

BYLAWS OF THE DIVE PIRATES FOUNDATION

**A Non-Profit Organization
70 W Thymewood Place
The Woodlands, TX 77382 www.divepirates.org
877-893-3983**

ARTICLE 1 - ORGANIZATION

1. The name of this non-profit corporation is the Dive Pirates Foundation (the "Foundation" or "Dive Pirates").
2. The organization shall have a seal which shall be in the following form:
3. The principal office of the Foundation in the State of Texas shall be located in The Woodlands, County of Montgomery. The Foundation may have such other offices, either within or without the State of Texas, as the Board of Directors may determine or as the affairs of the Foundation may require from time to time.
4. The Foundation shall have and continuously maintain in the State of Texas a registered office, and a registered agent whose office is identical with such registered office, as required by the Texas Non-Profit Foundation Act. The registered office may be, but not need be, identical with the principal office of the Foundation in the State of Texas, and the address of the registered office may be changed from time to time by the Board of Directors.
5. The Foundation is a not for profit organization and is to be operated exclusively for one or more of the purposes specified in Section 501(c)(3) of the Internal Revenue Code, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, and in the promotion of social welfare in accordance with the purposes stated in the Foundation's Articles of Incorporation. The net earnings of the Foundation shall be devoted exclusively to charitable and educational purposes and shall not inure to the benefit of any private individual. No Director or person from whom the Foundation may receive any property or funds shall receive or shall be entitled to receive any pecuniary profit from the operation thereof, and in no event shall any part of the funds or assets of the Foundation be paid as salary or compensation to, or distributed to, or inure to the benefit of any member of the Board of Directors; provided, however, that (a) reasonable compensation may be paid to any Director while acting as an Agent, including consultant, contractor or employee of the Foundation for services rendered in affecting one or more of the purposes of the organization; and (b) any Director may, from time to time, be reimbursed for his or her actual and reasonable expenses incurred in connection with the administration of the affairs of the Foundation.

ARTICLE 2 - PURPOSE

1. The Foundation as formed will raise funds as a charitable foundation for the following purposes:
 - Train medically qualified disabled people to SCUBA dive as Adaptive Divers.
 - Train medically qualified able-bodied people as Adaptive Buddies.
 - Equip medically qualified Adaptive Divers with reliable SCUBA equipment.
 - Provide travel opportunities for these Adaptive Divers and their Adaptive Buddies to dive with able-bodied divers in a mainstream environment.

- Educate the population in general and the SCUBA diving population in particular about the capabilities of Adaptive Divers to gain their acceptance at all accessible dive locations/resorts.

2. Mission Statement:

Based on camaraderie, compassion, freedom to dive, and the Code of Conduct, Dive Pirates will support, train, equip, and provide dive travel to individuals with disabilities through Adaptive SCUBA Diving.

3. Vision Statement:

Dive Pirates will create a community of Adaptive Divers that will dive and travel in the mainstream world of SCUBA Diving through education and overcoming obstacles.

ARTICLE 3 – MEMBERSHIP

Article V of the Articles of Incorporation are amended to add members to Dive Pirates. The Foundation shall have

three (3) classes of members. Membership levels of \$500 or more shall have voting rights. The designation of such classes and the qualifications and rights of the members of such classes shall be as follows:

Dive Pirate

1. Open to all SCUBA divers or friends of SCUBA divers.
2. Must perform a benign act of piracy (practical joke).
3. Must be current on dues.

Adaptive Diver

1. Must be disabled with limitations of mobility that prevent the individual from qualifying as an Open Water Diver.
2. Must be medically cleared to dive by a licensed physician.
3. Must be fully trained as an Adaptive Diver.

Adaptive Buddy

1. Must be able-bodied.
2. Must be medically cleared to dive by a licensed physician.
3. Must be fully and specifically trained as an Adaptive Buddy.
4. Is not required, but should have additional training as an Advanced Open Water Diver and First Aid/CPR.

1. Dues.

- Dues will be paid by *Dive Pirate* members only. *Adaptive Divers* and *Adaptive Buddies* are not expected to pay dues.
- Dues will be set by a majority vote of the Board of Directors.
- Dues will be paid annually into the Dive Pirates Foundation.

2. Privileges of Membership.

- Members will receive a specialty dive or clothing item as approved by the Board of Directors.
- Members may receive preferred rates on Dive Pirate Foundation sanctioned dive travel.

- Membership levels of \$500 or more for individuals at least 18-years-of-age shall have voting rights and may attend the Annual Members meeting.

3. Scope.

The scope of membership to Dive Pirates is not limited to state, country or dive training organization. Local chapters may be created to raise funds and attend to their own Adaptive Community. These chapters must adhere to the Bylaws of the Dive Pirates Foundation and the Articles of Incorporation.

4. Voting Rights.

Each member shall be entitled to one vote on each matter submitted to a vote of the members. At all meetings, except for the election of officers and Directors, all votes shall be by voice vote.

5. Termination of Membership.

The Board of Directors, by affirmative vote of two-thirds (2/3) of all of the members of the Board, may suspend or expel a member for cause after an appropriate hearing and may, by a majority vote of those present at any regularly constituted meeting, terminate the membership of any member who becomes ineligible for membership, or suspend or expel any member who shall be in default in the payment of dues for the period fixed in Article 3 of these Bylaws.

6. Resignation.

Any member may resign by filing a written resignation with the Secretary, but such resignation shall not relieve the member so resigning of the obligation to pay any dues, assessments, or other charges theretofore accrued and unpaid.

7. Transfer of Membership.

Membership in this Foundation is not transferable or assignable.

ARTICLE 4 – MEETINGS

1. Annual Meeting.

The annual membership meeting of this organization shall be held annually in the first quarter of each fiscal year.

The secretary will cause to be emailed to every member in good standing at his or her address as it appears in the membership roll book a notice telling the time and place of such annual meeting. Members in membership levels of \$500 or more shall have voting rights at the annual meeting.

Regular meetings of this organization may also take place via the internet and the use of email responses.

2. Special Meeting.

Special meetings of the members may be called by the President, the Board of Directors, or not less than ten percent (10%) of the members having voting rights.

3. Place of Meeting.

The Board of Directors may designate any place, either within or without the State of Texas, as the place of meeting for any annual meeting or for any special meeting called by the Board of Directors. If no designation is made or if a special meeting be otherwise called, the place of meeting shall be the registered office of the Foundation in the State of Texas; but if all of the members shall meet at any time and place, either within or without the State, and consent to holding of a meeting, such meeting shall be valid without call or notice, and at such meeting, any corporate action may be taken.

4. Notice of Meetings.

Written or printed notice stating the place, day, and hour of any meeting of members shall be delivered, either personally or e-mail, to each member entitled to vote at such meeting, not less than ten (10) nor more than fifty (50) days before the date of such meeting, by or at the direction of the President, or the Secretary, or the officers or persons calling the meeting. In case of a special meeting or when required by statute or these bylaws, the purpose or purposes for which the meeting is called shall be stated in the notice. If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the member at his address as it appears on the records of the Foundation, with postage thereon paid.

5. Action without Meeting by Written Consent.

Any action required by law to be taken at a meeting of the members or any action which may be taken at a meeting of the members may be taken without a meeting, if a consent in writing, setting for the action so taken, shall be signed by all of the members entitled to vote with respect to the subject matter thereof.

6. Quorum.

The presence of more than fifty percent (50%) of the members will constitute a quorum and will be necessary to conduct the business of the organization; but a lesser number may adjourn the meeting for a period of not more than two (2) weeks from the date scheduled by these bylaws and the secretary will cause of notice of this scheduled meeting to be sent to all those members who were not present at the meeting originally called. A quorum as hereto fore set forth will be required at any adjourned meeting.

7. Proxies.

At any meeting of members, a member entitled to vote may vote by proxy executed in writing by the member or by his duly authorized attorney-in-fact. Nor proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy.

8. Voting by Mail.

Where Directors or officers are to be elected by members or any class or classes of members, such election may be conducted by mail in such manner, as the Board of Directors shall determine.

9. Action by Conference Equipment.

At any meeting of members or Directors, a member or Director may participate in and hold a meeting by means of a conference telephone, similar communications equipment or other suitable electronic communications equipment, including video conferencing technology, or the internet, or a combination thereof, by means of which all persons participating in the meeting can hear each other and participate in the meeting. Participation in such meeting will constitute attendance and presence in person at such meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

ARTICLE 5 – VOTING

At all meetings, except for the election of officers and Directors, all votes shall be by voice vote.

For the election of officers, ballots shall be provided for the membership for voting and shall be anonymous.

Ballots shall be counted by Inspectors of Elections. Inspectors cannot be a candidate for office or appear on the ballot.

ARTICLE 6 – ORDER OF BUSINESS

- a. Roll call
- b. Reading of the minutes of the preceding meeting
- c. Reports of the officers
- d. Reports of the committees
- e. Old and unfinished business
- f. New business
- g. Announcements
- h. Adjournment

All meetings shall be conducted in accordance with Roberts Rules of Order, latest Edition.

ARTICLE 7 – OFFICERS

1. Officers.

The officers of Dive Pirates Foundation will be as follows:

- President
- President-elect
- Treasurer
- Secretary

The Secretary shall be selected by the Board of Directors and approved by a simple majority of the voting members at the Annual Meeting every three (3) years. The Treasurer shall be selected by the Board of Directors and approved by a simple majority of the members at the Annual Meeting every three (3) years. The President-Elect shall be selected by the Board of Directors and approved by a simple majority of the members at the Annual Meeting every three years. Each officer shall serve a term of three (3) years in each position. The

Secretary and the Treasurer will not be limited in terms served. The other Foundation's officers shall serve as a progressive leadership chain. At the conclusion of each three (3) year term, the President-elect shall assume the duties of the President, and the President shall become the Immediate Past President, whom shall serve on the Board of Directors.

The President shall preside at all membership meetings, by virtue of the office be chairperson of the Board of Directors, present at each annual meeting of the organization an annual report of the work of the organization, appoint all committees, temporary or permanent, see that all books, reports and certificates as required by law are properly kept or filed, be one of the officers who may sign the checks or drafts of the organization, and have such powers as may be reasonably constructed as belonging to the chief executive of any organization.

The President-elect shall in the event of the absence or inability of the president to exercise his or her office become acting president of the organization with all the rights, privileges and powers as if he or she had been duly elected president.

The Treasurer shall have the care and custody of all monies belonging to the organization, be solely responsible for such monies or securities of the organization and be one of the officers who shall sign checks or drafts of the organization. No special fund may be set aside that shall make it unnecessary for the Treasurer to sign the checks issued upon it. The Treasurer shall render at stated periods as the Board of Directors shall determine a written account of the finances of the organization and such report shall be physically affixed to the minutes of the Board of Directors of such meeting and shall exercise all duties incident to the office of the Treasurer.

The Secretary shall keep the minutes and records of the organization in appropriate books, file any certificate required by any statute, federal or state, give and serve all notices to members of the organization, be the official custodian of the records and seal of the organization and be one of the officers required to sign checks and drafts of the organization, present to the membership at any meetings any communication addressed to the secretary of the organization, submit to the Board of Directors any communications which shall be addressed to the secretary of the organization, attend to all correspondence of the organization and exercise all duties incident to the office of secretary.

Officers shall by virtue of their office be members of the Board of Directors, and shall be voting members of the Board.

No officer or Director shall for reason of the office be entitled to receive any salary or compensation.

2. Removal.

Any officer elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interests of the Foundation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the officer so removed.

3. Vacancy.

A vacancy in any office because of death, resignation, disqualification or otherwise, may be filled by the Board of Directors for the un-expired portion of the term.

ARTICLE 8 – BOARD OF DIRECTORS

1. General Powers.

The affairs of the Foundation shall be managed by the Board of Directors. Directors need not be residents of Texas.

2. Number and Tenure.

The number of the Directors shall be thirteen (13) four (4) Directors shall be the officers of the Foundation and nine (9) shall be selected by the Members pursuant to this Article 8..The number of Directors shall be set from time to time by the resolution of the Directors. The Directors to be chosen for the ensuing year shall be chosen at the annual meeting of this organization in the same manner and style as the officers of the organization and they shall serve for a term of three (3) years. The Directors shall be divided into three (3)classes as nearly equal in number as possible and shall be known as Class I, Class II and Class III, with each Board position classified as seat A, B and C (for example, Class I shall have three seats available and called Class I-A, I-B, and I-C. Each Director within a Class shall hold office for three (3) years or until his or her successor is elected and qualified, or until his or her earlier death, resignation or removal. A Director may serve no more than two consecutive terms as solely a Director. At each subsequent annual meeting of members, the successor of those Directors whose term then expires shall be elected to serve a term of three (3) years and until their successors are elected and qualified or until their earlier death, resignation, or removal. The Immediate Past President shall automatically serve as a Director in one of the seats available in the then-elected Class, in such case, the Board shall nominate and the members shall approve only two seats within the Class.

3. Duties.

The Board of Directors shall have the control and management of the affairs and business of this organization. Such Board of Directors shall only act in the name of the Foundation when it shall be regularly convened by its chairman after due notice to all the Directors of such meeting.

4. Quorum.

Seven (7) of the members of the Board of Directors shall constitute a quorum and the meetings of the Board of Directors shall be held at least quarterly. These meetings may be held via teleconference if travel is not deemed practical.

5. Voting and Proxies.

Each Director shall have one vote and may not be done by proxy.

6. Meetings.

The Board of Directors may make such rules and regulations covering its meetings as it may, in its discretion, determine necessary.

7. Vacancies.

Vacancies in the Board of Directors shall be filled by a vote of the majority of the remaining members of the Board of Directors for the balance of the vacated term.

8. Governance.

The President of the organization by virtue of the office shall be chairperson of the Board of Directors. The secretary of the Foundation will serve as the secretary of the Board of Directors.

10. Removal.

A Director may be removed when sufficient cause exists for such removal. The Board of Directors may entertain charges against any Director. A Director may be represented by counsel upon any removal hearing. The Board of Directors shall adopt such rules as it may, in its discretion, consider necessary for the best interest of the organization, for this hearing.

ARTICLE 9 – COMMITTEES; ADVISORY COUNCIL

All committees (special and standing and volunteer) of the organization shall be created by the Board of Directors with their term of office of not more than three (3) years or less if terminated by the Board. There will be no permanent committees. Each committee may exercise the authority granted to it by the Board's enabling provision. Committees may include an audit committee, executive committee, nominating committee, or any other committee appointed pursuant to these Bylaws. Rules governing procedures for meetings of any Committee of the Board shall be established by the Board of Directors or, in the absence thereof, by the Committee itself. If no rules are established, then the rules that govern the Directors shall govern each Committee.

The Board may appoint, with the approval of the Board, an Advisory Council to promote the objectives of the Foundation, further its purposes, and advise the Board of Directors concerning the general policies applicable to, and the progress of the work of, the Foundation.

ARTICLE 10 – AMENDMENTS

These bylaws may be altered, amended, repealed or added to by an affirmative vote of more than fifty percent (50%) of members.

ARTICLE 11 – FUND RAISING

All funds raised will go directly to qualified recipients or to the operations of the foundation. No member, officer or Director shall receive compensation.

Funds will be raised by a combination of:

- Membership dues;
- Direct solicitation;
- Grants from private or public foundations;
- Local chapter fund raising events;
- Donations in-kind of travel or equipment;

- Annual fund raising event; and
- Any ad-hoc fund raising events as may be deemed necessary.

ARTICLE 12 – QUALIFICATIONS FOR RECIPIENTS

1. All candidates must qualify to receive funds for training and travel.
2. Qualifications include:
 - Clearly recognized disability that prevents the individual to obtain a standard Open Water Certification; *and*
 - Inability to pay for services, *or*
 - Disability as a result of injuries received in active military service.
3. All candidates must have a medical release signed by a licensed physician and received by Dive Pirates prior to beginning training
4. Candidates from military service must be fully and honorably discharged prior to travel for diving.
5. Dive Pirates Foundation will ensure that all Adaptive Divers and Adaptive Buddies have active Divers Alert Network (DAN) insurance prior to travel for diving. Dive Pirates will pay for the Adaptive Diver (if necessary) but the Adaptive Buddy will be responsible for paying for their own DAN insurance.

ARTICLE 13 – CONTRACTS, CHECKS, DEPOSITS, FUNDS

1. Contracts.

The Board of Directors may authorize any officer or officers, agent or agents of the Foundation, in addition to the officers so authorized by these bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Foundation. Such authority may be general or confined to specific instances.

2. Checks and Drafts.

All checks, drafts, or orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the Foundation shall be signed by such officer or officers, agent or agents of the Foundation and in such manner as shall from time to time be determined by resolution of the Board of Directors. In the absence of such determination by the Board of Directors, such instruments shall be signed by the Treasurer or an Assistant Treasurer and countersigned by the President or President-elect of the Foundation.

3. Deposits.

All funds of the Foundation shall be deposited from time to time to the credit of the Foundation in such banks, trust companies, or other depositories as the Board of Directors may select.

4. Gifts.

The Board of Directors may accept on behalf of the Foundation any contribution, gift, bequest, or devise for the general purposes or for any special purpose of the Foundation.

ARTICLE 14 – BOOKS, RECORDS AND FISCAL YEAR

1. Books and Records.

The Foundation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its members, Board of Directors, and committees having any of the authority of the Board of Directors, and shall keep at the registered or principal office a record giving the names and addresses of the members entitled to vote. All books and records of the Foundation may be inspected by any member or his agent or attorney for any proper purpose at any reasonable time.

2. Fiscal Year.

The Fiscal year of the Foundation shall begin on the first day of July and end on the last day of June in each year.

ARTICLE 15 – INDEMNIFICATION

1. Indemnification.

The Foundation shall, to the extent permissible by law, indemnify each person who may serve or who served at any time as an officer, Director or employee of the Foundation against all expenses and liabilities, including, without limitation, counsel fees, judgments, fines, excise taxes, penalties and settlement payments, reasonably incurred by or imposed upon such person in connection with any threatened, pending or completed action, suit or proceeding in which he or she may become involved by reason of his or her service in such capacity; provided that no indemnification shall be provided for any such person with respect to any matter as to which he or she shall have been finally adjudicated in any proceeding not to have acted in good faith in the reasonable belief that such action was in the best interests of the Foundation, including acts of gross negligence and willful misconduct ; and further provided that any compromise or settlement payment shall be approved by a majority vote of a quorum of Directors who are not at the time parties to the proceeding.

The indemnification provided hereunder shall inure to the benefit of the heirs, executors and administrators of persons entitled to indemnification hereunder. The right of indemnification under this Article 15 shall be in addition to and not exclusive of all other rights to which any person may be entitled.

No amendment or repeal of the provisions of this Article 15 which adversely affects the right of an indemnified person under this Article 15 shall apply to such person with respect to those acts or omission which occurred at any time prior to such amendment or repeal, unless such amendment or repeal was voted by or was made with the written consent of such indemnified person.

This Article 15 constitutes a contract between the Foundation and the indemnified officers, Directors, and employees. No amendment or repeal of the provisions of this Article 15 shall apply to such officer, Director or employee with respect to those acts or omissions which occurred at any time prior to such amendment or repeal.

ARTICLE 16 – CONFLICT OF INTEREST

1. Conflict Defined.

A conflict of interest may exist when the interests or activities of any Director, Officer or staff member may be seen as competing with the interests or activities of the Foundation, or the Director, Officer or staff member derives a financial or other material gain as a result of a direct or indirect relationship.

2. Disclosure Required.

Any possible conflict of interest shall be disclosed to the Board of Directors by the person concerned, if that person is a Director or an Officer of the Foundation, or to the President, or to such person or persons as he or she may designate, if the person is not a Director or Officer of the Foundation.

3. Abstinance from Vote.

When any conflict of interest relates to a matter requiring action by the Board of Directors, the interested person shall call it to the attention of the Board of Directors or its appropriate Committee and such person shall not vote on the matter; provided however, that any director disclosing a conflict of interest may be counted in determining the presence of a quorum at a meeting of the Board of Directors or a Committee thereof.

4. Absence from Discussion.

Unless requested to remain present during the meeting, the person having the conflict shall retire from the room in which the Board or its Committee is meeting and shall not participate in the final deliberation or decision regarding the matter under consideration. However, that person shall provide the Board or Committee with any and all relevant information.

5. Minutes.

The minutes of the meeting of the Board or Committee shall reflect that the conflict of interest was disclosed and that the interested person was not present during the final discussion or vote and did not vote. When there is doubt as to whether a conflict of interest exists, the matter shall be resolved by a vote of the Board of Directors or its Committee, excluding the person concerning whose situation the doubt has arisen.

6. Annual Review.

A copy of this conflict of interest provision shall be furnished to each Director, Officer and senior staff member who is presently serving the organization, or who may hereafter become associated with the Foundation. This policy shall be reviewed annually for the information and guidance of Directors, Officers and staff members. Any new Director, Officer and staff member shall be advised of this policy upon undertaking the duties of such office.