

CONSTITUTION
&
BY-LAWS
of the
USTA New England, INC.

CONSTITUTION

***NAME, PURPOSES, LOCATION
CORPORATE SEAL AND FISCAL YEAR***

- 1.1 Name and purposes. The name and purposes of the Corporation shall be as set forth in the Articles of Organization.
- 1.2 Charter. This Corporation shall be a chartered section of the United States Tennis Association, Incorporated, a New York “not for profit corporation,” hereinafter called “USTA,” and subject to the Constitution and rules thereof.
- 1.3 Location. The principal office of the Corporation in the Commonwealth of Massachusetts shall initially be located at the place set forth in the Articles of Organization of the Corporation. The directors may change the location of the principal office in the Commonwealth of Massachusetts effective upon filing a certificate with the Secretary of the Commonwealth.
- 1.4 Territory. The area designated and assigned by charter to the Corporation by the USTA shall consist of:
 1. Maine
 2. Massachusetts
 3. New Hampshire
 4. Rhode Island
 5. Vermont
 6. Connecticut, excepting that part within 35 miles of New York City Hall (which shall form part of the Eastern Section) but including that part within the city limits of Stamford.
- 1.5 Corporate Seal. The Directors may adopt and alter the seal of the Corporation.
- 1.6 Fiscal Year. The fiscal year of the Corporation shall, unless otherwise decided by the Directors, end on December 31 in each year.
- 1.7 Amendments. Amendments to the Constitution may be made at any annual or special meeting of the membership following the procedures specified in the By-Laws.

BY-LAWS

ARTICLE I

VOTING MEMBERS

For the purposes of this Article, the term “Member”, unless otherwise specified, shall mean voting Members.

- 1.1 **Qualification.** The membership of the Corporation (hereinafter referred to as “USTA New England”) shall consist of organizations interested in the promotion of tennis, including but not limited to clubs, schools, colleges, recreation and parks associations, community tennis associations, camps, and service organizations. The classification of organizational members shall change automatically whenever the United States Tennis Association, Incorporated, a New York not for profit corporation” (hereinafter referred to as “USTA”) changes its classification of organizational memberships.
- 1.2 **Applications for Memberships.** All applications for membership shall be submitted in the proper form to the USTA; membership is subject to the approval of USTA New England.
- 1.3 **Voting Power**
 - (a) The voting power of the various classes of organizational members shall coincide with that set forth in the USTA By-Laws and shall be changed automatically whenever the USTA changes its requirements.
 - (b) No member shall vote at the Annual Meeting unless it was a member by August 31 of the preceding fiscal year.
 - (c) No member shall enjoy any of the privileges of membership until its dues are paid.
 - (d) Representation: At all general meetings of USTA New England as described in these By-Laws, each member shall be entitled to be represented by one delegate and one alternate.
- 1.4 **Dues.** The dues of all members shall coincide with those set forth in the USTA By-Laws and shall be changed automatically whenever the USTA changes its requirements.
- 1.5 **Expulsion.** The Board of Directors, by vote of no less than two (2) thirds of Directors then in office, shall have the power to recommend to the USTA the suspension or expulsion of any member with or without cause. Expulsion by the USTA shall constitute expulsion as a member of USTA New England. Any member who fails to pay dues when due shall automatically be suspended from membership.
- 1.6 **Resignation.** A Member may resign by delivering a written resignation by mail, telegram, fax, or email to the President, Treasurer, or Secretary of USTA New England, to a meeting of the Members or Directors, or to USTA New England at its principal office.
- 1.7 **Annual Meeting.** The Annual Meeting of the Members shall be held after January 1 each year and may be held at the principal office of USTA New England or at such other place within the USTA New England Territory at the date and time as the President or Directors shall determine.

If an Annual Meeting is not held as herein provided, a special meeting of the Members may be held in place thereof with the same force and effect as the Annual Meeting, and in such case all references in these By-Laws, except in this Section 1.7, to the Annual Meeting of the Members shall be deemed to refer to such special meeting. Any such special meeting shall be called and notice shall be given as provided in Section 1.8.

- 1.8 Special Meetings. Special meetings of the Members may be held at any time and at any place within the USTA New England Territory. Special meetings of the Members may be called by the President or by the Directors, and shall be called by the Secretary, or in the case of the death, absence, incapacity or refusal of the Secretary, by any other officer, upon written application of at least twenty (20) Members representing at least two States.
- 1.9 Call and Notice.
- (a) Annual Meetings. Notice of the time and place and statement of the purpose of all Annual Meetings shall be given to each Member by mail, telegram, fax, or email at least twenty (20) days prior to the date of the meeting, provided that notice shall be given as otherwise required by law, the Articles of Organization, or these By-Laws (including Section 1.7).
 - (b) Special Meetings. Notice of the times and place of special meetings of the Members shall be given to each Member by mail, telegram, fax, or email at least five (5) business days before the meeting addressed to the usual or last known business address, or by hand or by telephone at least forty-eight (48) hours before the meeting. Such notice shall include the purpose of the meeting.
 - (c) Waiver of Notice. Whatever notice of a meeting is required, such notice need not be given to any Member if a written waiver of notice, executed by the Member's delegate or duly authorized officers (or its attorney thereunto authorized) before or after the meeting, is filed with the records of the meeting. A waiver of notice need not specify the purposes of the meeting unless such purposes were required to be specified in the notice of such meeting.
- 1.10 Quorum. At any meeting of the Members at least forty (40) of the Members then in good standing (whether present in person or represented by proxy) shall constitute a quorum. Any meeting may be adjourned to such a date or dates not more than ninety (90) days after the first session of the meeting by a majority of the votes cast upon the question, whether or not a quorum is present, and the meeting may be held adjourned without further notice.
- 1.11 Action by Vote. When a quorum is present at any meeting, a majority of the votes properly cast by Members present in person or duly represented by proxy shall decide any question, including election to any office, unless otherwise provided by law, the Articles of Organization, or these By-Laws.
- 1.12 Action by Writing. Any action required or permitted to be taken at any meeting of the Members may be taken without a meeting if all Members entitled to vote on the matter consent to the action in writing and the written consents are filed with the records of the meeting of the Members. Such consents shall be treated for all purposes as a vote at a meeting.

- 1.13 Proxies. Members may vote either in person or by written proxy dated not more than six (6) months before the meeting named therein, which proxies shall be filed before being voted with the Secretary or other person responsible for recording the proceedings of the meeting. Unless otherwise specifically limited by their terms, such proxies shall entitle the holders thereof to vote at any adjournment of the meeting but the proxy shall terminate after the final adjournment of such meeting.
- 1.14 Authorization. Each voting delegate at any meeting and signatories on all proxies must establish to the satisfaction of the Secretary of USTA New England or to such person as he/she may appoint, that the person casting the ballot or executing the proxy has been duly authorized by the Member he/she purports to represent to act on the Member's behalf with respect to casting of said vote and upon all matters that may come before such meeting.
- 1.15 Use of Robert's Rules of Order. Except as otherwise provided in these By-Laws, Robert's Rules of Order shall be the rules of order for meetings of USTA New England.

ARTICLE II

BOARD OF DIRECTORS

- 2.1 Number and Election.
- (a) There shall be a Board of Directors composed of the Officers, one State Delegate each from Eastern Massachusetts, Western Massachusetts, Maine, New Hampshire, Vermont, Rhode Island, and Connecticut, and the Ex-Presidents' Committee as provided for below. In addition, there shall be ten (10) Directors who shall serve as Delegates-at-Large. The Delegates-at-Large shall meet the following geographical distribution requirements:
 - 1) A minimum of four states must be represented.
 - 2) Not more than three can be from any one state, with the exception of Mass.
 - 3) Not more than three can be from Eastern Massachusetts, and not more than two can be from Western Massachusetts.
 - (b) Western Massachusetts shall be defined as encompassing Berkshire, Franklin, Hampden, Hampshire, and Worcester Counties. Eastern Massachusetts shall consist of the remainder of the state not contained in Western Massachusetts.
 - (c) The slate as presented by the Nominating Committee, or any other nominations submitted according to any existing By-Law, shall be acted upon by the Members, in a manner defined in Article V of these By-Laws.
- 2.2 Tenure. Each Director shall hold office until the third Annual Meeting of Members after his/her election and until a successor is elected and qualified, or until he/she sooner dies, resigns, is removed, or becomes disqualified.

- 2.3 Powers. The affairs of USTA New England shall be managed by the Directors who shall have and may exercise all the powers reserved to the Members as Members by law, the Articles of Organization or these By-Laws. The Directors shall elect the USTA New England Sectional Delegate to the USTA and an alternate Sectional Delegate at the Annual Meeting each election year.
- 2.4 Committees. The Directors may elect or appoint one or more committees and may delegate to any such committee or committees any or all of their powers, to the extent permitted by applicable law. Unless the Directors otherwise designate, committees shall conduct their affairs in the same manner as is provided in these By-Laws for the Directors.
- 2.5 Suspension or Removal. A non-officer Director may be suspended or removed with or without cause by vote of (a) a majority of the Members then in good standing or (b) no less than two thirds of the Directors then in office. A non-officer Director may be removed with or without cause only after reasonable notice and opportunity to be heard. A non-officer Director suspended or removed with or without cause by a vote of the Members shall have the opportunity to appeal such a suspension or removal to the Board of Directors.
- 2.6 Resignation. A non-officer Director may resign by delivering his/her written resignation by mail, telegram, fax, or email to (i) the President, Treasurer, or Secretary of USTA New England; (ii) a meeting of the Members or Directors; (iii) USTA New England at its principal office. Such resignation shall be effective upon receipt (unless specified to be effective at some other time) and acceptance thereof shall not be necessary to make it effective unless it so states.
- 2.7 Vacancies. Any vacancy in the Board of Directors (excluding the officers) may be filled by the President of USTA New England. Each successor shall hold office for the unexpired term or until he/she sooner dies, resigns, is removed, or becomes disqualified. The Directors shall have and may exercise all their powers notwithstanding the existence of one or more vacancies in their number.
- 2.8 Regular Meetings. Regular meetings of the Directors shall be held at least twice in each fiscal year. Two of these meetings must be separated by at least three months. The time and place of these meetings shall be designated by the President.
- 2.9 Special Meetings. Special meetings of the Directors may be held at any time and at any place when called by the President or by two (2) or more Directors.
- 2.10 Call and Notice.
- (a) Regular Meetings. Notice shall be given to each of the Directors of the time, place and purpose of any regular meeting at least ten (10) days prior to the date of such meeting, provided that notice shall be given as otherwise required by law, the Articles of Organization, or these By-Laws.
 - (b) Special Meetings. Notice of the time and place of special meetings of the Directors shall be given to each Director by mail, telegram, fax, or email at least five (5) business days before the meeting, addressed to the usual or last known business or residence address, or by notice in person or by telephone at least forty-eight (48)

hours before the meeting. Such notice need not specify the purposes of a meeting, unless otherwise required by law, the Articles of Organization or these By-Laws or unless there is to be considered at the meeting (i) contracts or transactions of USTA New England with interested persons, (ii) amendments to these By-Laws, (iii) an increase or decrease in the numbers of Directors, or (iv) removal or suspension of a Director.

- (c) Waiver of Notice. Whenever notice of a meeting is required, such notice need not be given to (i) any Director if a written waiver of notice, executed by the Director (or an attorney thereunto authorized) before or after the meeting, is filed with the records of the meeting; (ii) any Director who attends the meeting without protesting prior thereto or at its commencement the lack of notice. A waiver of notice need not specify the purposes of the meeting unless such purposes were required to be specified in the notice of such meeting.
- 2.11 Quorum. At any meeting of the Directors, eleven (11) of the Directors then in office shall constitute a quorum. Any meeting may be adjourned by a majority of the votes cast upon the question, whether or not a quorum is present, and the meeting may be held as adjourned without further notice.
- 2.12 Action by Vote. When a quorum is present at any meeting, a majority of the Directors present and voting shall decide any question, unless otherwise provided by law, the Articles of Organization, or these By-Laws.
- 2.13 Action by Writing (Including email). Any action to be taken at any meeting of the Directors may be taken without a meeting if all the Directors consent to the action in writing (by mail or email) and the written consents are filed with the records of the meetings of the Board of Directors. Such consents shall be treated for all purposes as a vote at a meeting of the Directors.
- 2.14 Compensation. Directors shall be entitled to receive for their services such reasonable amount, if any, as the Directors may from time to time determine, which may include expense of attendance at meetings. Directors shall not be precluded from serving USTA New England in any other capacity and receiving compensation for any such services.
- 2.15 Participation by Conference Call Directors or any member of a committee may, at the discretion of the President, participate in a meeting of the Board, or of a committee by means of conference telephone, video or similar communications equipment that permits all persons participating in the meeting to hear each other at the same time, and participation by such means shall constitute presence in person at a meeting.

ARTICLE III

OFFICERS AND AGENTS

- 3.1 Number and Qualification. The Officers of USTA New England shall be a President, a First Vice-President, two (2) Vice-Presidents, a Treasurer, and a Secretary. USTA New England may also have such agents, if any, as the Directors may appoint. The Officers

shall be Directors. The Secretary shall be a resident of Massachusetts unless USTA New England has a Resident Agent duly appointed for the purpose of service of process. A person may hold more than one office at the same time.

- 3.2 Election. The President, 1st Vice President, two Vice-Presidents, Treasurer and Secretary shall be elected every third year by the Members at their Annual Meeting.
- 3.3 Tenure. The Officers shall each hold office until the third Annual Meeting following his/her election and until a successor is chosen and qualified, or until the Officer sooner dies, resigns, is removed, or becomes disqualified. Each Officer shall retain authority at the pleasure of the Directors. The President may not be elected to serve as President for more than one consecutive term. No First Vice President may be elected to serve in the same office for more than two consecutive terms.
- 3.4 President and Vice Presidents. The President shall be the chief executive officer of USTA New England and, subject to the control of the Directors, shall have general charge and supervision of the affairs of USTA New England. The President shall call and preside at all meetings of the Members and at all meetings of the Directors, except as the Members or Directors otherwise determine. The President shall appoint a chairman for each committee not otherwise provided for; approve all committee members chosen by said chairman, see that all Officers perform their duties, and be an ex-officio member of all committees.
- The First Vice President shall have and may exercise all the powers and duties of the President during the absence of the President or in the event of the President's inability to act. The First Vice President shall be an ex-officio member of all committees. The other Vice Presidents shall have such duties and powers as the Directors or the President shall determine.
- 3.5 Treasurer. The Treasurer shall, with the aid of staff, be responsible for the financial management and controls of USTA New England. The Treasurer shall, with the aid of staff, prepare an annual budget subject to approval by the Board of Directors and shall monitor the budget and make recommendations to the Board of Directors concerning the fiscal affairs of USTA New England. The Treasurer shall have such other duties and powers as designated by the Directors or the President.
- 3.6 Secretary. The Secretary shall, with the aid of staff, record and maintain records of all proceedings of the Members and Directors, which shall be kept at the principal office of USTA New England. If the Secretary is absent from any meeting of Members or Directors, a temporary Secretary may exercise the duties of the Secretary at the meeting.
- 3.7 Suspension or Removal. An Officer may be suspended or removed with or without cause by vote of no less than two thirds of Directors then in office at any special meeting called for such purpose or at any regular meeting. An Officer may be removed with or without cause only after reasonable notice and opportunity to be heard.
- 3.8 Resignation. An Officer may resign by delivering his/her written resignation by mail, telegram, fax, or email to the President, Treasurer, or Secretary of USTA New England, to a meeting of the Members or Directors, or to USTA New England at its principal office. Such resignation shall be effective upon receipt (unless specified to be effective at

some other time), and acceptance thereof shall not be necessary to make it effective unless it so states.

- 3.9 Vacancies. A vacancy in the office of President shall automatically be filled by the First Vice President provided that the First Vice President is willing and able to accept the position. If the office of President should become vacant despite this provision for automatic succession, the Directors shall appoint a President within thirty (30) days after the vacancy occurs. If the office of any other Officer becomes vacant, the Directors shall elect a successor. Each such successor shall hold office for the unexpired term, until a successor is elected and qualified, or in each case until he/she sooner dies, resigns, is removed, or becomes disqualified.

ARTICLE IV

COMMITTEES

4.1 Standing Committees.

- (a) Nominating Committee. The Nominating Committee shall serve for a three (3) year term. State Associations, as defined as Eastern Massachusetts, Western Massachusetts, Maine, New Hampshire, Vermont, Rhode Island and Connecticut, will each nominate one (1) individual to the Nominating Committee. This committee must then be approved by the USTA New England Board of Directors at its next meeting.

The Chair of said committee shall be selected as follows; the Chair shall be elected by the Members of the incoming Nominating Committee.

The Members of the Nominating Committee may serve consecutively in such capacity for no longer than six (6) years.

A member of the Board of Directors may serve on the Nominating Committee, provided that member is not a candidate for re-election to the Board. No member of the Nominating Committee may be nominated for election as a Board member during his/her term on the Nominating Committee or any unexpired portion thereof.

By November 1 following an election, the composition of the Nominating Committee shall consist of a minimum of (5) five members and a maximum of (7) members. If a State Association does not supply a candidate, that State will not be represented on the Nominating Committee.

Not later than November 1, prior to the next three year cycle of office, the Nominating Committee shall file with the Secretary of USTA New England a list of nominations of Officers, delegates, and delegates-at-large. The candidates selected shall be determined at an in-person meeting of the Nominating Committee (i.e., not via telephone), with the Committee members having received advanced notice of the time and place of the meeting. A quorum for this meeting shall consist of five (5) members of the Nominating Committee, and a majority of the committee members present and voting shall select the slate of candidates for office.

The Nominating Committee may, at its discretion, appoint one or more non-voting Institutional Advisor(s) to provide the voting members of the Committee with historical information.

- (b) Finance Committee. There shall be a Finance Committee comprised of a minimum of a Chair and four additional members. The President may appoint additional members if he/she considers it appropriate. The Finance Committee shall prepare a proposed budget for the forthcoming year with the aid of staff. The proposed budget will be presented to, and subject to approval of, the Board of Directors. Once the budget is approved, the Chair of the Finance Committee, with the aid of staff, shall monitor the budget and make recommendations to the Board of Directors concerning fiscal affairs of USTA New England. The financial records of USTA New England shall be audited by a certified public accountant at the end of each fiscal year and at other times as requested by the Board of Directors.
- (c) Ex-Presidents' Committee. The Ex-Presidents' Committee shall be composed of all the living Ex-Presidents of USTA New England. At any meeting of the Board of Directors the votes of the Ex-Presidents shall be limited to three (3). Only the most recent three (3) living Ex-Presidents in attendance shall be entitled to vote, casting one (1) vote each. If a voting member of the Ex-Presidents' Committee is elected to some other position on the Board of Directors, he/she shall temporarily forfeit his/her vote as a member of the Ex-Presidents' Committee.
- (d) Grievance Committee. There shall be a Grievance Committee comprised of a Chairman, the Chairman of the Adult Players Committee, the Chairman of the Player Development Committee, and two (2) other members appointed by the President. Additional members may be appointed by the President if he/she considers it appropriate. All members shall serve for a term of one year subject to reappointment at the end of that period or until their respective successors are appointed. The presence of 50% or more of the Committee members shall constitute a quorum at any meeting of the Committee and such a quorum must be present for the transaction of business of the Committee. The primary role of this Grievance Committee shall be the enforcement of the rules and regulations of the USTA New England and the USTA. The committee shall act in accordance with the Grievance Procedures, which are published in the USTA New England Junior Regulations and the USTA New

England Adult Tournament Rules and Regulations. All USTA League Grievances shall be handled according to the separate procedures and committees provided for in the USTA League and USTA New England League Grievance Procedures.

- 4.2 Other Committees. The Directors shall establish whatever other committees they deem necessary. Membership in all committees, with the exception of the Nominating Committee as provided above, shall be terminated at the end of the fiscal year in which they were established. The President may also appoint a General Counsel, and the General Counsel, if any, shall serve as a non-voting member of the Board of Directors.

ARTICLE V

ELECTION OF OFFICERS AND BOARD OF DIRECTORS

- 5.1 Nominations. By November 1 prior to the next three year cycle of office, the Secretary shall receive a list of nominations for Officers and other members of the Board of Directors from the Nominating Committee as provided in Article III. Said list shall be forwarded by the Secretary to all Members of USTA New England no later than November 15.
- 5.2 Additional Nominations. Additional nominations for any or all such offices may be made by filing with the Secretary, on or before December 5, a certificate of nomination signed by authorized representatives of at least 5% of the Members who are then members in good standing of USTA New England. Any additional nomination shall clearly identify who the alternative(s) would replace on the Nominating Committee's slate. Only candidates duly nominated under the provisions of this Article shall be eligible for election. Each Nominee for contested office shall be entitled to submit to the Secretary a concise statement of his/her qualifications for said office. An additional Nominee as defined herein shall submit a statement of qualifications at the time of filing the certificate of nomination. Upon receipt of such statement of qualifications and certificate of nomination, the Secretary shall without delay notify all other candidates for said office of the additional nomination and receipt of statement of qualification. Upon notification by the Secretary of such additional nomination, all other Nominees for the office in question shall be entitled to submit a statement of qualifications on or before November 15. The Secretary shall distribute a copy of any statement of qualifications submitted by any Nominee to all members of USTA New England entitled to vote for the office in question together with a list of all candidates for said office, appropriate proxies and a notice of the Annual Meeting. It shall be the responsibility of each Nominee to supply the Secretary with sufficient quantities of any statement of qualifications submitted for distribution to all members of USTA New England entitled to vote for the office in question.
- 5.3 Election. The election shall take place at the Annual Meeting. If no alternative candidates were properly submitted, the Nominating Committee's slate shall be deemed elected at the next Annual Meeting. If there is more than one duly nominated candidate for any office, election shall be by the Members or such portion thereof entitled to vote

for the office in question, casting the number of votes to which each Member is entitled under the provision of Article I. The Members shall cast their votes by written proxy or, in the alternative, and if represented in person at the Annual Meeting, by written ballot. A plurality shall suffice for election.

Article VI

Executive Director

The Executive Director is the Chief Operating Officer and shall be responsible for the day-to-day operations and management of the office and staff of USTA New England. The Executive Director shall be appointed by, and shall serve at the pleasure of, and at the compensation fixed by, the Board of Directors. The Executive Director shall perform such additional duties as assigned by the President or Board of Directors. The duties and compensation of all other staff members shall be determined by the Executive Director working within the scope of the budget approved by the Board of Directors.

ARTICLE VII

EXECUTION OF PAPERS

Except as the Directors may generally or in particular cases authorize the execution thereof in some other manner, all deeds, leases, transfers, contracts, bonds, notes, checks, drafts and other obligations made, accepted, or endorsed by USTA New England shall be signed by the President or by the Treasurer.

Any recordable instrument purporting to affect an interest in real estate, executed in the name of USTA New England shall be signed by either the President or the First Vice President, and the Treasurer,.

ARTICLE VIII

PERSONAL LIABILITY

The Members, Directors, and Officers of USTA New England shall not be personally liable for any debt, liability, or obligation of USTA New England. All persons, corporations, or other entities extending credit to, contracting with, or having any claim against USTA New England, may look only to the funds and property of USTA New England for the payment of any such contract or claim, or for the payment of any debt, damage, judgment or decree, or of any money that may otherwise become due or payable to them from USTA New England.

No Director or Officer of USTA New England shall be personally liable to USTA New England or its members for monetary damages for breach of fiduciary duty as a Director or Officer

notwithstanding any provision of law imposing such liability; provided, however, that this Article shall not eliminate or limit the liability of a Director or Officer (i) for any breach of the Director's or Officer's duty of loyalty to USTA New England or its Members, (ii) for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law, or (iii) for any transaction from which the Director or Officer derived an improper personal benefit; and provided further that such limitation shall be effective only to the extent that USTA New England's status as an organization exempt from taxation under the Code is not adversely affected thereby. No amendment or repeal of this Article shall adversely affect the rights and protection afforded to a Director or Officer of USTA New England under this Article for acts or omissions occurring prior to such amendment or repeal. The provisions of this Article shall not eliminate or limit the liability of a Director or Officer of the Corporation for any act or omission occurring prior to the date on which this Article became effective.

ARTICLE IX

INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES AND OTHER AGENTS

- 9.1 **Right to Indemnification.** Except as limited by law, including but not limited to, Section 6 of Chapter 180 of the Massachusetts General Laws and to the extent USTA New England's exemption from federal taxation is not adversely affected, USTA New England shall indemnify, hold harmless, and reimburse out of the corporate funds any person (or the personal representative of any person) who at any time serves or shall have served as a Director or Officer of USTA New England, or who serves or shall have served at its request as a Director or Officer of another organization in which it has an interest, whether or not an Officer at the time, against and for any and all claims and liabilities to which he/she may be or become subject by reason of such service, and against and for any and all expenses necessarily incurred in connection with the defense or reasonable settlement of any legal or administrative proceedings to which he/she is made a party by reason of such service, except with respect to any matter as to which he/she shall have been adjudicated in any proceeding not to have acted in good faith in the reasonable belief that his/her action was in the best interests of USTA New England or to have derived an improper personal benefit. In effecting such indemnity and reimbursement, the Members of USTA New England may enter into such agreements and direct the Officers of USTA New England to make such payment or payments and take such other action (including employment of counsel to defend against such claims and liabilities) as may in their judgment be reasonably necessary or desirable. Such indemnification or reimbursement shall not be deemed to exclude any other rights or privileges to which such person may be entitled.
- 9.2 **Indemnification of Persons not Directors.** The Board of Directors may by vote act to indemnify any or all employees, or other agents of USTA New England from liability for acts done by them in good faith in behalf of USTA New England.

- 9.3 Settled Proceedings. If a Proceeding is compromised or settled in a manner that imposes any liability or obligation upon a Director, Officer, or employee, no indemnification shall be provided to him or her with respect to such proceeding if it is determined pursuant to Section 9.5 of this Article on the basis of the circumstances known at that time (without further investigation) that said Director, Officer, employee, or other agent is ineligible for indemnification.
- 9.4 Advanced Payments. Indemnification to the persons specified in 9.1 and 9.2 may include payment by USTA New England of expenses incurred in defending a civil or criminal action or proceeding in advance of the final disposition of such action or proceeding upon receipt of an undertaking by the person indemnified to repay such payment if said person shall be adjudicated to be not entitled to indemnification under this By-Law or under Section 6 of Chapter 180 of the General Laws of Massachusetts.
- 9.5 Determinations. Payments. The determination of whether a Director, Officer, employee, or other agent is eligible or ineligible for indemnification under this Article and the amount of indemnification to be paid shall be made in each instance by (i) a majority of the Directors or a committee thereof who are not parties to the Proceeding in question; (ii) independent legal counsel appointed by a majority of such Directors, or if there are none, by a majority of the Directors in office; or (iii) a vote of the Members who are not parties to the Proceeding in question. Notwithstanding the foregoing, a court having jurisdiction (which need not be the court in which the Proceeding in question was brought) may grant or deny indemnification in each instance under the provisions of law and this Article.
- 9.6 Insurance. USTA New England shall have power to purchase and maintain insurance on behalf of any person who is or was a Director, Officer, employee, or other agent of USTA New England, or is or was serving at the request of USTA New England as a Director, employee, or other agent of another organization, in which it has an interest, against any liability incurred by said person in any such capacity, or arising out of his/her status as such, whether or not USTA New England would have the power to indemnify him/her against such liability.
- 9.7 Responsibility With Respect to Employee Benefit Plan. If USTA New England or any of its Directors, Officers, or employees sponsors or undertakes any responsibility as a fiduciary with respect to an employee benefit plan, then for purposes of indemnification of such persons under this Article: (i) a “Director” or “Officer” shall be deemed to include any Director, Officer, or employee of USTA New England who serves at its request in any capacity with respect to said plan; (ii) such Director, Officer, or employee shall not be deemed to have failed to act in good faith in the reasonable belief that his/her action was in the best interests of USTA New England if he/she acted in good faith in the reasonable belief that his/her action was in the best interests of the participants or beneficiaries of said plan; and (iii) “Expenses” shall be deemed to include any taxes or penalties imposed on such Director, Officer, or employee with respect to said plan under applicable law.

- 9.8 Heirs and Personal Representatives. The indemnification provided by this Article shall inure to the benefit of the heirs and personal representatives of a Director, Officer, or employee.

ARTICLE X

AMENDMENTS

The By-Laws may be altered, amended, or repealed in whole or in part by vote of a majority of the Directors then in office, except with respect to any provision thereof that by law, the Articles of Organization, or these By-Laws requires action by the Members. Not later than the time of giving notice of the meeting of Members next following the making, amending, or repealing by the Directors of any By-Laws, notice thereof stating the substance of such change shall be given to all Members. The Members may alter, amend, or repeal any provision that by law, the Articles of Organization, or these By-Laws requires action by the Members, however, no amendment or repeal of such provisions which adversely affects the rights of a Director or Officer under this Article with respect to his or her acts or omissions at any time prior to such amendment or repeal, shall apply to him/her without his/her consent..

ARTICLE XI

By accepting USTA membership, a member agrees to follow the USTA and USTA New England Constitutions, By-Laws, Standing Orders, and Rules and Regulations, and to exhaust all administrative remedies provided therein in each controversy and grievance involving participation in USTA New England activities.