a series, and fix and determine the designation of such series and variations in the relative rights and preferences as between the shares of such series, or authorize the Board of Directors to do so;
 - (j) Limit or deny the existing preemptive rights of shares of that class;
 - (k) Cancel or otherwise affect dividends on the shares of that class which have accrued, but have not been declared.

Section 5. Articles of Amendment

- 5.1 Articles of Amendment shall be executed, in duplicate, by the corporation through its president or chief executive officer, and shall be verified by the officer responsible for authenticating corporate records

5.2 The amendment shall set forth:

- (a) The name of the corporation;
- (b) The full text of the amendment adopted;
- (c) The date the amendment was approved by Shareholders;
- (d) The number of shares outstanding, and number of shares entitled to vote thereon, if the shares of any class are entitled to vote thereon as a class, the designation and number of outstanding shares entitled to vote thereon in each such class;
- (e) The number of shares that were voted for, and against, the amendment, and, if shares of any class are entitled to vote as a class, the number of shares of each such class that were voted for, and against, the amendment;
- (f) If the amendment provides for an exchange, reclassification, or cancellation of issued shares, and the amendment must specify how the change will take place;
- (g) If such the amendment effects a change in the amount of stated capital, then a statement of the manner in which the same is affected and a statement expressed in dollars, of the amount of stated capital as changed by the amendment.

5.3 The Articles of Amendment shall be sent to the clerk of the Yurok Tribal Council, or his/her designee, with any fees as provided in this Code,

5.4 If the clerk of the Tribal Council, or his/her designee, shall approve the amendments as to form and fees, the clerk shall forward same to the Yurok Tribal Council for final approval at a regularly-scheduled meeting.

5.5 Once approved by the Yurok Tribal Council, the clerk, or his/her designee, shall issue a certificate of amendment.

PART V. DISSOLUTION.

Section 1. Dissolution By Board of Directors and Shareholders.

- 1.1 A corporation's Board of Directors may propose dissolution for submission to the Shareholders.
- 1.2 For a dissolution proposal to be adopted:
 - (a) The Board of Directors must recommend dissolution to the Shareholders unless the Board of Directors determines that, due to a conflict of interest or other special circumstances, it should make no recommendation and communicates the basis for its determination to the Shareholders; and
 - (b) Shareholders entitled to vote must approve the proposal to dissolve.
- 1.3 The Board of Directors may condition submission of the proposal for dissolution on any reasonable basis.
- 1.4 The corporation shall notify each Shareholder, whether or not entitled to vote, of the proposed Shareholders' meeting. The notice must expressly disclose that dissolution will be considered at the meeting.
- 1.5 Unless the Articles of Incorporation, or the Board of Directors, require a greater vote, or a vote by voting groups, dissolution will be deemed approved if there is a vote in the affirmative by a majority of all the shares entitled to vote.

Section 2. Shareholder Option To Dissolve The Corporation.

- 2.1 Unless a Shareholder's agreement or Articles of Incorporation provide otherwise, any Shareholder of a corporation formed under this Code has an option to request that the corporation be dissolved.
- 2.2 Whenever the option to dissolve at will is exercised, the Shareholder exercising the option shall serve written notice thereof on all Shareholders.

- 2.3 The corporation, or one or more Shareholders, may offer to purchase shares at their fair market value from the Shareholder exercising the option to dissolve.
- 2.4 If the parties cannot agree on the price for the shares, or other terms of the sale, any party may bring an action in Tribal Court to oversee terms of the sale, utilizing the procedures set forth in this Code.
- 2.5 If no such written offer to purchase is received within 30 days following the date of service of notice by the moving Shareholder, dissolution of the corporation shall proceed as if the required number of Shareholders entitled to vote have consented.
- 2.6 Unless the Articles of Incorporation provide otherwise, amending the Articles of Incorporation to include, or delete, a provision authorized by this Section shall be approved by the holders of all outstanding shares, whether or not otherwise entitled to vote thereon or all of subscribers of all the incorporators in a like manner

Section 3. Articles of Dissolution.

- 3.1 Whenever dissolution is authorized, the corporation may dissolve by delivering the Articles of Dissolution to the Tribal Council for filing.
- 3.2 The Articles of Dissolution shall set forth:
 - (a) The name of the corporation;
 - (b) The date dissolution was authorized;
 - (c) Whether dissolution was approved by the Shareholders;
 - (d) The number of shares entitled to vote on the proposal to dissolve; and
 - (e) Either the total number of votes cast for, and against, dissolution or the total number of undisputed votes cast for dissolution along with a statement that the number cast for dissolution was sufficient for approval.
- 3.3 If voting by voting groups was required, the information required by subsection 3.2 must be separately provided for each voting group entitled to vote on the proposal to dissolve.

3.4 If dissolution resulted from exercise of an option to dissolve, a copy of the required notice shall be attached.

3.5 A corporation is dissolved upon the effective date of its Articles of dissolution.

Section 4. Effect of Dissolution.

4.1 Once dissolved, a corporation cannot carry on any business except that appropriate to wind up corporate affairs and liquidate its assets.

4.2 Liquidation of assets can include:

- (a) Conducting an inventory of assets;
- (b) Gathering all assets at a single location and, in the case of financial assets, generating a final statement of accounts;
- (c) Disposing of property that will not be distributed in kind to Shareholders;
- (d) Disposing of property of the Tribe in accordance with procedures established by the Tribal Council;
- (e) Making provisions for discharging liabilities;
- (f) Distributing remaining property among Shareholders according to their interest.

4.3 Dissolution of a corporation does not:

- (a) transfer title to the corporation's property;
- (b) transfer title to the Tribe's property controlled by the corporation;
- (c) prevent transfer of its shares of securities, although authorization to dissolve may provide for closing the corporation's share transfer records;

- (d) subject its Directors or Officers to standards of conduct different from those prescribed under this Code;
- (e) change quorum or voting requirements for its Board of Directors or Shareholders;
- (f) change provisions for selection, resignation, or removal of Directors or Officers;
- (g) change provisions for amending its Bylaws;
- (h) prevent commencement of a proceeding by, or against, the corporation in its corporate name;
- (i) abate or suspend a proceeding pending by, or against, the corporation in its corporate name; or
- (j) terminate the authority of the registered agent of the corporation

Section 5. Known Claims Against Dissolved Corporation.

5.1 A dissolved corporation may dispose of known claims against it by following the procedures set forth in this Section.

5.2 The dissolved corporation shall notify any and all known claimants, in writing, of the dissolution at any time after its effective date.

5.3 The written notice must:

- (a) describe, with particularity, information that must be included in a claim;
- (b) provide a mailing address where a claim may be sent;

- (c) state the deadline for submitting a claim to the corporation, which may not be less than 120 days from the effective date of the written notice; and
- (d) expressly state that the claim will be barred if not received by the deadline.

5.4 A claim against the dissolved corporation is barred:

- (a) if the claimant was given written notice under subsection 5.3 and fails to deliver the claim to the dissolved corporation by the deadline; or
- (b) if the claimant whose claim was rejected by the dissolved corporation fails to commence a proceeding to enforce the claim within 90 days from the effective date of the rejection notice.

5.5 For purposes of this Section, "claim" does not include a contingent liability, or claim, based on an event occurring after the effective date of dissolution.

Section 6. Unknown Claims Against Dissolved Corporation.

6.1 A dissolved corporation may also publish notice, and request that persons with claims against the corporation present them in accordance with the notice.

6.2 The notice must:

- (a) be published one time in a newspaper of general circulation in the county where the dissolved corporation's principal place of business is located, and in newspaper of general circulation on the Reservation; and
- (b) describe information that must be included in a claim, and provide a mailing address where the claim may be sent; and
- (c) expressly state, in conspicuous language, that a claim against the corporation will be barred unless a proceeding to enforce the claim is commenced within two years after the publication of the notice.

6.3 If the dissolved corporation publishes a newspaper notice in accordance with subsection 6.2 the following claims are barred, unless the claimant commences a proceeding to enforce the claim against the dissolved corporation within two years from the publication date of the newspaper notice:

- (a) The claimant did not receive written notice;
- (b) The claimant timely sent a claim to the dissolved corporation, but has not acted thereon; or
- (c) The claimant's claim is contingent, or based, on an event occurring following the effective date of dissolution.

6.4 A claim may be enforced under this Section:

- (a) against the dissolved corporation, to the extent of its undistributed assets; or
- (b) if corporate assets have already been distributed, against a Shareholder, to the extent his or her pro-rata share of the claim, or fair market value of corporate assets received in distribution, whichever is less

6.5 A Shareholder's total liability for all claims arising under this Section may not exceed the total amount of assets distributed to that Shareholder.

Section 7. Grounds For Administrative Dissolution.

7.1 The Tribal Council may administratively dissolve a corporation if:

- (a) The corporation's period of existence stated in the Articles of Incorporation has expired; or
- (b) It determines, following a fact-finding hearing, that the corporation has been operated with an illegal purpose and/or without a certificate of incorporation; or
- (c) Responses to interrogatories indicate that the corporation has been inactive for a period of at least one year, and has expressly indicated it has no plans to reactivate the corporation in the future; or

- (d) Interrogatories have not been answered by any persons to whom they were directed for a period of 120 days following the deadline for submission; provided, however, that 30 days prior to commencing a proceeding under this subsection, the clerk of the Tribal Council, or his/her designee, shall notify each person failing to answer such interrogatories of its intent to commence such a proceeding.

Section 8. Procedure for Administrative Dissolution.

- 8.1 If the Tribal Council determines that one or more grounds exist for dissolving a corporation, it shall serve the corporation with written notice of its determination.
- 8.2 If the corporation thus to either (a) correct each ground for dissolution, or (b) demonstrate that each ground for dissolution does not exist within 60 days from the date of receipt of the notice, the Tribal Council shall administratively dissolve the corporation by signing a certificate of dissolution.
- 8.3 The certificate of administrative dissolution shall expressly set forth the ground(s) for dissolution and its effective date.
- 8.4 The Tribal Council shall retain the original certificate of dissolution, and serve a copy thereof on the corporation.
- 8.5 A corporation that has been administratively dissolved cannot carry on any corporate business except that necessary to wind up corporate affairs and liquidate assets.
- 8.6 Administrative dissolution of a corporation does not terminate the authority of its registered agent.

Section 9. Grounds For Judicial Dissolution.

- 9.1 The Tribal Court may dissolve a corporation:
 - (a) in a proceeding brought on behalf of the Tribal Council, or other agency or official of the Tribe, if it is established that:

- (i) The corporation obtained its Articles of Incorporation through fraudulent means; or
 - (ii) The corporation has continued to exceed or abuse the authority conferred upon it by law;
- (b) in a proceeding by a Shareholder if it is established that:
- (i) the Directors are deadlocked in managing corporate affairs;
 - (ii) the Shareholders are unable to break the deadlock; and
 - (iii) irreparable injury to the corporation is either threatened, or being suffered by the corporation; or
 - (iv) the business and affairs of the corporation can no longer be conducted to the advantage of the Shareholders generally, because of the deadlock; and
 - (v) the Directors, or those in control of the corporation, have acted, are acting, or will act, in a manner that is illegal, oppressive, or fraudulent;
 - (vi) The Shareholders entitled to vote are deadlocked, and have failed, for the period of time between the deadlock and at least two consecutive annual meeting dates, to elect successors to Directors whose terms have expired;
 - (vii) Corporate assets are being misapplied or wasted; or
 - (viii) The Shareholder has duly exercised an option to dissolve the corporation, and the corporation has failed to proceed with filing Articles of Dissolution or commence winding up corporate affairs as required by this Code.
- (c) in a proceeding by a creditor if it is established that:
- (i) the creditor's claim has been reduced to judgment; and
 - (ii) execution on the judgment remains unsatisfied; and
 - (iii) the corporation is insolvent; or

- (iv) the corporation has admitted in writing that the creditor's claim is due and owing and the corporation is insolvent; or
- (v) where the corporation has expressly requested that its voluntary dissolution continue under court supervision.

Section 10 Procedure for Judicial Dissolution.

- 10.1 Shareholders are not required to be parties to a proceeding to dissolve a corporation, unless relief is sought against them individually.
- 10.2 The Tribal Court may issue injunctions, appoint a receiver or trustee with all powers and duties the court may authorize, take any and all action required to preserve corporate assets, wherever located, and carry on the business of the corporation until a final hearing can be held.
- 10.3 If, following a hearing, the Tribal Court determines that one or more grounds for judicial dissolution described in Section 9 exist, it may enter a decree dissolving the corporation and specifying the effective date of the dissolution.
- 10.4 The court shall deliver a certified copy of the Decree of Dissolution to the Yurok Tribal Council, which shall be kept on file by the clerk of the Tribal Council, or his/her designee.
- 10.5 After entering a Decree of Dissolution, the court shall order the winding up of corporate affairs and liquidation of corporate assets.

Section 11. Deposit Designated Account.

- 11.1 Where it has been determined that a creditor, claimant, or Shareholder entitled to receive assets of a dissolved corporation either (a) cannot be found, (b) is a minor, or (c) is not competent to receive said assets, the assets shall be reduced to cash and deposited into an Individual Indian Account for safekeeping and notify the Tribal Council that action has occurred.

- 11.2 When the individual so entitled furnishes satisfactory proof of entitlement to the amount deposited, the Tribal Treasurer shall pay the individual the amount due.

PART VI. FORMATION OF NON-PROFIT CORPORATIONS

Section 1. Scope

- 1.1 Unless otherwise provided, the provisions of this Chapter apply to all nonprofit corporations formed pursuant to provisions of this Code, except those corporations directly controlled by the Tribal Council.
- 1.2 Any non-profit corporation that exists within Yurok Reservation boundaries on the date of enactment of this Chapter will not be affected by provisions of this Code, unless such corporation voluntarily elects to operate pursuant to the provisions of this Code.
- 1.3 Any non-profit corporation that elects not to form under provisions of the Yurok Tribal Business Code, but that is based within the Yurok reservation, will not be entitled to any of its protections and benefits, except as may be directed by the Yurok Tribal Council on a case-by-case basis.
- 1.4 The provisions of this chapter do not apply to any non-profit organization, entity, club, or individual whose annual proceeds are \$5,000.00 or less.

Section 2. General Powers of Non-Profit Corporations

- 2.1 Any non-profit corporation formed under this Code have the same general powers of any business corporation formed pursuant to provisions of this Code as set forth in Chapter 1, Section 2.

Section 3. Limitations.

- 3.1 Any non-profit corporation formed pursuant to this Chapter:
- (a) Shall neither possess nor issue shares of stock; and
 - (b) Shall not pay dividends, or make any distribution of income to its members, directors or officers; and
 - (c) Shall not loan money or credit to its officers or directors; and
 - (d) May pay compensation only up to a reasonable amount to its members, directors, officers or agents for services rendered; and
 - (e) May confer benefits upon its members only in conformity with its purposes.
- 3.2 Unless otherwise provided in its Articles of incorporation or bylaws, a mutual benefit corporation may:
- (a) Following dissolution, make distributions to its members as permitted by this Chapter. No such distribution will be deemed to be a dividend or a distribution of income; and
 - (b) Periodically pay refunds to members for fees or dues actually paid in excess of the losses, expenses, and debts of the corporation. Such refunds will not be deemed to be a dividend or distributions of income.
- 3.3 A public benefit corporation must, upon dissolution, distribute its assets for one or more purposes listed in the definition of "Public Benefit Corporation" contained in this Code; or, to the federal government; or, to a tribal, state, or other local government, for a public purpose; or, by a court of competent jurisdiction to another organization to be used in such manner as, in the judgment of the court, will best accomplish the general purposes for which the dissolved organization was organized.

Section 4. Limitations on LR.C. 509(a) Private Foundations.

- 4.1 A corporation which is a private foundation as defined in Section 509(a) of the Internal Revenue Code of 1954, subject to any and all amendments and/or changes to that Code since 1954:
- (a) Shall distribute such amounts for each taxable year at such time, and in such manner, so as to avoid subjecting the corporation to tax under 1.R.C §4942; and
 - (b) Shall not engage in any act of self-dealing as defined in I.R.C. §4941(d); and
 - (c) Shall not retain any excess business holdings as defined in 1.R.C. §4943(c); and
 - (d) Shall not make any taxable expenditures as defined in I.R.C. §4944; and
 - (e) Shall not make any taxable expenditure as defined in LR.C. §4945(d); and.

Section 5. Defense of Ultra Vires Acts by Non-Profit Corporation.

- 5.1 Neither any act by, nor conveyance or transfer of real or personal property by or to, a non-profit corporation will be deemed invalid per se where lack of capacity is alleged as the basis for the conveyance or transfer.
- 5.2 Such lack of capacity or power may be asserted:
- (a) In a proceeding by a member or Director opposing the act, or transfer of real or personal property.
 - (i) If the act or transfer sought to be enjoined is being or will be, performed, or made, pursuant to any contract to which the corporation is a party, the court may, if all parties to the contract are parties to the proceeding, and the court deems it equitable:
 - (1) Enjoin the performance of the contract; and/or
 - (2) Award the corporation and/or other parties, as the case may be, compensation for loss or damage sustained by either as a result of enjoining the performance.

- (ii) Anticipated profits to be derived from the performance of the contract cannot be awarded by the court as a loss or damage sustained.
- (b) In a proceeding by the corporation, whether acting directly or through a receiver, trustee, or other legal representative, or through members in a representative suit, against the incumbent or former Officers or Directors.
- (c) In a proceeding by the Tribal Council to dissolve the corporation, or enjoin the corporation from the transaction of unauthorized business.

Section 6. Articles of Incorporation.

6.1 The Articles of Incorporation shall set forth:

- (a) A name for the corporation that satisfies the requirements of this Chapter; and
- (b) A statement that either:
 - (i) “This corporation is a public benefit corporation”; or
 - (ii) “This corporation is a mutual benefit corporation;” and
- (c) The purpose(s) for which the corporation is organized, so long as the proposed activity is lawful; and
- (d) The names and addresses of individuals who are to serve as the initial Board of Directors; and
- (e) The street address of the corporation’s registered office; and
- (f) The name of its initial registered agent at that office; and
- (g) The name and address of each incorporator; and
- (h) A statement disclosing whether the corporation Will have members; and
- (i) Provisions regarding the distribution of assets upon dissolution.

6.2 The Articles of Incorporation may set forth provisions:

- (a) Defining management and regulation of corporate affairs; and
- (b) Defining, limiting, and regulating the powers of the corporation, its Board of Directors, and members, or class of members; and
- (c) Describing, with specificity, the characteristics, qualifications, rights, limitations and obligations attaching to each class of members,
- (d) That are required or permitted to be set forth in the bylaws.

6.3 Each incorporator and Director named in the Articles of Incorporation must sign the Articles.

Section 7. Filing Articles of incorporation.

7.1 Duplicate originals of the Articles of incorporation shall be delivered to the Clerk of the Tribal Council, or his/her designee.

7.2. If the Clerk of the Tribal Council, or his/her designee deems the Articles of incorporation complete as to form and content, he/she will:

- (a) Collect all necessary filing fees; and
- (b) Endorse each original with the word, "Filed;" and
- (c) Write the effective date of filing on the face of the certificate of incorporation; and
- (d) Retain one originals; and
- (e) Issue a certificate of incorporation; and
- (f) Affix the certificate of incorporation to the other original; and
- (g) Return the certificate and Articles to either the incorporators, or their representative.

Section 8. Effect of Filing the Articles of Incorporation

- 8.1 The effect of filing the Articles of Incorporation for a non-profit corporation shall be the same as those set forth in Chapter 1, Section 5 of this Code.

Section 9. Initial Meeting of Directors.

- 9.1 After the certificate of incorporation has been issued, an initial meeting of the Board of Directors named in the Articles of Incorporation must be held at the call of a majority of Directors named in the Articles of incorporation for the purpose of:

- (a) Adopting bylaws; and
- (b) Electing officers; and
- (c) Transacting such corporate business as may arise prior to the meeting.

- 9.2 Unless all Directors waive notice, the Directors who called the meeting must provide at least three days' notice thereof, by mail, to each Director. Said notice must state the time and place of meeting.

- 9.3 Any action permitted to be taken at the initial Directors' meeting may be taken without a meeting only if each Director signs an instrument stating the action so taken, and indicating their assent thereto.

Section 10. Admission of Members.

- 10.1 A non-profit corporation is not required to have members.

- 10.2 A non-profit corporation may admit any person as a member based on criteria and/or procedures set forth in the Articles of Incorporation and/or bylaws.

- 10.3 No member may be admitted without his/her express and voluntary consent.

- 10.4 Members can be admitted either for no consideration, or for such consideration as determined by the Board of Directors, so long as not inconsistent with the Articles of incorporation and/or bylaws..

Section 11. Differences in Rights and Obligations of Members.

- 11.1 All members will have the same rights and obligations with respect to voting, dissolution, redemption and transfer, unless the Articles of Incorporation and/or bylaws establish classes of membership with different rights or obligations.

Section 12 Transfers.

- 12.1 Except as authorized by the Articles of Incorporation or bylaws, no member of a mutual benefit corporation cannot transfer his/her membership or rights.
- 12.2 No member of a public benefit corporation is allowed to transfer his/her membership or right.
- 12.3 If the Articles of Incorporation or bylaws allow a right of transfer, no restriction will be binding on a member holding a membership issued prior to adoption of the restriction, unless the restriction is approved by all members, including the member affected.

Section 13. Resignation.

- 13.1 A member may resign at any time.
- 13.2 Resignation does not relieve the member from any previously-incurred obligations to the corporation,

Section 14. Termination.

- 14.1 No member may be expelled or suspended, and no membership(s) may be terminated or suspended, until the member has been afforded rights to a procedure that is fair and reasonable under the circumstances, and that is carried out in good faith by those seeking expulsion, termination, or suspension.
- 14.2 A procedure is fair and reasonable when:
- (a) It provides for written notice to the member setting forth, with specificity, the reasons for the proposed expulsion, suspension or termination; and
 - (b) It provides a reasonable opportunity for the member to be heard by the person(s) authorized to decide the matter prior to the proposed action.
- 14.3 A procedure deviating from any procedure(s) set forth in the bylaws for the expulsion, termination or suspension of members, or membership rights, is per Se not fair and reasonable, unless special circumstances wan-ant such a deviation.
- 14.4 Any proceeding challenging an expulsion, suspension or termination, including one where defective notice is alleged, must be commenced within one year following the effective date of the expulsion, suspension or termination.

Section 15. Purchase of Memberships.

- 15.1 A public benefit corporation cannot purchase either its memberships or any right arising therefrom,
- 15.2 A mutual benefit corporation may purchase the membership of a member who resigns, or whose membership is terminated, for the amount, and subject to conditions set forth, in or authorized by its Articles of incorporation or bylaws.
- 15.3 A mutual benefit corporation can only purchase its memberships if, after the purchase is completed:

- (a) The corporation will be able to pay debts as they become due in the usual course of business; and
- (b) The corporation's total assets would at least equal the sum of its total liabilities.

Section 16. Annual Members' Meeting.

- 16.1 A corporation with members shall establish a date on which an annual meeting of members shall be held, if called. The date must be set forth in the Articles of incorporation. If no date is established, the date will be the second business day after May 31st
- 16.2 Unless otherwise provided in the Articles of incorporation, no annual meeting need be held unless a written request therefore is delivered to the corporation by any voting member no fewer than 30 days prior to the date specified for the meeting.

Section 17. Special Meetings or Members.

- 17.1 A corporation shall hold a special meeting, of members:
 - (a) At the call of the Board of Directors, or the person(s) authorized to do so by the Articles of Incorporation or bylaws; or
 - (b) If at least 10 of all members entitled to vote on any issue raised for consideration at the proposed special meeting sign, date and deliver one, or more, written demands for the meeting to the corporation's secretary, describing the purposes for which it is to be held.
- 17.2 Special meetings of members may be held on, or off, the Reservation, at the location stated in the bylaws. If no place is stated in the bylaws, special meetings shall be held at the corporation's principal place of business.
- 17.3 Only business specifically-disclosed in the notice sent to members may be conducted at a special meeting of members.

Section 18. Notice of Members' Meetings.

- 18.1 The corporation shall notify its members entitled to vote of the date, time and place of each annual and special meeting neither less than fifteen (15) nor more than sixty (60) days prior to the meeting.
- 18.2 Notice of members' meetings shall be given by mail or telephone, using the most recent address or telephone number supplied to the corporation. If consistent with the Articles of Incorporation and/or bylaws, notice may also be given by posting and publishing rather than mailing and telephoning if the Directors determine such notice is reasonably calculated to actually inform all voting members of the meeting. If the date, time, or place of the annual or special members' meetings is changed, new notice is not required so long as it is announced prior to adjournment.
- 18.3 A member may waive any notice required by this Chapter, the Articles of Incorporation, or bylaws either before, or after, the date and time stated in the notice. The waiver must be:
- (a) In writing; and
 - (b) Signed by the member entitled to the notice; and
 - (c) Delivered to the corporation.

A member's attendance at a meeting:

- (a) Waives his/her objection to lack of notice, or defective notice, unless the member objects, at the beginning of the meeting, to either holding the meeting or transacting business at the meeting;
 - (b) Waives his/her objection to consideration of a particular matter that is not within the stated purpose(s) described in the notice, unless the member objects to considering the matter when it is presented
- 18.4 Unless prohibited, or limited, by the Articles of Incorporation or bylaws, any action that may be taken at any annual or special meeting may be taken by vote without a meeting, if the corporation delivers a written ballot to every Member entitled to vote.

Section 19. Amendments to Bylaws and Articles of Corporations without Members.

- 19.1 If a corporation has no Members, its Board of Directors may adopt amendments to the bylaws and Articles of Incorporation, subject to any approvals required thereby.
- 19.2 The corporation will provide notice of any meeting at which an amendment is to be voted on. The notice must disclose that a purpose of the meeting is to consider a proposed amendment to the Articles of Incorporation or bylaws; and must either contain, or be accompanied by, a copy or summary of the amendment; or state the general nature of the amendment,
- 19.3 All amendments must be approved by a majority of the Directors in office at the time the amendment is adopted.
- 19.4 If the corporation has Members, an amendment must be approved:
- (a) By the Board of Directors if the corporation is a public benefit corporation, and the amendment does not relate to the number of directors, the composition of the Board of Directors, the term of office of Directors, or the method or way in which directors are elected or selected; and/or
 - (b) By two-thirds of the votes cast from members entitled to vote; and
 - (c) By a writing by any person(s) whose approval is required by the Articles of Incorporation or bylaws.

Section 20. Distributions by Public Benefit Corporations.

- 20.1 A public benefit corporation must give the clerk of the Tribal Council, or his/her designee, written notice that it intends to dissolve. Said notice must be delivered ten (10) days before the date it delivers Articles of Dissolution to the clerk, or his/her designee. The notice shall include a copy or summary of the plan of dissolution.
- 20.2 Under no circumstances can the corporation transfer assets until twenty (20) days after the date it has either complied with subsection 20.1, or the clerk of the Tribal Council or

his/her designee, has consented thereto in writing, or otherwise has indicated, in writing, that it will take no action with respect to the transfer, whichever is earlier.

- 20.3 Prior to the expiration of the 20 period described in subsection 20.2, the Clerk of the Tribal Council, or his/her designee, may bring an action in Tribal Court to enjoin the planned distribution of assets. Any injunction issued by the Tribal Court will be binding on the corporation.
- 20.4 When all, or substantially all, of the assets of a public benefit corporation have been transferred or conveyed following approval of dissolution, the Board of Directors shall deliver to the Clerk of the Tribal Council, or his/her designee, a list of those to whom the assets were transferred or conveyed. The list must contain the addresses of each person, other than creditors, who received assets; and describe, with specificity what assets each received.

Section 21 Voluntary Dissolution

- 21.1 A non-profit corporation may dissolve its affairs in the following manner:
- (a) If the corporation has Members with voting rights, the Board of Directors shall adopt a resolution recommending that the corporation be dissolved; and
 - (b) Submit the issue of dissolution to Members for a vote at either the annual or a special meeting; and
 - (c) Provide written or published notice to each Member entitled to vote, pursuant to the notice section of this Chapter. Notice must disclose that dissolution will be considered; and
 - (d) A resolution to dissolve the corporation shall be adopted upon an affirmative vote of at least two-thirds (2/3) of the votes entitled to be cast by Members present or represented by proxy at such meetings.
 - (e) If the corporation either has no Members with voting rights, or has no members, dissolution must be authorized by resolution at a meeting of the Board of Directors following an affirmative vote by the majority of Directors in office.
- 21.2 Once dissolution is authorized by either the Board of Directors and Members entitled to vote, if any, the corporation shall:

- (a) Cease to conduct business, except insofar as may be necessary for the winding up of corporate affairs; and
- (b) Immediately dispatch, via certified or registered mail, notice of the proposed dissolution to each known creditor of the corporation; and
- (c) Commence collection and distribution of assets as directed in this Chapter.

21.3 The assets of a corporation in the process of dissolution shall be applied and distributed as follows:

- (a) All liabilities and obligations of the corporation shall be paid, satisfied, and discharged, or arrangements to do so within a reasonable time shall be made; then
- (b) Assets held by the corporation upon condition of return, transfer, or conveyance in the event of dissolution, shall be returned, transferred, or conveyed in accordance with such requirements, with assets belonging to the Yurok Tribe being afforded first preference; then
- (c) Assets received, and held, by the corporation subject to conditions that their use be exclusively for charitable, religious, benevolent, educational, or similar purposes, but not held upon a condition under 21.3(b), shall be transferred, or conveyed to one or more domestic or foreign corporations, societies, or organizations engaged in activities substantially-similar to those of the dissolving corporation, pursuant to a plan of distribution adopted as provided in this Chapter; then
- (d) Other assets, if any, shall be distributed in accordance with the provisions of the Articles of Incorporation or bylaws to the extent the Articles or bylaws determine the distributive rights of members, or any class, or classes, of members, or provide for distribution to others; then
- (e) Any remaining assets may be distributed to such persons, societies, organizations, or domestic or foreign corporations, whether for-profit or non-profit, as maybe specified if a plan of distribution is adopted as provided in this Chapter.

21.4 A plan for distribution of assets not inconsistent with the provisions of this Chapter may be adopted by a corporation in the process of dissolution, and must be adopted for the purpose of authorizing any transfer or conveyance of assets for which this Chapter requires a plan for distribution. The plan shall be executed in the following manner:

- (a) If the corporation has members with voting rights, the Board of Directors shall adopt a resolution recommending that the voluntary dissolution proceedings be revoked; and
- (b) Submit the issue of revocation of dissolution to members for a vote at either the annual, or a special, meeting; and
- (c) Provide written or published notice to each member entitled to vote, pursuant to the notice section of this Chapter. The notice must disclose that revocation of the dissolution will be considered; and
- (d) A resolution to revoke the voluntary dissolution proceedings shall be adopted upon an affirmative vote of at least two-thirds (2/3) of the votes entitled to be cast by members present or represented by proxy at such meeting.
- (e) If the corporation either has no members with voting rights, or no members, revocation of the voluntary dissolution must be authorized by resolution at a meeting of the Board of Directors following an affirmative vote by the majority of Directors in office; and

21.5 Once revocation of dissolution has been authorized by the Board of Directors and Members entitled to vote, if any, the corporation may again conduct its affairs. If Articles of Dissolution were previously delivered to the Clerk of the Tribal Council, or his/her designee, notice of revocation of dissolution must be provided to the Clerk or his/her designee, in writing, within twenty (20) days after the date the revocation was authorized.

21.6 If voluntary dissolution proceedings have not been revoked; and the corporation has complied with Section 21.3(a) through (e) of this Chapter, Articles of Dissolution shall be executed, in duplicate, by the corporation through its president or vice-president, and the corporate seal affixed thereto, and attested by its secretary or an assistant secretary, The Articles of Dissolution shall expressly state:

- (a) The name of the corporation; and
- (b) If the corporation has Members with voting rights:
 - (i) A statement setting forth the date of the meeting of Members at which the resolution to dissolve was adopted; and
 - (ii) That a quorum was present at such meeting; and

- (iii) That the resolution to dissolve received at least two-thirds (2/3) of the votes entitled to be cast by members or represented by proxy at such meetings; or
 - (iv) That such resolution was adopted by consent, in writing, and signed by all members entitled to vote.
- (c) If the corporation has either no Members with voting rights, or no Members:
- (i) That there are either no Members with voting rights, or no Members; and
 - (ii) The date of the meeting of the Board of Directors at which the resolution to dissolve received the vote of a majority of the directors in office.
- (d) That all debts, liabilities, and obligations of the corporation have been paid and discharged, or arrangements have been made to do so within a reasonable time; and
- (e) That all remaining property and assets of the corporation have been transferred, conveyed, or distributed in accordance with the provisions of this Chapter; and
- (f) That there are no suits pending against the corporation in any Court; or that adequate provisions have been made for the satisfaction of any judgment, order, or decree which may be entered against it in any pending suit,

21.7 Articles of Dissolution shall be filed with the Clerk of the Tribal Council, or his/her designee, as follows:

- (a) Duplicate originals of the Articles of Dissolution shall be delivered to the Clerk of the Tribal Council, or his/her designee.
- (b) If the Clerk, or his/her designee, determines that the Articles of Dissolution conform to law, he/she shall, after all fees under this Chapter have been paid:
 - (i) Endorse each original with the word "Filed," and the month, day, and year; and

- (ii) Retain one original in the Tribal Council file; and
- (iii) Issue a Certificate of Dissolution and affix it to the second original; and
- (iv) Deliver the Certificate of Dissolution and second original to the registered representative of the dissolved corporation.

21.8 Upon Issuance of the Certificate of Dissolution, the existence of the corporation shall cease, except for the purpose of suits, other proceedings, and appropriate corporate action by Members, Directors, and Officers as provided in this Chapter.

21.9 A non-profit corporation may be dissolved involuntarily by a decree of the Yurok Tribal Court, in an action instituted by the Yurok Tribal Council, when it is proven to the court that:

- (a) The franchise of the corporation was procured through fraud; or
- (b) The corporation has exceeded, or abused, the authority conferred upon it by this Chapter; or
- (c) The corporation has failed to appoint and maintain a registered agent for a period of ninety (90) days; or
- (d) The corporation has failed to deliver to the Clerk of the Tribal Council, or his/her designee, a statement of change of registered agent and/or principal place of business within ninety (90) days after the date such information changed; or

21.10 At least thirty (30) days before any action for the involuntary dissolution of a corporation shall be filed by the Clerk of the Tribal Council, he/she shall notify the corporation, by certified or registered mail addressed to the corporation at its registered principal place of business, a notice of their intention to file such suit, including the reasons therefore.

21.11 If the non-profit corporation submits satisfactory evidence that it did not commit an act in violation of Section 21.9 of this Chapter, the Clerk of the Tribal Council or his/her designee, shall not file an action against the corporation.

21.12 If an action has been filed against a non-profit corporation for violation of Section 21.9(c) or (d), and the corporation subsequently complies with the relevant subsection;

and the corporation will pay the costs of the action already incurred, such as filing fees, the Clerk or his/her designee, will withdraw the action.

Section 22. Jurisdiction of the Yurok Tribal Court

22.1 The Yurok Tribal Court shall have full power to liquidate the assets and affairs of a non-profit corporation in any action by a Member or Director when:

- (a) The Directors are deadlocked in the management of the corporate affairs, and irreparable injury to the corporation is either being suffered or is threatened thereby; and either:
 - (i) The Members are unable to break the deadlock; or
 - (ii) There are no Members having voting rights.
- (b) The acts of the Directors, or those in control of the corporation, are proven to be illegal, oppressive or fraudulent; or
- (c) Corporate assets are being misapplied or wasted; or
- (d) The corporation is unable to carry out its purposes.
- (e) A creditor's claim has been reduced to judgment; and execution on the judgment has been returned unsatisfied; and it is established that the corporation is insolvent; or
- (f) The corporation has admitted, in writing, the creditor's claim is valid; and the claim is still due and owing; and it is established that the corporation is insolvent; or
- (g) The corporation petitions the court to conduct dissolution under Court supervision; or
- (h) An action has been commenced by the Clerk of the Tribal Council, or his/her designee; and a showing is made that liquidation of its assets should precede entry of a decree of dissolution;

22.2 It shall not be necessary to make Directors or Members parties to any such action or proceeding unless relief is sought against them personally.

Section 23. Liquidation Procedure

- 23.1 In proceedings to liquidate the assets and affairs of a corporation, the Court will have the power to issue injunctions and appoint receivers having such powers and duties as the Court, from time to time, may direct; and to take any other necessary action as may be required to preserve the corporate assets wherever situated, and carry on corporate business until a hearing can be had.
- 23.2 Following a hearing upon such notice to all necessary parties and parties in interest as the Court may direct, the Court may appoint a liquidating receiver or receivers to collect the assets of the corporation. The receiver(s) shall have authority to sell, convey and dispose of all, or any part of, the assets of the corporation, wherever located, either at public or private sale. The order appointing the receiver(s) shall state their powers and duties. Their power and duties may be increased or diminished at any time during the proceedings.
- 23.3 Proceeds from the sale, conveyance, or other disposition of corporate assets shall be applied and distributed as follows:
- (a) Costs and expenses of the Court proceedings; and all liabilities and obligations of the corporation shall be paid, satisfied, and discharged; then
 - (b) Assets held by the corporation upon conditions requiring return, transfer, or conveyance which conditions occurs by reason of dissolution or liquidation, shall be returned, transferred, or conveyed in accordance with such requirements; then
 - (c) Assets received and held by the corporation subject to limitations permitting their use only for charitable, religious, eleemosynary benevolent, educational, or similar purposes, but not held upon a condition requiring return, transfer, or conveyance by reason of the dissolution or liquidation, shall be transferred or conveyed to one or more societies or organizations engaged in activities substantially similar to those of the dissolving corporation, as the Court may direct.
- 23.4 Other assets, if any, shall be distributed in accordance with the provisions of the Articles of Incorporation or bylaws to the extent that the Articles or bylaws determine the distributive rights of the members or any class or classes of members, or provide for distribution to others.

- 23.5 Any remaining assets may be distributed to such persons, societies, organizations, or domestic or foreign corporations, whether for profit or non specified in the plan of distribution, as the Court may direct.
- 23.6 The Court shall have power to allow, from time to time, as expenses of the liquidation, compensation to the receiver(s) and to attorney in the proceeding; and to direct payment out of either the corporate assets or the proceeds of any sale or disposition of such assets.
- 23.7 A receiver appointed pursuant to this section shall have authority to sue and defend in all courts in his/her own name as receiver of such corporation. The Court appointing such receiver shall, for the purposes of this Chapter have exclusive jurisdiction of the corporation and its property, wherever situated.
- 23.8 The Court may require all creditors of the corporation to file with either the Clerk of Court or receiver, in such form as the Court may prescribe, proofs under oath of their respective claims. It shall fix a date which shall be not less than four (4) months from the date of the order, as the last day for the filing of claims; and shall dictate the form of the notice to be given to creditors and claimants by the date so fixed. Prior to the date so fixed, the Court may extend the time for the filing of claims. Creditors and claimants failing to file proofs or claims on or before the date so fixed may be barred, by order of the Court, from participating in the distribution of the assets of the corporation.
- 23.9 Liquidation of corporate assets and the winding up of corporate business affairs assets may be discontinued at any time during liquidation proceedings upon proof that good cause for liquidation no longer exists. The Court shall then dismiss the proceedings, and direct the receiver(s) to redeliver to the corporation all its remaining property and assets.
- 23.10 When the costs and expenses of such proceedings and all debts, obligations, and liabilities of the corporation have been paid and discharged; and all of its remaining property and assets are insufficient to satisfy and discharge remaining costs, expenses, debts, and obligations; and all the remaining property and assets have been applied to the greatest extent toward payment, the Court shall enter a decree dissolving the corporation, whereupon the existence of the corporation shall cease.

- 23.11 Where the Court enters a decree of dissolution, it shall be the duty of the Clerk of Court to deliver a certified copy of the decree to the Clerk of the Tribal Court, or his/her designee. The clerk, or his/her designee, shall file same without assessment of a filing fee.
- 23.13 Following the voluntary or involuntary dissolution of a non-profit corporation, the portion of the assets distributable to any persons who are either unknown, or cannot be found; or who are under disability and there is no person legally competent to receive such distributive portion; the assets shall be reduced to cash and be deposited into an Individual Indian Account. Monies held in the account shall be paid over to such person, or to his/her legal representative, upon proof satisfactory to the Court of his rights thereto.

Section 24. Qualification of Receivers

- 24.1 A receiver shall, in all cases, be either an individual or a corporation authorized to act as receiver, and shall give such bond as the Court may direct with such sureties as the Court may require.

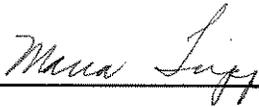
Severability.

In the event any provision of this Code shall be found, or declared, to be invalids the remaining provisions of this Code shall remain unaffected thereby, and shall remain in full force and effect,

C*E*R*T*I*F*I*C*A*T*I*O*N

THE FOREGOING YUROK TRIBAL ORDINANCE, ENTITLED THE YUROK TRIBE BUSINESS CORPORATIONS CODE, WAS PASSED AT A REGULARLY SCHEDULED MEETING OF THE YUROK TRIBAL COUNCIL ON OCTOBER 7, 2008 AT WHICH A QUORUM WAS PRESENT AND THAT THIS ORDINANCE WAS APPROVED BY A VOTE OF 7 FOR, AND 0 OPPOSED, WITH 0 ABSTENTIONS IN ACCORDANCE WITH ARTICLE 4, SECTION 5 OF THE CONSTITUTION OF THE YUROK TRIBE.

DATED THIS 7TH DAY OF OCTOBER, 2008.



**Maria Tripp, Chairperson
Yurok Tribal Council**

Attest:



Cynthia McKernan, Executive Assistant