

# **BYLAWS OF POISE USERS GROUP, INC. (PUG)**

## **I Definitions**

Unless the context clearly requires otherwise, in these Bylaws:

- 1.1 “Corporation” means the Tennessee Not For Profit Corporation named POISE Users Group, Inc. (PUG).
- 1.2 “Board” means the Board of Directors of the Corporation.
- 1.3 “Director” means a member of the Board of Directors of the Corporation.
- 1.4 “Officer” means the person or persons who at any given time perform the duties of the particular office for the Corporation.
- 1.5 “Annual Meeting” means the annual business meeting of the Members followed by the annual business meeting of the Board in which the Officers are elected by the Directors.
- 1.6 “Member” also known as “Member Institution” means any school, college, university or other organization utilizing software approved by the Corporation and whose dues are current.
- 1.7 “Voting Representative” means the individual designated by the Member to vote on its behalf.
- 1.8 “Bylaws” means these Bylaws as adopted by the Members and includes all amendments thereto subsequently adopted by the Members.
- 1.9 “Charter” means the Amended and Restated Charter of the Corporation as filed with the Secretary of State of the State of Tennessee and includes all amendments thereto subsequently adopted by the Members.

## **II Name, Purpose and Location**

- 2.1 Name. POISE Users Group, Inc. (PUG).
- 2.2 Purpose. The purpose of the Corporation is to train and aid institutions of education in effectively utilizing and shaping software needed to serve their respective educational communities.

2.3 Location of Office. The Corporation may locate its principal office anywhere in the United States as the Board may determine. The registered office shall be anywhere in the State of Tennessee. The principal office and the registered office need not be the same.

### **III Membership**

3.1 Member Institutions. Membership is open to all schools, colleges, universities and other organizations utilizing software approved by the Board of Directors. Member Institutions shall hereafter be referred to as “Members”. Only current dues paying Members shall be entitled to benefits provided for in these Bylaws.

3.2 Membership Term. The Membership Term shall be the same as the fiscal year thereby beginning on the first day of July and ending on the last day of June. Membership is not transferrable or assignable.

3.3 Membership Classification. There shall be only one class of Membership with voting rights. By a majority vote of the total number of Directors, the Corporation may add non-voting, non-benefit bearing membership categories.

3.4 Quorum. A quorum of the Members at meetings of the Membership shall consist of the Voting Representatives present. A quorum of the Members for action taken pursuant to Section 3.8 shall be the number of votes cast. All business brought before the Membership shall be conducted by a quorum and a majority vote of a quorum shall determine all matters, including elections, brought before the Membership.

However, the following actions must be approved by the Members by two-thirds (2/3) of the votes cast.

- Amendment(s) to the Charter.
- Amendment(s) to the Bylaws.
- Dissolution.
- Merger.
- Sale of assets other than in the regular course of activities.

3.5 Meetings. The Annual Meeting, regular and special meetings of the Membership shall be held as determined by the Board. In addition, special meetings may be called by written petition of any twenty (20) Members. Members must be present in person or by proxy and may not attend meetings via telephonic or electronic transmission. The President of the Corporation shall preside over meetings of the Membership unless determined otherwise by a vote of the Members.

3.6 Notice of Meetings. All notices may be provided via written electronic notice, including via the PUG website. Notice of the Annual Meeting and special meetings shall be sent and/or provided to the Members not less than ten (10) days but not

more than sixty (60) days prior to the holding of the meeting. Notice of regular meetings may be provided at the Annual Meeting but in no circumstance later than ten (10) days prior to the holding of the meeting(s).

All business brought before the Members may be acted upon at any Annual or regular meeting. However, only business contained in the notice of the special meeting may be acted upon by the Members. If a Member does not receive notice of a meeting, but attends the meeting, he/she shall be deemed to have waived notice of the meeting.

3.7 Voting Rights for Action(s) Taken at a Meeting. Each Member shall be entitled to one vote. Each Member shall designate a named individual, a Voting Representative, to vote on the Member's behalf and shall provide such written designation to the Secretary, or designee, of the Corporation. Only the Voting Representative may vote on matters brought before the Membership, including elections. During any meeting of the membership, Voting Representatives present in person or by written proxy shall be entitled to vote. An appointment by proxy shall be valid for thirty (30) days and shall automatically be revoked by the Member appointing the proxy if such Member's Voting Representative attends the meeting. In addition, a Member may revoke a proxy by notifying the Secretary, or designee, prior to voting of the proxy.

3.8 Voting Rights for Action(s) Taken Without a Meeting. When a vote of the Membership is required between meetings, the President or any two officers may call for an electronic vote by written ballot. Ballots may be distributed electronically, including via the PUG website. The Corporation shall implement reasonable measures to verify that each ballot cast between meetings was from a Voting Representative.

For electronic voting to represent an action of the Membership, the following conditions must be met: a) all Members must have access to a ballot; b) the ballot shall set forth each proposed action and provide for a vote for or against each proposed action; c) the ballot must state the number or percentage of votes cast required to pass the proposed action; d) the number of ballots cast must equal or exceed the quorum requirements set forth in Section 3.4; d) the ballot must be received within the voting period established on the ballot which shall not be less than ten (10) days and not more than thirty (30) days; e) receipt of a ballot shall be acknowledged by an Officer, or designee; f) a ballot must be submitted by a Voting Representative; g) all ballots shall be made public to the Members and Board; and, h) all ballots shall be maintained with the corporate records.

3.9 Member Duties. Duties of the Members are as follows:

- Maintain current dues to be entitled to voting rights.
- Establish the amount of dues.
- Elect Directors.
- Vote on issues provided for in Section 3.4.
- Abide by the Bylaws, laws and policies affecting the Corporation.

All other corporate powers necessary and incidental to taking action and conducting business of the Corporation shall be exercised by or under the authority of the Board.

3.10 Termination of Membership. Any Member may voluntarily terminate his/her Membership of the Corporation at any time by submitting a written notice of withdrawal to the Board. Any Member may be terminated without cause by a two-thirds (2/3) majority vote of a quorum of the Members at any meeting of the Membership or by a two-thirds (2/3) majority vote of the total number of Directors at any meeting of the Board. Membership shall be automatically terminated for failure to pay dues after thirty (30) days notice to the Member of failure to pay. Members shall not be entitled to vote during the thirty (30) day notice period for failure to pay unless such Member pays the dues prior to a vote.

3.11 Dues. Membership dues shall be established by a majority vote of the Members present in person or by proxy; or, by a majority of the electronic ballots cast by the Members.

3.12 Membership List. No Member, Voting Representative, or individual, with the exception of the Board of Directors, shall use the mailing list of the Corporation without prior approval of the Board. The Membership List may consist of multiple parts including, but not limited to, (a) current dues paying Members entitled to voting rights; (b) all prior members which have paid dues in the past but are not current and therefore not entitled to voting rights; and (c) all organizations requesting to be placed on the Membership List.

3.13 Procedures. Membership meetings shall use a modified version of parliamentary procedure to foster open discussion. Upon a vote of the Members, conflicts in procedures shall be resolved in accordance with the current edition of Robert's Rules of Order as a procedural guide unless determined otherwise in the Bylaws, written policy or laws of Tennessee.

#### **IV Board of Directors**

4.1 Duties. All corporate powers necessary and incidental to taking action and conducting business of the Corporation shall be exercised by or under the authority of the Board except for those reserved for the Members in Section 3.9. The Board shall have full responsibility for the financial affairs and for the ethical and professional standards of the Corporation.

Duties of the Board include, but are not limited to, the following:

- Elect the Officers of the Corporation.
- Evaluate the effectiveness of the Board.
- Schedule and plan meetings and/or programs.
- Approve an annual budget.
- Provide financial oversight of Corporation funds.
- Ensure the Corporation is adequately funded.

- Submit an annual financial report to the Membership and to the Board.
- Arrange for a periodic internal financial review of the Corporation's activities and funds.
- Record the date and terms of compensation arrangements with the information on which the Board based its decision.
- Ensure periodic reviews are conducted as set forth in Section 9.7.

4.2 Number. The Board will consist of not less than seven (7) and not more than eleven (11) Directors.

4.3 Qualifications. Any individual who is an employee of Member Institution may serve as a Director.

4.4 Election. Each Member's Voting Representatives shall have the right to cast one vote for the election of Directors to the Board. All election ballots may be sent and returned via written electronic transmission.

Election of the Directors shall take place prior to the Annual Meeting of the Membership. At least ten (10) weeks prior to the Annual Meeting of the Board, the request for nominees shall be announced and nominations will be accepted for at least three (3) weeks. At least six (6) weeks prior to the Annual Meeting the nominees will be announced and biographical information will be posted on the official PUG web site. The Member's' Voting Representatives shall be able to cast their votes via written ballot for at least two (2) weeks and up to the date provided on the ballot after the nominees have been announced. Those candidates receiving the greatest number of votes shall be declared elected. In the case of a tie vote for the last seats to be filled, a new ballot shall be cast for at least one week after the end the original voting period to determine which of the nominees receiving a tie vote shall be elected. Newly elected board members will be notified and announced at least four (4) weeks prior to the Annual Meeting.

4.5 Term of Office. The term of office of each Director shall be three (3) years with the terms being staggered to allow for three classes of approximately equal size. Upon resignation, removal or vacancy of a Director, the respective successor shall serve the remainder of the term.

4.6 Term Limitations. Any Director may serve four (4) consecutive terms whereby a partial term shall not be considered as a term. Any individual who has served four (4) consecutive terms, resigned or has been removed may be eligible for re-election as a Director after a period of one year.

Term limitations shall not apply to the service of Directors prior to the adoption of these Bylaws. The Members may, by a two-thirds (2/3) majority of the total number of votes cast, request a Director to serve more than four (4) consecutive terms and may extend such term limitations for an additional three (3) consecutive terms.

4.7 Removal or Resignation. Any Director who misses three (3) consecutive meetings shall be deemed to have resigned as a member of the Board and cease to be a member thereof on the date of the third absence. At a meeting following the resignation, at the Director's request the Director may be reinstated by a majority vote of the Directors. Any Director may be automatically terminated upon termination of the Membership for with the Director is a Voting Representative. In addition, a two-thirds (2/3) majority vote of the total number of Directors or a majority vote of a quorum of the Members may remove any Director at any time with or without cause at any annual, regular or specially called meeting.

Any Director may resign at any time by giving written or verifiable electronic notice to the President or to the Secretary. Any resignation shall take effect upon receipt or at the time specified in the notice. Any Director may verbally resign during an annual, regular or special meeting and such verbal resignation must be approved by a vote of the Board. No Director may resign if the Corporation would then be left without a duly elected Director in charge of its affairs, except upon notice to the Tennessee Secretary of State and upon notice to the Internal Revenue Service.

4.8 Vacancies. Any vacancy that may occur on the Board of Directors for any reason shall be filled by the Voting Representatives during the next annual election period. Any candidate receiving the largest number of votes shall assume the vacancy with the longer term available and shall serve for the duration of the unexpired term for which he/she was elected. If, due to such vacancies, the number of Directors is less than seven (7) as stated in Section 4.2, a majority vote of the total number of remaining Directors may elect Directors to fill such vacancies at any annual, regular or specially called meeting of the Board of Directors to serve until the next annual election.

4.9 Newly Created Directorships. The Members may vote to increase the number of Directors to the maximum number of eleven (11) as stated in Section 4.2 at any meeting of the Members. Such newly created directorships will be filled in accordance with Section 4.4.

4.10 Compensation. Directors shall serve without compensation. Directors may receive reimbursement for travel expenses and out-of-pocket expenses related to the work of the Corporation provided that such reimbursement is consistent with the policies of the Corporation. Reimbursement of expenses shall be reported in the notice of the next meeting of the Membership.

4.11 Advisory Council. The Board may request certain individuals, with a special interest in the Corporation and with knowledge specific to the needs of the Corporation, volunteer their time and expertise to act in an advisory capacity to the Board. Advisory Council Members shall not be entitled to any voting rights or other privileges provided for in these Bylaws. Upon request by the Board, the Nominating Committee shall make recommendations to the Board to approve the appointment or removal of a Advisory Council Member. A majority vote of a quorum of the Directors may remove any Advisory Council Member at any time with or without cause at any

annual, regular or specially called meeting. The Board may provide for term limits for Advisory Council Members at any time.

Any Advisory Council Member subsequently becoming a Director as provided for in Section 4.2 and elected pursuant to Section 4.4 shall be subject to the terms, requirements and privileges set forth for Directors in these Bylaws.

## **V Meetings of the Board**

5.1 **Annual, Regular and Special Meetings.** The Annual Meeting of the Board will take place in accordance with the Annual Meeting of the Membership. Newly elected Directors, elected by the Membership, shall immediately assume their positions and shall elect Officers and conduct any other business brought before the Board.

In addition to the Annual Meeting, the Board shall have a minimum of three (3) regular meetings during each Membership Term.

Special meetings may be called by the President, upon the written request of three (3) Directors or by written petition of any twenty (20) Members. No business shall be considered at any special meeting other than the purpose(s) mentioned in the notice given to each Director.

All meetings shall be held at a place designated by the President. In the absence of a quorum, a majority of the Directors present at any meeting may adjourn the meeting to another place, date or time. Notice of any meeting adjourned and rescheduled in this manner shall be given as in Section 5.5.

5.2 **Quorum.** A quorum shall consist of a majority of the total number of Directors as described in Section 4.2. Directors present via electronic transmission where all persons participating in the meeting can hear and speak to each other will be considered present at such meeting and shall be counted when determining quorum.

5.3 **Voting.** Each Director shall have one vote. Routine business and elections shall be determined by a majority vote of a quorum of the Directors. Except when the law or these Bylaws require otherwise, a majority vote of a quorum of the Directors shall determine all other matters. Proxies may not be used.

With the exception of the Officers elected pursuant to Section 6.2, all voting of the Directors may take place via electronic transmission either by voice or via written electronic transmission. The Corporation shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of electronic transmission is a Director. However, upon demand by a Director entitled to vote, the Directors shall vote by ballot pursuant to Section 5.4.

5.4 **Action Taken Without a Meeting.** Any action taken or approved at any meeting of the Board, however called and noticed or wherever held, shall be valid if a quorum was present at such meeting and if either before or after the meeting, a majority of the total number of Directors sign a written waiver of notice or a written consent to holding such meeting. All such waivers or consents shall be filed with the corporate records or made a part of the minutes of the meeting.

When a vote of the Board is required between meetings, the President or any two (2) Officers may call for an electronic vote by ballot via email or fax. For electronic voting to represent an action of the Board, the following conditions must be met: a) all Directors must have access to a ballot; b) the ballot shall set forth each proposed action and provide for a vote for or against each proposed action; c) the ballot must state the number or percentage of votes cast required to pass the proposed action; d) a majority of the total number of Directors must vote thereby ensuring a quorum of the Board has voted; e) the ballot must be received within the voting period established on the ballot which shall not be less than twenty-four (24) hours and not more than three (3) days; f) receipt of a ballot shall be acknowledged by an Officer, or designee; g) a ballot must be submitted by a Director; h) all ballots shall be made public to the Board; and, i) all ballots shall be maintained with the corporate records.

The Corporation shall implement reasonable measures to verify that each ballot cast between meetings was from a Director. Electronic voting shall not be used to amend the budget, or create or amend the financial policies of the organization.

5.5 Notice. All notices may be provided via written electronic notice, including via the PUG website. Notice of the Annual Meeting and special meetings shall be sent and/or provided to Directors not less than ten (10) days but not more than thirty (30) days prior to the holding of such meetings. Only business contained in the notice of the special meeting may be acted upon by the Directors. Notice of regular meetings may be provided at the Annual Meeting but in no circumstance later than ten (10) days prior to the holding of the meeting(s).

If a Director does not receive notice of a meeting, but attends the meeting, he/she shall be deemed to have waived notice of the meeting.

5.6 Procedures. The Board and committees shall use a modified version of parliamentary procedure to foster open discussion. Upon a vote of the Board, conflicts in procedures shall be resolved in accordance with the current edition of Robert's Rules of Order as a procedural guide unless determined otherwise in the Bylaws, written policy or laws of Tennessee.

## **VI Officers of the Board**

6.1 Officers. The Board will consist of a President, a President-Elect, a Secretary, a Treasurer and other Officers as deemed necessary by the Board.

6.2 Election. At the Annual Meeting, the President-Elect shall automatically assume the position of President with the Board electing a President-Elect, a Secretary and a Treasurer from the Directors elected by the Members.

The Board may elect other Officers from within the Board or Voting Representatives as determined by the Board. Each Officer shall hold his/her office until he/she resigns, is removed by the Board, is unable to serve, or his/her successor is elected.



6.3 Term of Office. The term of office shall begin on the day following the Annual Meeting. An Officer shall serve for a one (1) year term. Officers may hold the same office for no more than three (3) consecutive terms. Upon resignation, removal or vacancy of an Officer, the respective successor shall serve the remainder of the term whereby a partial term shall not be considered as a term when determining term limitations. The Members may, by a two-thirds (2/3) majority vote, request an Officer serve more than three (3) consecutive terms and may extend such term limitations for an additional three (3) consecutive terms.

6.4 President. The President shall be the principal Officer, subject to the control of the Board, and shall have general supervision and direction of the business and Officers of the Corporation. He/she shall preside at all meetings of the Board and meetings of the Members and shall sign the minutes of the meetings over which he/she presided.

At the Annual Meeting of the Membership and the Annual Meeting of the Board, he/she shall submit a complete report of the operations of the Corporation's affairs and shall report to the Members and Board all such matters coming to his/her attention and relating to the interest of the Members and Board.

The President shall have such other powers and perform such other duties as may be prescribed by the Members, Board or Bylaws.

6.5 President-Elect. The President-Elect shall assume the position of President during the election at the next Annual Meeting with such duties of President beginning on the first day after the Annual Meeting. In the absence or disability of the President of the Board, the President-Elect shall perform all the duties of the President and, when so acting, shall have all the powers of, and be subject to all the restrictions upon the President. The President-Elect shall have such other powers and perform such other duties as from time to time may be prescribed for him/her by the Board.

6.6 Secretary. The Secretary, or designee, shall give notice of all meetings of the Members and Board as required by the Bylaws or by law. He/she, or such designee, shall keep a book of minutes of all meetings of the Members and Board with the time and place of holding, whether regular or special, and, if special, how authorized, the notice given, the names of those present at the meetings, the number present or represented at meetings, the proceedings thereof and, verification of those present via electronic transmission in the case of Board meetings. He/she, or the individual taking the minutes, shall sign the minutes of the meetings and ensure such minutes are available for approval at the following meeting of the Members or Board.

The Secretary, or designee, shall exhibit at all reasonable times, upon the request of a Member or Director, the Bylaws, Board book, and the minutes of the proceedings of the Members and/or Board. In addition, he/she shall keep, or cause to be kept, at the principal office all documents required for public inspection by the Internal Revenue Service.

The Secretary shall have such other powers and duties as may be prescribed by the Board or the Bylaws and such office may be combined with that of the Treasurer.

6.7 Treasurer. The Treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the Corporation. He/she shall ensure the books of account are open to inspection by any Member or Director at all reasonable times; ensure a financial statement is provided to the Members and Board at their respective Annual Meetings; and, shall provide a report of the Corporation's financial affairs at meetings of the Members and Board when requested by a Member or Director. In addition, the Treasurer shall ensure the appropriate oversight and implementation of the financial policies and procedures.

The Treasurer shall have such other powers and duties as may be prescribed by the Board or the Bylaws and such office may be combined with that of the Secretary.

6.8 Appointment of Officers. The Board may appoint, or may empower the President to appoint, such other Officers as the business of the Corporation may require, each of whom shall hold office, have authority and perform duties until the next Annual Meeting or as the Board may determine.

6.9 Removal and Resignation. Any Officer may be removed, either with or without cause, by a vote of a majority of the total number of Directors, at any annual, regular or special meeting.

Any Officer may resign at any time by giving notice to the President or Secretary. Any such resignation shall take effect at the date of the receipt of such notice or at any later time specified in the notice; and, unless otherwise specified in the notice, the acceptance by the Board of such resignation shall not be necessary to make it effective. Any Officer may verbally resign during an annual, regular or special meeting and such verbal resignation must be approved by a vote of the Board.

6.10 Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled in accordance with Section 6.8 until the next Annual Meeting.

6.11 Delegation of Duties. In case of the absence or disability of any Officer, the Board may delegate the powers or duties of such Officer to any other Officer, Director or Member until the next Annual Meeting.

## **VII Committees of the Board**

7.1 Committees. The Board shall have the power to create, revoke or modify any committee deemed necessary. The President shall have the power to appoint a

Chairperson of any committee or to delegate such appointive powers to any other appropriate Director.

Each committee shall keep regular minutes of its proceedings and report the same to the Board as the Board may require. Meetings and actions of committees shall be governed by, noticed, and taken in accordance with the provision of these Bylaws concerning meetings of the Board, with such changes in the context of such bylaw provisions as are necessary to substitute the committee and its members for the Board, except that the time for regular and special meetings of committees may be fixed by resolution of the Board or by the committee. The Board may adopt additional rules and regulations pertaining to the conduct of meetings with committees to the extent that such rules and regulations are not inconsistent with the provisions of these Bylaws.

## **VIII Indemnification and Insurance**

8.1 **General Rule.** The Corporation shall, to the fullest extent of the law, indemnify any person (and said person's heirs, executors and administrators) who was or is a party, witness or other participant or is threatened to be made a party, witness or participant to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (including, without limitation, actions by or in the right of the Corporation) by reason of the fact that said person is or was a Director or Officer of the Corporation, or is or was serving at the request of the Corporation as a Director or Officer of the Corporation, or is or was serving at the request of the Corporation as a Director or Officer of another Corporation, partnership, joint venture, trust or other enterprise, against all expenses (including attorneys' fees, court costs, transcript costs, fees of experts and witnesses, travel expenses and all other similar expenses), judgments, fines, penalties and amounts paid in settlement actually and reasonable incurred by said person in connection with such action, suit or proceeding. Indemnification shall not be provided in any case where the conduct giving rise to the claim for indemnification is determined by a court to have constituted willful misconduct, recklessness or improper and unauthorized private inurement and/or self-dealing.

8.2 **Advance Payment of Expenses.** The Corporation shall advance all reasonable expenses (including attorneys' fees, court costs, transcript costs, fees of experts and witnesses, travel expenses and all other similar expenses) reasonably incurred in connection with the defense of or other response to an action, suit or proceeding referred to in Section 8.1 above upon receipt of an undertaking by or on behalf of the person seeking the advance to repay all amounts advanced if it shall ultimately be determined upon final disposition of such action, suit or proceeding that said person is not entitled to be indemnified by the Corporation.

8.3 **No Duplication of Payments.** The Corporation shall not be liable under this Article VIII to make any payment of amounts otherwise indemnifiable hereunder if and to the extent that the person seeking indemnification has otherwise actually

received payment therefore under any insurance policy, contract, agreement or otherwise. In the event that the corporation makes an advance payment of expenses to a person, such person shall repay to the Corporation the amount so advanced, if and to the extent that said person subsequently receives payment therefore under any insurance policy, contract, agreement or otherwise.

8.4 Insurance. The Corporation may purchase and maintain at its own expense one or more policies of insurance to protect itself and to protect any Director, Officer, employee or agent of the Corporation or of another Corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss incurred by such person in such capacity, whether or not the Corporation would have the authority to indemnify such person against any such expense, liability of loss under this Article VIII or under law.

8.5 Indemnification Agreements. The Corporation shall have authority by vote of a majority of the Directors to enter into an Indemnification Agreement with any person who may be indemnified by the Corporation pursuant to the provisions of this Article VIII or otherwise. Any such Indemnification Agreement may contain such terms and conditions as a majority of the Directors shall, in the exercise of the discretion, determine to be necessary or appropriate. Such terms and conditions may include provisions for greater or lesser indemnification than provided for in this Article VIII, provisions establishing procedures for the processing or approval of indemnification claims, and other provisions. The fact that the Corporation has not entered into an Indemnification Agreement with any person shall not in any way limit the indemnification rights of such person under this Article VIII or otherwise.

8.6 Non-Exclusivity. The right to indemnification and to the payment of expenses incurred on defending against or otherwise responding to any action, suit or proceeding in advance of its final disposition as set forth in this Article VIII shall not be exclusive of any other rights which any person may now have or hereafter acquire under any agreement, vote of disinterested Directors, or under any applicable law or otherwise.

8.7 Survival of Rights. The indemnification rights provided to a person under the provisions of this Article VIII shall continue after such person ceases to be a Director, Officer, employee or agent of the Corporation or of another entity, as to any action taken, any failure to take action, or any events which occurred while such person was a Director, Officer, employee or agent of the Corporation or of another entity.

8.8 Modification or Repeal. The provisions of this Article VIII may be modified or repealed in accordance with the procedures for amending these Bylaws; provided, however, that any such modification or repeal shall not have any effect upon the indemnification rights of any person as they relate to any action taken, any failure to take action, or events which occurred prior to the effective date of modification or repeal.

## **IX Conflict of Interest**

9.1 **Purpose.** The purpose of the conflict of interest policy is to protect the tax-exempt status of this Corporation's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an Officer, Director or Member of the Corporation or might result in a possible excess benefit transaction. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interests applicable to nonprofit and charitable organizations.

9.2 **Definitions.** Interested Person: any Director, Officer, Member, or member of a committee with board delegated powers, who has a direct or indirect financial interest, as defined below, is an interested person. If a person is an interested person with respect to any entity in which the Corporation is a part or has a close connection with, he/she is an interested person.

Financial Interest: A person has a financial interest if the person has, directly or indirectly, through business, investment or family: (a) An ownership or investment interest in any entity with which the Corporation has a transaction or arrangement, (b) A compensation arrangement with the Corporation or with any entity or individual with which the Corporation has a transaction or arrangement or, (c) A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Corporation is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors which are not insubstantial. A financial interest is not necessarily a conflict of interest. Under this article, a person who has a financial interest may have a conflict of interest if the board or applicable committee determines that a conflict of interest exists.

9.3 **Procedures.** Duty to Disclose: In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be given the opportunity to disclose all material facts to the Directors, Members and members of committees with board delegated powers considering the proposed transaction or arrangement.

Determining Whether a Conflict of Interest Exists: After disclosure of the financial interest and all material facts, and after any discussion with the interested person, he/she shall leave the Board of Directors, Membership or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining board, Members or committee members shall decide if a conflict of interest exists.

Procedures for Addressing the Conflict of Interest: (a) An interested person may make a presentation at the Board of Directors, Membership or committee meeting, but after the presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest. (b) The President of the Board of Directors or Chairperson of the committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement. (c) After

exercising due diligence, the Board of Directors, Membership or committee shall determine whether the Corporation can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest. (d) If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the Board of Directors, Membership or committee shall determine by a majority vote of the disinterested Directors whether the transaction or arrangement is in the Corporation's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination it shall make its decision as to whether to enter into the transaction or arrangement.

Violations of the Conflicts of Interest Policy: (a) If the Board of Directors, Membership or committee has reasonable cause to believe a Director, Member or committee member has failed to disclose actual or possible conflicts of interest, it shall inform the Director or member of the basis for such belief and afford the Director or member an opportunity to explain the alleged failure to disclose. (b) If, after hearing the Director's or member's response and after making further investigation as warranted by the circumstances, the Board of Directors, Membership or committee determines the Director or member has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

9.4 Records of Proceedings. The minutes of the Board of Directors, Membership and all committees with board delegated powers shall contain: (a) The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the Board of Directors', Membership's or committee's decision as to whether a conflict of interest in fact existed. (b) The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

9.5 Compensation. (a) A voting member of the Board of Directors or Membership who receives compensation, directly or indirectly, from the Corporation for services is precluded from voting on matters pertaining to that Director's or member's compensation. (b) A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Corporation for services is precluded from voting on matters pertaining to that member's compensation. (c) No voting member of the Board of Directors, Membership or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Corporation, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

9.6 Annual Statements. Each Director, Officer, Member and member of a committee with board delegated powers shall annually sign a statement which affirms such person: (a) Has received a copy of the conflicts of interest policy, (b) Has

read and understands the policy, (c) Has agreed to comply with the policy, and (d) Understands the Corporation is charitable and in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

9.7 Periodic Reviews. To ensure the Corporation operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects: (a) Whether compensation arrangements and benefits are reasonable, based on competent survey information and the result of arm's length bargaining and (b) Whether partnerships, joint ventures, and arrangements with management organizations conform to the Corporation's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in inurement, impermissible private benefit or in an excess benefit transaction.

9.8 Use of Outside Advisors. When conducting the periodic reviews as provided for in this Article IX, the Corporation may, but need not, use outside advisors. If outside advisors are used, their use shall not relieve the Board of Directors of its responsibility for ensuring periodic reviews are conducted.

## **X Construction**

10.1 Fiscal Year. The Fiscal Year of the Corporation shall begin on the first day of July in each year and end on the last day of June of each succeeding year.

10.2 Construction and Terms. These Bylaws replace all prior bylaws. Therefore, if there is any conflict between the provisions of these Bylaws and any prior adopted bylaws these Bylaws shall govern. Should any of the provisions or portions of these Bylaws be held unenforceable or invalid for any reason, the remaining provisions and portions of these Bylaws shall be unaffected by such holding. All references in these Bylaws to a Section or Sections of the Internal Revenue Code shall be to such Sections of the Internal Revenue Code of 1986 as amended from time to time, or to corresponding provisions of any future federal tax code. If there is any conflict between the provisions of these Bylaws and any internal policies and procedures, the provisions of these Bylaws shall govern. However, internal policies and procedures approved by the Board of Directors may allow for additional or more stringent requirements to be placed on the Directors, Officers, Members and/or committee members. If there is any conflict between the provisions of these Bylaws and the Charter of the Corporation as filed with state of Tennessee, the provisions of the Charter shall govern.

10.3 Amendments. Provided that written notice of the proposed alteration, amendment or revision has been provided to the members at least thirty (30) days in advance of a vote, these Bylaws may be altered, amended, or revised upon the

affirmative vote of two-thirds (2/3) of the votes cast by the members or by a majority of the members, whichever is less, and further provided that such proposed alteration, amendment or revision may be further amended at the meeting upon the affirmative vote of two-thirds (2/3) of the votes cast by the members or by a majority of the members, whichever is less.

**THESE AMENDED AND RESTATED BYLAWS OF POISE USERS GROUP, INC. WERE ADOPTED** by the Members of the Corporation effective on the \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Tamya Stallings, President

\_\_\_\_\_  
Ken Clipperton, Secretary