



How to use your Corpkit Corporation kit  
Corporate Formation and Specimen Forms

This Memorandum briefly summarizes the steps and considerations that must be taken into account after the business corporation’s organizational documents have been filed with the appropriate state official, usually the Secretary of State or Department of Corporations. **PLEASE READ THIS MEMORANDUM CAREFULLY, BECAUSE THE STATE FILING MAY NOT BE ENOUGH TO AVOID PERSONAL LIABILITY FOR THE INVESTORS, PROMOTERS, OFFICERS AND EMPLOYEES OF THE CORPORATION.**

There are certain requirements which can easily be met to assure the corporation’s owners and officers are protected. One is that certain minutes need to be filled out. The specimen forms for these minutes and other documents are contained in this packet.

**If there is a question regarding any of these matters, you should consult your legal advisor.**

*PLEASE COMPLETE THE STEPS REQUIRED HERE TO MAKE SURE THAT YOUR CORPORATION HAS BEEN FORMED PROPERLY.*

**STEPS TO TAKE IN FILLING OUT THIS CORPKIT®**

See the dividers of the CorpKit® which are marked with tabs for the forms and documents.

Check the  when done filling out the document and placing in correct tab in CorpKit®:

- |  | <u>Check <input type="checkbox"/> when done</u> |
|--|---|
| • Place the certificate/articles of incorporation in the correct tab.                          | <input type="checkbox"/>                        |
| • Place any receipt from the secretary of state/department of corporations in the correct tab. | <input type="checkbox"/>                        |

Fill out the following Minutes-forms attached to this Memorandum.  
And insert in correct tab:

- |   |                          |
|---|--------------------------|
| • Minutes of Incorporator(s)—electing directors                             | <input type="checkbox"/> |
| • Minutes of Initial Meeting of Stockholders                                | <input type="checkbox"/> |
| • Election of Directors-fill out if not elected by incorporators (see form) | <input type="checkbox"/> |
| • Election of Officers by Directors—fill out                                | <input type="checkbox"/> |
| • Minutes of Initial Meeting of Directors                                   | <input type="checkbox"/> |
| Fill out form of Minutes – insert sale of shares, etc.                      |                          |
| Attach:   |                          |
| • Bylaws—sign, fill in blanks   | <input type="checkbox"/> |
| • Bank Resolutions setting up bank accounts for corporation                 | <input type="checkbox"/> |

- Other tax related resolutions and attachments
- Medical Reimbursement Plan & form Contract
- 1244 stock information
- Subchapter S election
- Copy of IRS form 2325 election

Insert form of Stock Certificate in correct tab

For future action: Specimen forms for the following actions are also contained in this CorpKit®:

- Notice of Annual Meeting of Stockholders
- Minutes of Annual Meeting of Stockholders
- Notice of Special Meeting of Stockholders
- Minutes of Special Meeting of Stockholders
- Waiver of Notice of Meeting for Directors and Stockholders
- Minutes of Board of Directors Meeting
- Form of Proxy for Stockholder vote

## 1. Corporation Formation Generally

### a. *Filing of organizational documents.*

After the certificate or articles of incorporation are filed with the state office, corporate existence begins. It is important to have a copy of these documents stamped “filed” or other indication that they have been filed, as a corporation can not exist without this filing. Certain requirements on filing exist for specific types of corporations, but this Memorandum only covers corporations organized for a business purpose. Sometimes this document is referred to as a corporate “charter.” File in correct tab in CorpKit®.

### b. *Powers of the corporation.*

The statutes authorizing the formation of corporations prescribe the general purposes for which the corporations may be formed, while any particular purposes for which a corporation is created must be stated in its certificate/articles of incorporation.

### c. *Incorporators.*

Persons, including sometimes corporations and other business entities, may act as incorporators of a corporation. They sign the organization documents required to be filed with the state to organize the business.

### d. *Promoters.*

Promoters are those who set the corporate process in motion by bringing together investors, purchasing plant and equipment, organizing a board of directors, and hiring the initial officers. A promoter typically enters into contracts on behalf of the corporation before it is formed and even arrange for the incorporation of the business entity by the incorporator(s). Typically, a promoter is an investor-owner/director/officer of the corporation.

Promoter’s contracts must be accepted, assumed or adopted by the corporation, or the promoter may remain liable on them. It is advisable to indicate that the promoter is entering into the contract “on behalf of a corporation to be formed and without personal liability,” if the promoter seeks to avoid personal exposure.

Promoter's contracts must not contain a "secret profit," for example where a promoter acquires an asset and resells it to the corporation for a greater price. The profit would not be "secret" if the facts were disclosed to the corporation at the time of acceptance of the contract made with the promoter: the self-dealing would be known and accepted.

## **2. Personal Liability for Corporation Debts**

### *a. The Doctrine of Piercing the Corporate Veil.*

The mere use of the corporate form to avoid liability is insufficient to warrant piercing the corporate veil. However, a court may use its equitable power to sweep away the strict legal separation between corporation and stockholders when preserving the corporate entity would permit a stockholder to avoid legal liability. Courts will pierce the corporate veil under the alter ego theory when it is clear that stockholders are using the corporation merely as a conduit to conduct their personal business in order to shield themselves from personal liability.

The determinative factor is whether the corporation is a shell being used by the individual shareowners to advance their own purely personal ends rather than corporate ends. If a corporation is a "dummy" for individual stockholders who are in reality carrying on business in personal capacities for purely personal rather than corporate ends, then the stockholders must be personally liable and financially responsible, even in the absence of fraud or other wrongful purpose. A debtor will not be permitted to defeat his creditor's claim by putting property purchased by him, in part with the creditor's money, in a corporation used merely as his alter ego and having no assets other than such property. It is not merely disregard of corporate formalities which justifies piercing the corporate veil and imposing personal liability, but the fact that the stockholders' conduct has caused the creditors' losses. However, the mere fact that the corporation's management is controlled by an officer or controlling stockholder is insufficient evidence by itself to warrant piercing the corporate veil so as to impose personal liability on the stockholder.

Normally, one of the reasons to incorporate a business is to make sure that investors and management of a business are not liable to business creditors for more than their investment in the enterprise. This limited liability feature is very attractive. However, the stockholders may be held personally liable for corporate obligations if they have personally guaranteed them or if there is a basis for imposing alter ego liability. As a general rule, stockholders are not personally liable for corporate obligations or debts; however, a strong equitable consideration will at times pierce the corporate structure where the majority stockholders in control of the corporation are using it to defeat a statute or public policy.

### *b. Doctrine Applies Primarily in Small, Closely-held Corporation.*

The doctrine is usually applied where there are only a few stockholders, and they have not respected their corporation's *separate identity*. The alter ego's shield from liability is lost for the cause of action upon which a court finds alter ego liability exists.

### *c. Who can be personally liable?*

Corporate investors, officers, employees and agents are generally not liable as long as the corporation is properly formed. However, the principals of a corporation (including stockholders who are not officers) will be held liable for the debts of a corporation when there is evidence that the principal failed to observe any corporate formalities, freely used corporation's funds to pay personal debts, operated corporation without adequate capitalization and siphoned off corporation's assets for their own benefit.

*d. Control a key test.*

The corporate entity may be disregarded (the corporate veil "pierced"), and stockholders held personally liable on an alter ego theory because of the manner in which they have dealt with the corporation. If the requisite conditions are satisfied, each party may be liable as a principal or partner. The test will be one of control, complete dominion or interference so obtrusive.

Among the considerations in determining whether the corporate veil should be pierced are:

- The absence of formalities which are part and parcel of normal corporate existence, such as the issuance of stock, the election of directors, the keeping of corporate records
- Inadequate capitalization
- Absence of assets, liabilities, or income
- Personal use of corporate funds or shuttling personal funds in and out of corporation.
- Use of corporation for personal business or absence of separate corporate business.
- Failure of the corporation to transact business other than that complained of.
- The perpetration of fraud by means of the corporate vehicle.
- The existence of post-tort activity conducted to strip the corporation of assets in anticipation of impending legal liability.

*e. Two Requirements:*

There are two basic requirements which must be proved in order to convince a court to pierce the corporate veil:

- The parties sought to be held liable must have dominion and control over the corporate entity and must have treated or operated the corporation as their "instrumentality" or "alter ego," rather than as a separate legal entity; and
- The corporation was used by said parties to commit a fraud, or there was wrongful conduct which resulted in injury to the plaintiff.

*f. Practical Advice:*

In order to avoid personal liability it is important for the corporation and its stockholders/officers to:

1. Avoid paying personal expenses from corporate funds.
2. Keep records of the amount invested in the corporation by stockholders by filling out the forms in this CorpKit® regarding sale of stock.
3. Keep business and personal business dealings separate.
4. Fill out this CorpKit® Minutes of stockholder and directors at least on an annual basis.
5. Not divert corporate assets to personal use.
6. Make sure that the corporation has adequate capital (investment) to engage in its business activities; include insurance if potential for product or personal injuries.
7. Sign only the corporate name to contracts and other documents; make sure that you sign in a representative capacity (for example, "*John Doe, as President*") and not in a personal capacity.
8. If you are a promoter (see above discussion), make sure that you have not obligated yourself and sign "*John Doe, on behalf of a corporation to be formed and without personal liability*" to make clear to other parties that you are not personally liable.
9. Hold the stockholder and director meetings and fill out the forms—this can be done by consent (you do not have to hold a meeting, but fill out the minutes and the consent forms).

### **3. Corporate Bylaws.**

The bylaws of a corporation contain its internal governance rules and are binding on the enterprise and stockholders. The incorporation statutes give broad leeway to operation of a corporation, but require that the basic framework of rules to govern the operation be specified in the bylaws. It is therefore important to have the corporation adopt bylaws. Otherwise the statutes will form in most instances a default rule when questions arise: but it is better to have guidance from the bylaws, so these CorpKit documents provide for adoption of general bylaws by the incorporators or directors: they give the general operating principles. However, there is an ability to make many fundamental changes to meet the needs of a particular corporation and its stockholders. Therefore, if there are special needs, such as a greater vote requirement, different duties for officers, or even a company where the stockholders want to manage the enterprise without a board of directors, that can be done with custom-made bylaws not contained in these forms. They must be consistent with the articles or certificate of incorporation and the two are often integrated in setting up the way the corporation is governed.

Particular subjects which may be governed by bylaws include:

- The adoption and amendment by stockholders, directors or incorporators.
- The location of meetings of stockholders or members and date of the annual meeting.
- The persons authorized to call special meetings of stockholders.
- The manner in which directors are elected or appointed, and their term of office.
- The place and time of meetings of the board of directors.
- The election, terms, classifications, if any, and removal of directors and officers.
- The size of the board of directors, including change in the number of directors.
- Can not remove rights given stockholders in the articles or certificate of incorporation or under statute.
- Provide for issuance of shares and share certificates.
- Provide for officers
- Provide for indemnification by the corporation of expenses incurred by officers and directors on behalf of the corporation, including litigation expenses.

### **4. Sale of Stock.**

The articles or certificate of incorporation specifies the number and type of shares which the corporation is authorized to issue, known as the “authorized shares.” *It is important in issuing stock that the minutes of the board of directors meeting authorizing the sale specify:*

- The number of shares to be sold.
- The stockholder who is buying the shares, perhaps under a written offer to purchase shares (see CorpKit® form of Subscription or Stock Purchase Agreement).

- The consideration to be paid for the shares. This consideration can be money, goods or services: in any case it is necessary for the directors to calculate that the value received is worth some monetary amount expressed in dollars and have that reflected in the minutes.
- If stock is sold for future services or a promise to pay money to the company in the future, the company should assure that the shares certificates are not delivered until payment is received.
- The amount paid in for shares is sometimes referred to as the “paid-in capital” of the corporation.

*Stock Certificates.* A certificate of stock is a writing given to a stockholder of a corporation to show his share or interest in the corporation’s assets. It evidences the number of shares which the corporation acknowledges the holder of the certificate to be entitled. The stockholder is then entitled to vote, dividends and other distributions, and any liquidation distribution when the corporation dissolves, in purport ion to the shares he or she owns. Some states permit book entry share records, and eliminate share certificates completely but this is not what the CorpKit® forms provide.

Your CorpKit® contains a specimen stock certificate and blank stock certificates for use by the corporation as it issues stock.

*Consideration for Purchase of Stock.* As noted above, cash or other property or services may be given the corporation in exchange for stock. Future payments, transfers of property and services can be good consideration. However, there may be tax implications when transfers of property or services are contributed for stock: we recommend that you consult your tax advisor in these circumstances.

### **5. Corporate Records and Reports.**

Every corporation is required to keep (1) correct and complete books and records of account, (2) minutes of the proceedings of its stockholders, board of directors, and executive committee, if any, and (3) a record containing the names and addresses of all stockholders, the number and class of shares of stock held by each and the dates when they respectively became the owners of record. Records may be kept in such other forms as microfilm, computer entries, and the like, by providing that any books, records and minutes may be in written form or in any other form capable of being converted into written form within a reasonable time.

### **6. Annual Meetings of Stockholder(s) and Directors.**

Most state statutes require the corporation to have an annual meeting of its stockholders. The normal business transacted at this annual meeting is election of directors. Typically, the corporation will also follow this stockholder’s meeting with the annual meeting of Directors, where the business transacted is normally election of the officers for the next year. Both the stockholder and director meetings can be done by written consent.

Attached to this CorpKit® are forms for these annual meetings, including notice, waiver of notice, written consent and minutes.

### **7. Corporate Directors, Officers, and Agents.**

As noted in the Annual Meetings section above, directors are elected by stockholders and officers by directors usually at an annual meeting.

A corporation, being an artificial entity existing wholly in the conception of the law, must of necessity act wholly through others—its directors, officers, and agents. The term "director," when used in relation to corporations, means any member of the governing board of a corporation. Directors manage the corporation as representatives of the corporation elected by

its stockholders. Directors can elect other directors and replace resigning directors on an interim basis until the next stockholders meeting.

Officers of a corporation carry on the corporation's regular day-to-day operations, are designated by titles such as president, vice-president, treasurer and secretary, and are usually elected by the board of directors. Agents or employees may also be appointed by the corporation's directors or officers to perform duties.

Directors, officers and agents of a corporation may resign or be removed, with or without reason in most cases. They are typically replaced in the same manner as they were selected in the first place, except stockholders may retain the right to replace and remove them.

### ***8. Dividends and Distributions.***

A dividend constitutes a distribution of profits or earnings of a corporation to the stockholders. It is not a return of the investment, or capital, but relates to income the corporation has generated. There are very specific statutory rules regarding the propriety of distributions to stockholders and legal advisors should be consulted when a distribution is being considered by a corporation.

### ***9. Corporate Tax Impact***

Part of the process of selecting the corporate form is the utilization of the tax advantages afforded this type of entity, and the minimization of its disadvantages. This review centers on three areas: capitalization, operations and stockholder benefits—but in a very general way. There are other areas of tax impact on formation and operation of the corporation which are not covered by this brief review: we recommend that you consult with your tax advisor regarding tax impact of various business decisions.

While a comprehensive review of the tax advantages and disadvantages is beyond the scope of this commentary, the specimen forms provide assistance and general explanation with three of the most commonly used tax programs affecting capitalization and offering certain stockholder benefits. Specifically they include:

- (a) Use of Sec. 1244 Stock (small business corporation stock)
- (b) Tax-Option election (S Corporation)
- (c) Medical and Dental reimbursement plan

Explanatory sections discussing each of the federal tax oriented programs together with appropriate forms were designed primarily for a new corporation. As with all forms and tax commentary enclosed, it should be reviewed on a current basis before being utilized by the corporation.

These forms are suggested for use and are designed for use by attorneys and should be reviewed and revised to meet the requirement of each corporation. Tax changes are frequent and these plans should be renewed annually by the corporation's tax advisors.

### ***Specimen Tax Forms Included in this CorpKit®:***

1. Sec. 1244 of the Internal Revenue Code - A Method of Converting a Capital Loss into a Fully Deductible Ordinary Loss
2. Tax Considerations
  - (a) Tax-Option (S Corporation) Election - The Elimination of the Corporate Income Taxes

- (b) Treasury Dept. Form 2553
- (c) Waiver and Minutes
- 3. Employee Benefits
  - (a) Utilization of Medical Dental Reimbursement Plan
  - (b) Waiver and Minutes
  - (c) Plan
  - (d) Agreement

Information contained in the enclosed forms are provided with the understanding that the provider is not rendering tax, accounting, legal or any other type of advice. If the reader has specific questions on the enclosed forms, the services of a competent attorney, accountant or other professional licensed in the state of incorporation or other applicable jurisdiction should be secured.

*a. Section 1244 of the Internal Revenue Code: Conversion of Capital Loss into Ordinary Loss*

Recognizing the need to encourage investment in small businesses, Section 1244 of the Code permits ordinary loss treatment up to a maximum of \$50,000 (\$100,000 if a joint return is filed) for losses on the sale of stock issued by a so-called “small business corporation”. Such stock is labeled “Section 1244 stock” and given this favorable Tax treatment if the following qualifications of the “small business corporation are met:

1. The corporation is a document, “small business corporation”, meaning that money and or the value (otherwise known as the “adjusted basis”) of property contributed to the Corporation in return for stock or as a capital contribution may not exceed \$1 million (as of the time the money and property are contributed; subsequent appreciation and or depreciation in the value of the company are irrelevant);
2. The stock is issued by the corporation in exchange for money or property (other than stock and securities);
3. Less than half of the corporation’s aggregate gross receipts during the five previous taxable years (or, if less, the entire time the corporation was in existence), were from such investment-type sources as interest, dividends, rent and gains from sales of securities; and
4. The stock is issued to an individual or a partnership.

The corporation does not need to formally elect or adopt a plan to issue Section 1244 stock. So long as the four above-mentioned qualifications are met, the stock is automatically treated as Section 1244 stock.

Losses resulting from the sale of worthless or devalued securities will be treated as capital losses, applying a less favorable tax rate, when such stock is issued by any corporation, other than a “small business corporation”. However, gains on the sale of stock issued by a small business corporation are still taxed as capital gain.

Capitalization of a new corporate equity often consists of the capital contributions of stockholders discussed above and loans to the Corporation by stockholders. Since loans are not securities, the above explanation of the taxation of Section 1244 Securities is irrelevant. There



are never tax consequences when these loans are withdrawn at a later date so long as these loans do not violate the “thin incorporation tax” doctrine. Many considerations go into determining if a corporation is thinly incorporated. The I.R.S. primarily focuses on the following ratio:

- (a) Debt owned to stockholders (loans)
- (b) Stockholders’ equity (stock)

Even though there is no litmus paper test used to determine what is and is not an acceptable debt/equity ratio, it is safe to say that a one-to-one debt/equity ratio maintained by a corporation is highly conservative and will not be considered to be thinly incorporated. On the other hand, as the corporation’s debt/equity ratio exceeds one-to-one the corporation faces a greater risk of being classified as thinly incorporated. Another important factor used by the I.R.S. when determining thin incorporation is if the debt(loan) has unusual features making it seem more like stock than an actual loan. The best way to avoid the problems associated with this doctrine is to structure the debt in an ordinary, commercially reasonable way and to ensure that the relationship between the stockholder/lender and the corporation is an arm’s length transaction. For example, a note should be signed at the time the loan is made, the loan should have a commercially reasonable interest rate, (never tied to corporate earnings), and other terms, and the interest and principal on the loan should be repaid on time.

#### *b. Corporate Income Taxes and The “S Corporation” Election*

Normally, corporations are classified as “C Corporations” and taxed under subchapter C of the Internal Revenue Code of 1954 separately from their stockholders. This means that the corporation pays income tax on its earnings. When dividends or other distributions are made to the corporation’s stockholders, they are then taxed on many such distributions as part of their personal income: thus, the “double taxation” issue.

In 1958 Congress enacted Subchapter S of the Internal Revenue Code of 1954 to aid and encourages small business corporation formation. Subchapter S essentially allows a qualifying corporation to avoid double taxation at the corporate and stockholder level and instead have its income and expenses passed through to its stockholders, who in turn report such income and expenses on their own income tax returns. The income is only taxed once—to the stockholders.

##### *i) Eligibility*

Only a “small business corporation”, as defined under this section of the Code, may elect to have the rules of Subchapter S apply to it and its stockholders. (The term “small business corporation”, as it pertains to eligibility to make the S corporation election, has no connection with the term “small business corporation” as used with regard to Section 1244 of the Code.) In fact, a corporation may lose such status if it ceases to meet the Code’s requirements of a small business corporation. A “small business corporation” is a domestic corporation (a corporation organized or created under the laws of the United States or a state or territory or a similar association that is taxed as a corporation) that has:

1. Only one class of stock. It is important to note, that shares differing solely in voting rights do not constitute different classes of stock. Thus, an S corporation can issue non-voting stock in addition to its voting stock. In addition, a corporation meets the single-class -of stock requirement only if each outstanding share confers upon its holder rights as to corporate profits and as to corporate assets upon liquidation that are identical to the rights conferred upon the holders of all other shares. A corporation may issue shares that vary in transfer, repurchase, and redemption rights so long as all of the shares convey the same rights and interests in the corporation’s

profits and assets. Only stock that is issued and outstanding is considered to be stock for purposes of this rule. A second class of stock that is held as treasury stock or that is authorized but unissued is ignored.

2. Seventy-five or less stockholders. (Prior to 1/1/97 Thirty-five or less.)
3. Stockholders other than nonresident aliens or nonhuman entities (such as other S corporations or partnerships) unless such stockholder is an estate or trust specifically permitted to be an S corporation stockholder.
4. “A small business trust,” if it so elects, can now be an S corporation stockholder. An electing small business trust is any trust where all beneficiaries are individuals, estates or charitable organizations holding a contingent remainder interest (but not a right to receive a current distribution from income or principal of the trust). However, trusts not eligible to qualify as an electing small business trust are qualified subchapter S trusts with respect to which an election is in effect and tax exempt trusts. Also, no interest in the trust can be acquired for purchase, only by gift, bequest, etc. Each beneficiary of the trust is counted as a stockholder for the 75 stockholder limit. The holding period that a testamentary trust may be an S corporation stockholder after the transfer of S Corporation stock to the trust pursuant to a will is expanded to two years.

*ii) S corporations are permitted to hold C and S corporation subsidiaries.*

A member of an affiliated group may elect S corporation status. In addition, an S corporation is allowed to own 80 percent or more of the stock of a C corporation. Furthermore, an S corporation is allowed to own a wholly owned S corporation subsidiary (“qualified subchapter S subsidiary”). Dividends received by an S corporation from a C Corporation in which the S Corporation has an 80 percent or greater ownership stake is not treated as passive investment income to the extent the dividends are attributable to the earnings and profits of the C corporation derived from the active conduct of a trade or business.

*iii) Stockholders’ Election of and Consent to S Corporation Status*

A corporation that meets the definition of a “small business corporation” under the S Corporation provisions of the Code must elect to be treated as an S corporation by filing with the I.R.S. Form 2553. On the day of the election, all stockholders of the corporation must consent to such election on Form 2553 or in separate statements, and such consent is binding and may not be withdrawn after a valid election by the Corporation. According to Instructions to I.R.S. Form 2553, the I.R.S. will notify the corporation of acceptance of the election within 60 days after the filing of this form.

*iv) Timing of the Election By Stockholders*

The corporation desiring S corporation status should file the election in the taxable year preceding the taxable year for which the corporation desires the election to be effective or within two and one-half months of the commencement of such effective taxable year. A corporation which files after the first two and one-half months of a taxable year results in the corporation’s election becoming effective for the following taxable year. Therefore, a corporation formed on November 1 has until January 15 to elect S Corporation status for the preceding two month taxable year.

### *c. Fringe Benefits*

*Generally:* Fringe benefits are typically payments which are deductible to the corporation and not taxable to the recipient. The advantage is that the corporation can expense the payment, but the employee does not have to pay tax on it. Most common is a retirement plan, a pension or profit sharing plan. Other fringe benefits include deferred compensation and stock option plans. We recommend that the corporation consult its tax advisor as it considers the various fringe benefit alternatives.

#### *Group Life Insurance.*

Under the tax laws, a corporation can provide up to \$50,000 in group-term life insurance for employees. There are certain rules which must be met in order to assure the cost is deductible by the company as an expense. Life insurance proceeds are not taxed to the beneficiary, so this is another tax-free benefit. Life insurance companies have plans which meet the tax requirements.

#### *Medical Care Reimbursement Plan.*

The corporation can provide (either with or without insurance) a plan that reimburses the employee and family for medical expenses. There are complex rules, including that the plan does not cover only certain employees, such as the stockholder/owners. It is important to consult with competent tax advisors to make sure that the requirements are satisfied.

Attached are CorpKit® specimen forms for a corporation to provide medical reimbursement to employees.

#### *Salary Reduction Plans: “Cafeteria Plans.”*

Companies may also provide for salary reduction agreements—sometimes known as Medical Savings or Dependent Care or Commuting Expense Reimbursement Plans—where an employee’s compensation is reduced and deposited with an administrator who then reimburses the employee for qualified medical and dependent care and commuting travel expenses from the savings plan. Disability benefits may also be provided by salary reduction plans. Most insurance and savings plans will meet requirements and assure favorable fringe benefit tax treatment: costs are deductible to the corporation and not taxed as income to the employee.

Typical salary reduction plans where the employee can chose which he wishes to use pre-tax income for might cover the following:

- Retirement plan contributions 401(k) Plans
- Group term-life insurance
- Accident or health insurance
- Medical expenses
- Dependent Child Care expenses
- Disability benefits

#### *Other Benefits.*

A corporation may also provide reimbursement or pay employees other business costs which have a business “fringe benefit type” benefit to employees. The corporation should consult its tax advisor regarding these benefits and care should be taken to make sure that such payments are not personal (see above discussion on personal liability of stockholders—Piercing the Corporate Veil).

Some of these benefits include:

- Business meals, travel and entertainment
- Automobile expenses for business use
- Educational expenses of employee
- Parking
- Uniforms
- Business related publications/magazines
- Employee cafeterias and other eating facilities
- Employee picnics, coffee service, etc.

**Directions for specimen forms that follow:**

[1] = insert name of State

[corporation name] = insert corporate name

[certificate/articles of incorporation] = insert correct designation

Attorney's Copy

[Name of Corporation]

CORPORATE DETAILS

as at \_\_\_\_\_, 20 \_\_\_\_.

Date of Incorporation:

State of Incorporation:

Principal Place of Business

Chairperson: \_\_\_\_\_ Director: \_\_\_\_\_

Director: \_\_\_\_\_ Director: \_\_\_\_\_

Officers:

President \_\_\_\_\_

Vice-President \_\_\_\_\_

Secretary \_\_\_\_\_

Treasurer \_\_\_\_\_

Bank Accounts:

Fiscal Year:

Annual Meeting Date:

Attorney:

Accountant:

Registered Agent:

Shares Authorized:

Stockholders:

Number of Shares

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## LOCATION OF CORPORATE RECORDS

RETAINED IN OFFICE	FORWARDED TO CLIENT	DATE/INITIALS
<input type="checkbox"/> Minute book	<input type="checkbox"/>	_____
<input type="checkbox"/> Share Certificate book	<input type="checkbox"/>	_____
<input type="checkbox"/> Share Ledger	<input type="checkbox"/>	_____
<input type="checkbox"/> Seal	<input type="checkbox"/>	_____

File in office notebook of Corporation Clients

## INDEX for CorpKit®

	<u>Tab or Page No.</u>
<u>Articles/Certificate of Incorporation</u>	Charter
<u>Receipt of Secretary of State</u>	Charter
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<u>Minutes of Organizational Meeting of Incorporator</u>	Minute Book
• Waiver of Notice	Minute Book
 <u>Minutes of Organizational Meeting of Board of Directors</u>	 Minute Book
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• Other: conformed copy of Subchapter S election	
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Unanimous Written Consent by Directors	
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Waiver of Notice of Annual/Special Stockholder Meeting	
Minutes of Annual Meeting of Directors	
Waiver of Notice of Annual/Special Directors Meeting Proxy	

**MINUTES OF  
THE ORGANIZATIONAL MEETING OF THE  
INCORPORATORS/BOARD OF DIRECTORS**

The Organizational meeting of the Incorporators/Board of Directors of [name of corporation] was held at \_\_\_\_\_, at \_\_\_\_\_ on \_\_\_\_\_, 20\_\_.

Present were: \_\_\_\_\_  
\_\_\_\_\_ being [all] \_\_\_\_\_ of the Incorporators/Directors of the corporation named in the [certificate/articles of Incorporation] filed \_\_\_\_\_, 20\_\_\_\_/or elected by the Incorporators.

On motion made and carried, \_\_\_\_\_ acted as Chairman, and \_\_\_\_\_ as Secretary of the meeting.

The Chairman stated that the first business to come before the meeting was the adoption of the Bylaws for the regulation of the affairs of the corporation. The Secretary presented and read a form of Bylaws, and

Upon motion duly made, seconded and carried, it was  
RESOLVED, that the Bylaws submitted and read to this meeting be, and the same hereby are, adopted as and for the Bylaws of this corporation and that the Secretary be, and he hereby is, instructed to cause same to be inserted in the Minute Book.

The Chairman announced that the next business to come before the meeting was the election of directors to serve for the ensuing year and until their successors shall be elected and shall qualify. The following persons were nominated and elected as initial members of the Board of Directors:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**WAIVER OF NOTICE  
OF  
ORGANIZATIONAL MEETING  
INCORPORATORS**

We, the undersigned, being all the Incorporators of [corporation name], a corporation incorporated under the laws of the State of [1] do hereby waive notice of the time, place and purpose of the organizational meeting of the Incorporators of said corporation and do fix \_\_\_\_\_ as the place, and \_\_\_\_\_ as the date and \_\_\_\_\_ as the time of said meeting and we do hereby consent to the transaction of such business as may come before such meeting.

Dated: \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
[All the Incorporators sign]

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**MINUTES OF  
ORGANIZATIONAL MEETING  
OF  
BOARD OF DIRECTORS**

The organizational meeting of the Board of Directors of [name of corporation] was held on \_\_\_\_\_, 20\_\_ at \_\_\_\_\_.

Present were \_\_\_\_\_  
being all/ \_\_\_\_\_ of the Board of Directors of the corporation named by the Incorporators or in the charter of the Corporation.

On motion made and carried, \_\_\_\_\_ was elected Chairman,  
and \_\_\_\_\_ as Secretary of the meeting.

The Chairman stated that the next business to come before the meeting was the election of officers to serve for the ensuing year and until their successors shall be elected and shall quality. The following persons were nominated and elected to the offices set opposite their respective names:

President:  
Vice President:  
Secretary:  
Treasurer:  
[Other officers, if any]:

On motion duly made and seconded, the following resolutions were unanimously adopted:

[*Note:* If the Bylaws have not been adopted by Incorporators, then Directors should adopt the Bylaws.

Upon motion duly made, seconded and carried, it was

BE IT RESOLVED, that the Bylaws submitted and read to this meeting be, and the same hereby are, adopted as and for the Bylaws of this corporation and that the Secretary be, and he hereby is, instructed to cause same to be inserted in the Minute Book.]

### **Sale of Stock**

On motion duly made and seconded, the following resolution was unanimously adopted:

WHEREAS, the following persons have executed subscription agreements substantially in the form annexed hereto and paid the consideration noted below in payment for shares of stock in the company;

NOW, THEREFORE, BE IT RESOLVED, in consideration of the aforesaid payment that this corporation through its proper officers do issue its shares of stock to the following individuals as designated below:

<u>NAME</u>	<u>[CLASS]</u>	<u>NO. OF SHARES</u>	<u>VALUE AND TYPE OF CONSIDERATION GIVEN</u>
-------------	----------------	--------------------------	--

BE IT FURTHER RESOLVED THAT: After such issuance such stock shall be, and hereby is, declared to be fully paid and non-assessable except as provided by law and such person shall be entitled to receive a stock certificate therefore.

### **Promoter's contracts**

The Chairman then pointed out that \_\_\_\_\_ had procured certain goods and services and had incurred certain expenses in connection with the proposed business of the Corporation, including, but not limited to certain expenses of incorporation, and entered into various contracts on behalf of the Corporation, and the Corporation has incurred certain other organizational expenses, including attorneys and accounting fees. On motion duly made and seconded, the following resolutions were unanimously adopted:

BE IT RESOLVED, that the Corporation hereby ratifies and adopts all actions and contracts made by \_\_\_\_\_ on behalf of or in connection with the business of the Corporation prior to the date hereof either as an incorporator or director, and

BE IT FURTHER RESOLVED, that the officers of the Corporation are hereby



authorized and directed to reimburse \_\_\_\_\_ for any and all expenses incurred by such person(s) in connection with the proposed business and incorporation of the Corporation.

BE IT FURTHER RESOLVED, that the proper officers of the Corporation are hereby authorized to pay for all other fees and expenses incurred in organizing this Corporation, including, but not limited to, any and all organizational expenses and all attorneys' and accounting fees.

### **Bank Resolutions**

The Board unanimously adopted the attached Resolutions to establish corporation bank accounts, which bank Resolutions are made a part hereof.

The Chairman then discussed the impact on the Corporation of disallowance of certain payments made to officers of the Corporation as a result of IRS audit. The following resolution was adopted:

RESOLVED, that officers of the Corporation shall enter into an agreement similar to that annexed to these Minutes which will provide that they will reimburse the Corporation for payments made to them which are disallowed by the Internal Revenue Service as a deductible expense.

### **Note: These provisions are optional**

**Stockholder's Agreement. OPTIONAL.** The Chairman stated that the next business to come before the meeting was the adoption by the Corporation of the Stockholders' Agreement placing certain restrictions on the transferability of the shares of this Corporation. Upon motion duly made and seconded, the following resolutions were unanimously approved:

*[Insert appropriate resolution restricting transferability of shares, etc. in accord with the Stockholder's Agreement]*

**IRC § 1244 Stock. OPTIONAL.** The Chairman then presented to the meeting of question of taking advantage of the provision of § 1244 of the Internal Revenue Code of 1954. He noted that this section permits ordinary loss treatment when the holder of § 1244 stock either sells or exchanges such stock at a loss or when such a stock becomes worthless. After a discussion, the following preambles were stated and the following resolutions were unanimously adopted:

WHEREAS, § 1244 and the regulations issued thereunder further require the maximum amount to be received by the corporation in consideration of the stock to be issued pursuant thereto and that such stock must be issued only for money or property other than stock or securities, and

WHEREAS, this corporation qualifies as a small business corporation as defined in § 1244, and there is not unissued any portion of a prior offering of any of this corporation's stock:

RESOLVED, that the foregoing issuance of § 1244 stock be and the same is hereby adopted by the corporation; and

BE IT FURTHER RESOLVED, that the proper officers of the corporation be, and they hereby are, authorized, empowered and directed to do and perform any and all such acts and deeds necessary to carry out such plan.

**Medical and Dental Reimbursement Plan. *OPTIONAL.*** The Chairperson called the meeting to order and then advised that all of the stockholders had requested that the Corporation elect to be treated as a small business corporation for income tax purposes. The Chairperson noted that the corporation met all the requirements for qualification and the chairperson recommended that such action be taken. Upon motion duly made, seconded and unanimously approved, it was:

- RESOLVED, that the Corporation elect, under the provisions of Section 1362 of the Internal Revenue Code, to be treated as a small business corporation for income tax purposes, subject to receipt of written consent to such election by all of the stockholders; and it was further
- RESOLVED, that upon receipt of written consent to said election by all of the stockholders, the President and such other officers authorized by the Board of Directors, from time to time, are hereby authorized and instructed to file such election and stockholders' statement of consent with the Internal Revenue Service and to take any and all steps necessary and desirable to execute the Internal Revenue Service to become a small business corporation for tax purposes.

The description of the Medical and Dental Reimbursement Plan approved by the Board of Directors and form of agreement with officers and employees is annexed to these Minutes and made a part hereof.

***Other matters as appropriate should be inserted*** (See Memorandum on what other matters the corporation may wish to include; in addition, legal counsel may advise other matters to be included depending on the nature of the business and other considerations unique to this corporation)

The Secretary was instructed to file with the minutes of this meeting the Waiver of Notice, signed by the Directors of the Corporation.

There being no further business to come before the meeting of incorporators, it was thereupon adjourned.

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(Secretary)

Approved:

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(Chairman)

**WAIVER OF NOTICE  
OF  
ORGANIZATIONAL MEETING  
BOARD OF DIRECTORS**

We, the undersigned, being all members of the Board of Directors of [name of corporation do hereby waive notice of the time, place and purpose of the organizational meeting of the Board of Directors of said corporation and do fix \_\_\_\_\_ as the place, and \_\_\_\_\_ as the date and \_\_\_\_\_ as the time of said meeting and we do hereby consent to the transaction of such business as may come before such meeting.

Dated: \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
[All the Directors sign]

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**Annex to Minutes of Board of Directors**

**Sample Form of Offer to Purchase Stock**

(Dated)

To the Board of Directors of  
[Name of Corporation]

Gentlemen:

I, the undersigned, hereby offer to purchase \_\_\_\_\_ (number)  
shares of the \_\_\_\_\_ stock of your corporation at a total purchase price  
of \$\_\_\_\_\_.

Very truly yours,

\_\_\_\_\_  
(Name of Purchaser)

\_\_\_\_\_  
(Address)

SS/EIN \_\_\_\_\_

**BANK ACCOUNT RESOLUTIONS**

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**Annex to Minutes of Board Approving this Plan**

MEDICAL AND DENTAL REIMBURSEMENT PLAN  
UNDER SECTION 105(h) OF THE INTERNAL REVENUE CODE

In order for a Medical and Dental Reimbursement Plan (“Plan”) to be tax exempt, it may not be “discriminatory” under Section 105(h) of the Internal Revenue Code. “Discrimination” will be found if the Plan favors officers, stockholders, or highly compensated employees. In order to determine whether or not a Plan favors any one, some or all of these groups, the Plan must pass the following two-part nondiscriminatory eligibility and nondiscriminatory benefits test set forth under the Internal Revenue Code:

(1) The Plan must not discriminate in favor of a “Highly Compensated Individual” within the company. A “Highly Compensated Individual” is

- (a) one who is among the company’s five highest paid officers;
- (b) is a stockholder who owns more than ten percent (10%) in value of the company’s stock; or
- (c) is among the highest twenty-five percentile (25%) of all paid employees, other than officers or stockholders.

(2) The Plan must benefit seventy percent (70%) or more of all employees, or eighty percent (80%) or more of all employees who are eligible to participate in the Plan. (Please note that an Employee that has not completed three years of service, who is under age twenty-five, is part-time or seasonal, is a nonresident alien, or is covered by an agreement between employee representatives and the employer, e.g.: employees covered by a labor union’s medical plan, need not be included under the Plan.)

All facts and circumstances concerning the company’s implementation of the Plan will be considered when testing for “discrimination” under the Plan. A Plan will not be deemed to be “discriminatory” when the Plan’s benefits are offset by benefits paid under a self-insured plan or an insured plan, or by benefits paid under federal or state law.

If a “Highly Compensated Employee” receives a reimbursement that is not available to other employees, all of the reimbursement will be taxable income. However, if the Plan merely fails to meet the requirements outlined above, the taxable reimbursement amount will be calculated by multiplying the total amount paid to the “Highly Compensated Individual” by the following fraction:

Total Amount Paid to All Highly Compensated Employees Under Plan  
Total Amount Paid to All Employees Under Plan

Attached please find a copy of the Plan and a form of an Agreement, along with a special set of minutes adopting the Plan. These documents need to be completed in order for a company to institute the Plan outlined herein.

AGREEMENT  
MEDICAL AND DENTAL REIMBURSEMENT PLAN  
Of

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Date: \_\_\_\_\_, 20\_\_

To: \_\_\_\_\_

(Name of Executive)

This will serve to confirm the understanding and agreement between you and the undersigned (hereinafter referred to as the “Corporation”) with respect to the Medical and Dental Reimbursement Plan (hereinafter referred to as the “Plan”).

1. The Corporation shall reimburse for the expenses incurred by Covered Employees for the medical care of those employees, their spouses, and their minor children who are then dependents, in excess of the coverage provided by medical insurance and prepayment plans provided by the Corporation or by the employee, on expenses which are not covered by any such insurance contract. Such reimbursement shall not exceed the limits set forth in Article 2 below.

2. The Corporation has adopted the Plan. Pursuant to such Plan and for so long as you are employed by the Corporation, the Corporation agrees to reimburse you for all reasonable medical and dental expenses up to the sum of \$10,000 in any fiscal year which you and/or members of your immediate family may incur, except such expenses which are covered and are reimbursable to you from any medical, dental, health and/or accident insurance policy insuring you and/or members of your immediate family.

3. In order to be reimbursed pursuant to the Plan, you must submit proof to the Corporation of your medical and dental expenses within one year from the date when such expense or expenses were incurred.

4. (a) Claims for benefits under the Plan shall be made in writing to the Corporation.

(b) If such claim for benefits is wholly or partially denied, the Corporation shall, within a reasonable period of time, but no later than 90 days after receipt of the claim, notify the claimant of the denial of the claim. Such notice of denial (i) shall be in writing, (ii) shall be written in a manner calculated to be understood by the claimant, and (iii) shall contain: the specific reason or reasons for denial of the claim; a specific reference to the pertinent plan provisions upon which the denial is based; a description of any additional material or information necessary for the claimant to perfect the claim, along with an explanation why such material or information is necessary; and an explanation of the Plan’s claim review procedure.

(c) Within 120 days after receipt by the claimant of the written notice of denial of the claim, or such later time as shall be deemed reasonable, taking into account the nature of the

benefit subject to the claim and any other attendant circumstances, or if the claim has not been granted within a reasonable period of time, the claimant may file a written request with the Corporation that it conduct a full and fair review of the denial of the claimant's claim for benefits, including conducting a hearing, if deemed necessary by the reviewing party. In connection with the claimant's appeal of the denial of his benefit, the claimant may review pertinent documents and may submit issues and comments in writing.

(d) The Corporation shall deliver to the claimant a written decision on the claim promptly, but not later than 60 days, after receipt of the claimant's request for review, except that if there are special circumstances (such as the need to hold a hearing), which require an extension of time for processing, the aforesaid 60 day period shall be extended to 120 days. Such decision shall (i) be written in a manner calculated to be understood by the claimant, (ii) include specific reasons for the decision, and (iii) contain specific references to the pertinent plan provisions upon which the decision is based.

5. The Corporation has adopted the Plan upon the advice of counsel that such reimbursements to you will be deductible in computing the Corporation's taxable income pursuant to the Internal Revenue Code and any applicable state tax statute. If for any reason whatsoever, the Internal Revenue Service and/or the State Taxing Authority should disallow any or all of the medical and dental reimbursement expenses which have been paid to you, as deductions in computing the Corporation's taxable income, you agree to reimburse the Corporation (upon demand by the Corporation) for all disallowed medical and dental reimbursement expenses received by you pursuant to this agreement.

6. The Plan or any provision thereof will be terminated upon the happening of any one of the following events:

- (a) Expiration of 10 days after mailing or posting of notice by the Corporation of termination;
- (b) Bankruptcy, insolvency or winding-up of the Corporation;
- (c) The termination of your employment with the Corporation;
- (d) At any time and for any reason whatsoever that the Corporation may decide to terminate this Plan or any provision thereof except that such expenses incurred by you and/or members of your immediate family prior to such termination shall be reimbursed to you pursuant to the terms of this agreement.

7. Upon termination, the Employee, his family and his beneficiaries shall have no other rights under the Plan.

8. Nothing herein to the contrary, the Corporation's direct reimbursement or payment of any benefit shall only be for a cost which the relevant beneficiary has incurred during his employment.

9. All notices, approvals or other communications to be sent or given to the Employee shall be deemed validly and properly given or made if in writing and delivered by hand or by registered or certified mail return receipt requested and addressed to him at:

(Employee's Address): \_\_\_\_\_

Attention: \_\_\_\_\_

All notices, approvals or other communications to be sent or given to the Corporation shall be deemed validly and properly given or made if in writing and delivered by hand or by registered or certified mail return receipt requested, and addressed to (Name and Corporation's Address) with a copy to (Name and Address).

Any of the parties hereto may give notice to the others at any time by the methods specified above of a change in the address at which, or the person to whom, notices addressed to it are to be delivered in the future.

10. The Plan shall be binding upon and shall inure to the benefit of the parties hereto and their personal representatives, successors and assigns. It may not be modified, except by a writing signed by both the parties.

11. The Plan shall be governed by the laws of the State of Missouri.

12. The Plan supersedes all prior plans or agreements, written or oral, between the Employee and the Corporation, and shall constitute the only agreement relating to the Employee's medical and reimbursement benefits so long as such Employee is employed by the Corporation.

13. Wherever in this instrument words are used in the masculine or neuter gender, they shall be read and construed as in the masculine, feminine or neuter gender whenever they would so apply, and vice versa. Wherever words appear in the singular or plural, they shall be read and construed as in the plural or singular, respectively, wherever they would so apply.

14. Each Employee, family member or beneficiary, does, by his acceptance of potential benefits under this Plan agree to execute any documents which may be necessary or proper in the carrying out of the purpose and intent of the Plan.

15. Each eligible Employee shall have the right to elect not to participate in this Plan or in any benefit plan thereunder.

This letter shall constitute a binding agreement between us upon your signing it in the place indicated below.

Accepted and Agreed to:

[Name of Corporation]

Dated this \_\_\_ day of \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
President

\_\_\_\_\_  
(Signature of Employee)

**Annex to Minutes of Board of Directors**

STATE OF [1]}

**OFFICER'S  
CONSENT AGREEMENT**

COUNTY OF \_\_\_\_\_ }

We, the undersigned, being all of the elected officers of [name of corporation] hereby consent to and agree to be bound by those certain resolutions adopted at the meeting of the Board of Directors of said Corporation held on \_\_\_\_\_, 20\_\_ to reimburse the Corporation for any payments made to any officer which is disallowed by the Internal Revenue Service as a deductible expense.

The undersigned further understands and agrees that said consent is binding upon us, our executors, administrators, successors, heirs and assigns until such time as the aforesaid resolution of the Board of Directors is modified, rescinded or revoked.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
[Signed by Officers]

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**UNANIMOUS CONSENT CERTIFICATE OF ACTION  
BY STOCKHOLDERS**

The undersigned, being the sole/all the stockholder(s) of [name of corporation] hereby certify for the records of this corporation that the undersigned does hereby consent to and adopt the following as the action of the stockholders of this corporation:

*[set forth the action which is approved by this written consent]*

Dated at \_\_\_\_\_, this day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_

Stockholder(s)



**UNANIMOUS CONSENT CERTIFICATE OF ACTION**  
**BY DIRECTORS**

We, the undersigned, being all the Directors of [name of corporation], do hereby certify for the records of this corporation that we do consent to and adopt the following as the action of the Directors of this corporation:

*[set forth the action which is approved by this written consent]*

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Director

\_\_\_\_\_  
Director

\_\_\_\_\_  
Director

\_\_\_\_\_  
Director

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**MINUTES OF THE ANNUAL MEETING**  
**OF STOCKHOLDERS**

Pursuant to a Waiver of Notice, which is attached hereto, the annual meeting of stockholders of [name of corporation] was held on \_\_\_\_\_, 20\_\_.

Upon motion duly made and seconded, \_\_\_\_\_ acted as Chairman and as Secretary of the meeting.

The Chairman appointed as Inspector to ascertain the number of shares or other securities (1) present and (2) entitled to vote at the meeting in person or by proxy. The Inspector reported that \_\_\_\_\_ shares were present and entitled to vote.

The Chairman stated that the first business to come before the meeting was the election of Directors of the corporation to serve for one year under the next annual meeting of the corporation and until their successors are elected and qualified. Whereupon, \_\_\_\_\_, \_\_\_\_\_ were nominated as Directors of the corporation to serve for the ensuing year and until their successors are elected and shall qualify. No other nominations having been made and upon motion duly made and seconded, the aforesaid nominees were unanimously elected as Directors of the corporation.

There being no further business to come before the meeting, it was thereupon adjourned.

\_\_\_\_\_  
Secretary

APPROVED:

\_\_\_\_\_  
Chairman

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**WAIVER OF NOTICE  
OF  
[ANNUAL] [SPECIAL] MEETING  
OF  
STOCKHOLDERS**

The undersigned, being all the stockholders of [name of corporation], a corporation incorporated under the laws of the State of [1], entitled to such notice do hereby waive notice of the time, place and purpose of the [annual] [special] meeting of the stockholders of said corporation and do fix \_\_\_\_\_, at \_\_\_\_\_, \_\_\_\_\_, as the place and as the time of said meeting, and we do hereby consent to the transaction of such business as may come before such meeting.

Dated: \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
\_\_\_\_\_  
Stockholder(s)

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**MINUTES OF ANNUAL MEETING  
of  
BOARD OF DIRECTORS**

The annual meeting of the Board of Directors of [name of corporation] was held at:

Date:

Time:

Place:

The following Directors were present and constituted a quorum:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The meeting was called to order by \_\_\_\_\_.

Upon motion duly made and seconded that \_\_\_\_\_ was elected as Chairperson and \_\_\_\_\_ elected as Secretary.

The Secretary presented and read a waiver of the time, place and purpose of the meeting signed by all the directors, which was ordered filed.

The Secretary read the minutes of the preceding meeting of the Board of Directors, held on \_\_\_\_\_, \_\_\_\_ which was then adopted.

The President of the Corporation reported on the business and affairs of the Corporation generally.

The Treasurer of the Corporation reported on the financial affairs of the Corporation.

The Secretary of the Corporation then presented his report.

The Secretary of the Corporation stated that resignations of the following persons as officers of the Corporation had been presented:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

On resolution duly made and seconded, the following resolution was unanimously adopted:

RESOLVED, that the resignation of the fore-named persons as officers of the Corporation, be accepted, effective immediately.

The Chairperson stated that the following persons were designated by management to serve as officers of the Corporation for the ensuing year and until their successors are elected and qualify:

President: \_\_\_\_\_

Vice President: \_\_\_\_\_

Treasurer: \_\_\_\_\_

Secretary: \_\_\_\_\_

Upon a motion duly made and seconded, the following resolution was unanimously adopted:

RESOLVED, that each of the fore-named persons be and are hereby elected to the office

set opposite (his/her) name, to assume their duties and responsibilities fixed by the Bylaws or by the Board of Directors, from time to time.

There being no further business to come before the meeting, upon motion duly made, seconded and unanimously adopted, the meeting was adjourned.

\_\_\_\_\_  
Secretary

Attest:

Board of Directors

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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**WAIVER OF NOTICE OF [SPECIAL/ANNUAL] MEETING  
OF  
BOARD OF DIRECTORS**

We, the undersigned, being all the members of the Board of Directors of [name of corporation] do hereby waive notice of the time, place and purpose of a meeting of the Board of Directors of said corporation and do fix \_\_\_\_\_, at \_\_\_\_\_, \_\_\_\_\_, as the place and as the time of said meeting, and we do hereby consent to the transaction of such business as may come before such meeting.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
[Directors sign]

Dated: \_\_\_\_\_, 20\_\_

STATE OF [1]}

**PROXY**

COUNTY OF \_\_\_\_\_ }

**KNOW ALL MEN BY THESE PRESENTS:** That the undersigned, being the owner and holder of \_\_\_\_\_ shares of the [common stock] [or ] of [corporation], hereby constitutes and appoints and/or as attorney and proxy of the undersigned, powers of substitution for and in the name of the undersigned to vote, and act at the meeting of the stockholders of the corporation to be held at \_\_\_\_\_, \_\_\_\_\_ on \_\_\_\_\_, 20\_\_ at \_\_\_\_\_ o'clock and at any adjournment and at all adjournments thereof, upon and in respect of all shares of stock in said corporation held by the undersigned, and upon or in respect of which the undersigned will be entitled to vote and act with all the powers the undersigned would possess if personally present, and with power, by vote or consent, at a meeting or otherwise, to authorize or ratify any and all actions.

DATED: \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
BY \_\_\_\_\_  
(signature exactly as appears  
on stock certificate)