

BYLAWS
OF
THE CANARY FUND
A California Nonprofit
Public Benefit Corporation

ARTICLE I

NAME AND OFFICES

Section 1.1 Name. This corporation shall be known as The Canary Fund (hereinafter referred to as the "Corporation").

Section 1.2 Principal Office. The principal office of the Corporation shall be initially located at 3480 Woodside Road in the City of Woodside, County of San Mateo, State of California. The Board of Directors is hereby granted full power and authority to change said principal office from one location to another both within and without said county.

Section 1.3 Other Offices. Branch or subordinate offices may at any time be established by the Board of Directors at any place or places.

ARTICLE II

MEMBERS

Section 2.1 No Statutory Members. The Corporation shall have no members.

Section 2.2 Associated Persons. Nothing in this Article II shall be construed as limiting the right of the Corporation to refer to persons associated with it as "members" even though such persons are not members, and no such reference shall constitute anyone a member, within the meaning of Section 5056 of the Nonprofit Corporation Law of the State of California as amended from time to time (the "Nonprofit Corporation Law"). The Corporation may confer by amendment of its Articles or of these Bylaws some or all of the rights of a member, as set forth in the Nonprofit Corporation Law, upon any person or persons; provided, however, that no such person or persons shall be a member within the meaning of said Section 5056 unless such person(s) is given the right, pursuant to a specific provision of the Articles and/or Bylaws, to vote for the election of a director or directors, to vote on a disposition of all or substantially all of the assets of the Corporation, to vote on a merger or dissolution of the Corporation, and/or to vote on changes to the Articles and/or Bylaws.

ARTICLE III

ACTIONS BY MEMBERS

Any action which would otherwise require a vote of members shall require only a vote of the Directors, and no meeting of members shall be required, any provision of the Articles or Bylaws to the contrary notwithstanding. All rights which would otherwise vest in the members shall vest in the Directors.

ARTICLE IV

DIRECTORS

Section 4.1 Powers. Subject to the limitations stated in the Articles of Incorporation, these Bylaws, and the Nonprofit Corporation Law, and subject to the duties of Directors as prescribed by the Nonprofit Corporation Law, all corporate powers shall be exercised by, or under the direction of, and the business and affairs of the Corporation shall be managed by, the Board of Directors. The individual Directors shall act only as members of the Board of Directors, and the individual Directors shall have no power as such.

Section 4.2 Number of Directors. The authorized number of Directors of the Corporation shall be not more than seven (7) nor less than one (1), the exact number to be fixed by the Board of Directors. The initial number of Directors upon the adoption of these Bylaws shall be set at two (2) and shall remain at that number until changed by amendment of this Section 4.2 as provided in these Bylaws. The selection of a Director or Directors pursuant to these Bylaws which results in the exact number of Directors being exceeded shall automatically be deemed an amendment to this Section 4.2 to increase the exact number of then Directors; provided, however, in no event shall the maximum number of Directors be increased without a specific amendment to this Section 4.2.

Section 4.3 Election, Term of Office and Qualifications.

- (a) The following individuals are designated as the Directors:

Donald J. Listwin
Dale Jantzen

(b) The Directors shall hold office until the death, resignation, or removal of the Director.

(c) Not more than forty-nine percent (49%) of the persons serving on the Board of Directors of the Corporation may be Interested Persons, as hereafter defined. An Interested Person means any person currently being compensated by the Corporation for services rendered to it within the previous twelve (12) months, whether as a full-time or part-time employee, independent contractor, or otherwise (excluding any reasonable compensation paid to

a Director as a Director), and/or any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law of any such person.

Section 4.4 Resignation. Any Director may resign at any time by giving written notice of such resignation to the Chairman of the Board, the President, the Secretary, or the Board of Directors of the Corporation. Such resignation shall take effect at the time specified in the notice. Except upon notice to the Attorney General, no Director may resign where the Corporation would then be left without a duly selected Director or Directors in charge of its affairs. If the resignation is effective at a future time, a successor may be selected to take office when the resignation becomes effective.

Section 4.5 Removal.

(a) A Director may be removed from the Board of Directors only by an affirmative vote of a majority of the Board of Directors or by the written consent thereof.

(b) Notwithstanding any other provision of these Bylaws to the contrary, the Board of Directors may declare vacant the office of a Director who has been declared of unsound mind by a final order of court, or convicted of a felony, or been found by a final order or judgment of any court to have breached any duty of Article 3 (commencing with Section 5230) of the Nonprofit Corporation Law.

Section 4.6 Vacancies.

(a) A vacancy in the Board of Directors shall be deemed to exist in case of the resignation, removal, incapacity, or death of any Director, or if the authorized number of Directors is increased.

(b) Vacancies on the Board of Directors may be filled by the affirmative vote of a majority of the Board of Directors or by the written consent thereof.

Section 4.7 Organization Meeting. Immediately after each meeting or action by which a majority of the Board of Directors is selected, the Board of Directors shall hold a regular meeting for the purpose of organization, the election of officers and the transaction of other business. No notice of such meeting need be given.

Section 4.8 Other Regular Meetings. The Board of Directors may provide by resolution the time and place for the holding of regular meetings of the Board of Directors; provided, however, that if the date so designated falls upon a legal holiday, then the meeting shall be held at the same time and place on the next succeeding day which is not a legal holiday. No notice of such regular meetings of the Board of Directors need be given.

Section 4.9 Calling Meetings. Regular or special Meetings of the Board of Directors (other than regular meetings held pursuant to Sections 4.7 and/or 4.8 of these Bylaws) shall be held whenever called by the Chairman of the Board or the President, or by a majority of the Directors of the Corporation.

Section 4.10 Place of Meetings. Meetings of the Board of Directors shall be held at any place within or without the State of California which may be designated in the notice of the meeting, or, if not stated in the notice or if there is no notice, designated by resolution of the Board of Directors. In the absence of such designation, meetings of the Board of Directors shall be held at the principal office of the Corporation.

Section 4.11 Telephonic Meetings. Members of the Board of Directors may participate in a regular or special meeting through use of conference telephone or similar communications equipment, so long as all members participating in such meeting can hear one another. Participation in a meeting pursuant to this Section 4.11 constitutes presence in person at such meeting.

Section 4.12 Notice of Special Meetings. Written notice of the time and place of special meetings of the Board of Directors shall be delivered personally to each Director, or sent to each Director by first class mail, telephone or telegraph. In case such notice is sent by mail, it shall be deposited in the United States mail at least seven (7) days prior to the time of the holding of the meeting. For purposes of determining whether such seven (7) day requirement has been satisfied, the day of the meeting and the day notice is given shall each be counted as one full day regardless of the time of the day the meeting is held or the notice is given. Each notice shall be deemed given to a Director when deposited, with postage thereon prepaid, in a post office or official depository under the exclusive care and custody of the United States post office department and addressed to such Director at the address designated by him for that purpose or, if none is designated, at his last known address. In case such notice is delivered personally, or by telephone or telegraph, it shall be so delivered at least forty-eight (48) hours prior to the time of the holding of the meeting. Such notice may be given by the Secretary of the Corporation or by the persons who called said meeting. Such notice need not specify the purpose of the meeting, unless the meeting is to consider an amendment to the Bylaws that will increase the number of Directors of the Corporation or to designate one or more new Directors. Notice shall not be necessary if appropriate waivers, consents and/or approvals are filed in accordance with Section 4.13 of these Bylaws.

Section 4.13 Waiver of Notice. Notice of a meeting need not be given to any Director who signs a waiver of notice, or a written consent to holding the meeting or an approval of the minutes of the meeting, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such Director. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meeting. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Directors, or of a committee of Directors, need be specified in any such waiver, consent or approval.

Section 4.14 Action Without Meeting. Any action required or permitted to be taken by the Board of Directors may be taken without a meeting, if all members of the Board shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board. Such action by written consent shall have the same force and effect as a unanimous vote of such Directors.

Section 4.15 Quorum. A majority of the number of Directors then in office immediately prior to a meeting of the Board of Directors shall constitute a quorum for the transaction of business for such meeting. Every act or decision done or made by a majority of the Directors present at a meeting duly held at which a quorum is present shall be the act of the Board of Directors, unless the Articles of Incorporation, these Bylaws, or the Nonprofit Corporation Law specifically requires a greater number. In the absence of a quorum at any meeting of the Board of Directors, a majority of the Directors present may adjourn the meeting as provided in Section 4.16 of these Bylaws. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of enough Directors to leave less than a quorum, if any action taken is approved by at least a majority of the required quorum for such meeting.

Section 4.16 Adjournment. Any meeting of the Board of Directors, whether or not a quorum is present, may be adjourned to another time and place by the vote of a majority of the Directors present. Notice of the time and place of the adjourned meeting need not be given to absent Directors if said time and place are fixed at the meeting adjourned provided, however, that if the meeting is adjourned for more than twenty-four (24) hours, notice of any adjournment to another time or place shall be given prior to the time of the adjourned meeting to the Directors who were not present at the time of the adjournment.

Section 4.17 Inspection Rights. Every Director shall have the absolute right at any time to inspect, copy and make extracts of, in person or by agent or attorney, all books, records and documents of every kind and to inspect the physical properties of the Corporation.

Section 4.18 Fees and Compensation. Directors shall not receive any stated salary for their services as Directors, but, by resolution of the Board of Directors, a fixed fee may be allowed for attendance at each meeting of the Board of Directors. Directors may be reimbursed in such amounts as may be determined from time to time by the Board of Directors for expenses, including without limitation reasonable travel expenses, paid while acting on behalf of the Corporation, including without limitation serving on boards of organizations supported by the Corporation, and/or expenses incurred in attending meetings of the Board of Directors. Nothing contained in these Bylaws (except for Section 4.3(c)) shall be construed to preclude any Director from serving the Corporation in any other capacity as an officer, agent, employee, or otherwise, and receiving compensation therefor.

ARTICLE V

COMMITTEES

Section 5.1 Executive and Other Committees of the Board of Directors. The Board of Directors may, by resolution adopted by a majority of the Directors then in office (provided a quorum is present), create an executive committee and/or other committees, consisting of one or more Directors. Such committees shall have such power and authority as may be determined by the Board of Directors, subject to the limitations imposed on such power and authority by the Nonprofit Corporation Law and/or the Articles of Incorporation.

Section 5.2 Advisory Committees. The Board of Directors may create one or more ad hoc advisory committees, consisting of such persons as may be determined by the Board of Directors or appointed by the person designated by the Board of Directors to fill the committee(s). For example, the Board of Directors may create a sub-committee which will be responsible for the scientific direction of the Corporation and the selection of projects to be funded from grant proposals.

Section 5.3 Minutes and Reports. Each committee shall keep regular minutes of its proceedings, which shall be filed with the Secretary. All action by any committee shall be reported to the Board of Directors at the next meeting thereof, and, insofar as rights of third parties shall not be affected thereby, shall be subject to revision and alteration by the Board of Directors.

Section 5.4 Meetings. Except as otherwise provided in these Bylaws or by resolution of the Board of Directors, each committee shall adopt its own rules governing the time and place of holding and the method of calling its meetings and the conduct of its proceedings and shall meet as provided by such rules, and it shall also meet at the call of any member of the committee. Unless otherwise provided by such rules or by resolution of the Board of Directors, committee meetings shall be governed by Sections 4.10, 4.11, 4.12, 4.13, 4.14, 4.15 and 4.16 of these Bylaws.

Section 5.5 Term of Office of Committee Members. Each committee member shall serve at the pleasure of the Board of Directors.

ARTICLE VI

OFFICERS

Section 6.1 Officers. The officers of the Corporation shall be a President, a Secretary, and a Treasurer, who shall be the Chief Financial Officer of the Corporation. The Corporation may also have, at the discretion of the Board of Directors, a Chairman of the Board, one or more Vice Presidents, one or more Assistant Secretaries, and such other officers as may be appointed in accordance with the provisions of Section 6.3. One person may hold two or more offices; provided, however, that neither the Secretary nor the Treasurer may serve concurrently as the President or Chairman of the Board.

Section 6.2 Election and Term. The officers of the Corporation shall be chosen by the Board of Directors and shall serve at the pleasure of the Board of Directors, subject to the rights, if any, of an officer under any contract of employment. Officers need not be chosen from among the Directors.

Section 6.3 Subordinate Officers, etc. The Board of Directors may appoint such other officers as the business of the Corporation may require, each of whom shall hold office for such period, have such authority and perform such duties as are provided in these Bylaws or as the Board of Directors may from time to time determine.

Section 6.4 Resignation. Any officer may resign at any time by giving written notice to the Corporation, subject to the rights, if any, of the Corporation under any contract to which the officer is a party. Any such resignation shall take effect at the date of the receipt of such notice or at any later time specified therein; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6.5 Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled in by the Board of Directors.

Section 6.6 Chairman of the Board. The Chairman of the Board, if there shall be such an officer, shall, if present, preside at all meetings of the Board of Directors, and exercise and perform such other powers and duties as may be from time to time assigned to the Chairman of the Board by the Board of Directors or prescribed by these Bylaws.

Section 6.7 President. Subject to such supervisory powers, if any, as may be given by the Board of Directors to the Chairman of the Board, if there be such an officer, the President shall be the General Manager and Chief Executive Officer of the Corporation and shall, subject to the control of the Board of Directors, have general supervision, direction, and control of the business and officers of the Corporation. The President shall be ex officio a non-voting member of all the standing committees, including the executive committee, if any, and shall have the general powers and duties of management usually vested in the office of president of a corporation, and shall have such other powers and duties as may be prescribed by the Board of Directors or by these Bylaws.

Section 6.8 Vice President. If there shall be such an officer or officers, in the absence or disability of the President, the Vice Presidents in order of their rank as fixed by the Board of Directors, or if not ranked, the Vice President designated by the Board of Directors, shall perform the duties of the President, and when so acting shall have all the powers of, and be subject to all the restrictions upon, the President. The Vice Presidents shall have such other powers and perform such other duties as from time to time may be prescribed for them respectively by the Board of Directors or these Bylaws.

Section 6.9 Secretary.

(a) The Secretary shall keep, or cause to be kept, a book of minutes in written form of the proceedings of the Board of Directors and committees of the Board of Directors. Such minutes shall include all waivers of notice, consents to the holding of meetings, or approvals of the minutes of meetings executed pursuant to these Bylaws or the Nonprofit Corporation Law.

(b) The Secretary shall give or cause to be given, notice of all meetings of the Board of Directors required by these Bylaws or by law to be given, and shall cause the seal of the Corporation, if any, to be kept in safe custody, and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or these Bylaws.

Section 6.10 Treasurer and Chief Financial Officer.

(a) The Treasurer and Chief Financial Officer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and records of account in written form or any other form capable of being converted into written form.

(b) The Treasurer and Chief Financial Officer shall deposit all monies and other valuables in the name and to the credit of the Corporation with such depositaries as may be designated by the Board of Directors. The Treasurer shall disburse all funds of the Corporation as may be ordered by the Board of Directors, shall render to the President and Directors, whenever they request it, an account of all of the Treasurer's transactions as Treasurer and Chief Financial Officer and of the financial condition of the Corporation, and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or by these Bylaws.

Section 6.11 Assistant Secretary. The Assistant Secretary, if there shall be such an officer, shall have all the powers, and perform all the duties of, the Secretary in the absence or inability of the Secretary to act.

Section 6.12 Compensation. The compensation, if any, of the officers shall be fixed from time to time by the Board of Directors, and no officer shall be prevented from receiving such compensation by reason of the fact that the officer is also a Director of the Corporation.

ARTICLE VII

BOOKS AND RECORDS

Section 7.1 Books and Records. The Corporation shall keep adequate and correct books and records of account and minutes of the proceedings of the Board of Directors and committees of the Board of Directors.

Section 7.2 Form of Records. Minutes shall be kept in written form. Other books and records shall be kept either in written form or in any other form capable of being converted into written form. If any record subject to inspection pursuant to the Nonprofit Corporation Law is not maintained in written form, a request for inspection is not complied with unless and until the Corporation at its expense makes such record available in written form.

Section 7.3 Annual Report.

(a) Except as otherwise provided below, the Board of Directors shall cause an annual report (hereinafter the "Annual Report") to be sent to the Directors not later than one hundred twenty (120) days after the close of the Corporation's fiscal year. The Annual Report shall contain in appropriate detail the following:

(i) The assets and liabilities, including the trust funds, of the Corporation as of the end of the fiscal year.

(ii) The principal changes in assets and liabilities, including trust funds, during the fiscal year.

(iii) The revenue or receipts of the Corporation, both unrestricted and restricted to particular purposes, during the fiscal year.

(iv) The expenses or disbursements of the Corporation, for both general and restricted purposes, during the fiscal year.

(v) Any information required by Section 6322 of the Nonprofit Corporation Law.

(b) The Annual Report shall be accompanied by any report thereon of independent accountants, or, if there is no such report, the certificate of an authorized officer of the Corporation that such statements were prepared without audit from the books and records of the Corporation.

(c) If the Corporation solicits in writing contributions from five hundred (500) or more persons, the Corporation need not send an Annual Report if it does all of the following:

(i) Includes with any written material used to solicit contributions a written statement that its latest Annual Report will be mailed upon request and that such request may be sent to the Corporation at a name and address which is set forth in the statement;

(ii) Promptly mails a copy of its latest Annual Report to any person who requests a copy thereof; and

(iii) Causes its Annual Report to be published not later than one hundred twenty (120) days after the close of its fiscal year in a newspaper of general circulation in the county in which its principal office is located.

ARTICLE VIII

GRANTS, CONTRACTS, LOANS, ETC.

Section 8.1 Grants. The making of grants and contributions, and otherwise rendering financial assistance for the purposes of the Corporation, may be authorized by the Board of Directors. The Board of Directors may authorize any officer or officers, agent or agents, in the name of and on behalf of the Corporation to make any such grants, contributions or assistance.

Section 8.2 Execution of Contracts. The Board of Directors may authorize any officer, employee or agent, in the name and on behalf of the Corporation, to enter into any contract or execute and satisfy any instrument, and any such authority may be general or confined to specific instances, or otherwise limited. In the absence of any action by the Board of Directors

to the contrary, the President shall be authorized to execute such instruments on behalf of the Corporation.

Section 8.3 Loans. The President or any other officer, employee or agent authorized by the Bylaws or by the Board of Directors may effect loans and advances at any time for the Corporation from any bank, trust company or other institutions or from any firm, corporation or individual and for such loans and advances may make, execute and deliver promissory notes, bonds or other certificates or evidences of indebtedness of the Corporation, and when authorized by the Board of Directors so to do, may pledge and hypothecate or transfer assets of the Corporation as security for any such loans or advances. Such authority conferred by the Board of Directors may be general or confined to specific instances or otherwise limited.

Section 8.4 Checks, Drafts, Etc. All checks, drafts and other orders for the payment of money out of the funds of the Corporation and all notes or other evidences of indebtedness of the Corporation shall be signed on behalf of the Corporation in such manner as shall from time to time be determined by resolution of the Board of Directors.

Section 8.5 Deposits. The funds of the Corporation not otherwise employed shall be deposited from time to time to the order of the Corporation in such banks, trust companies, or other depositories as the Board of Directors may select or as may be selected by an officer, employee or agent of the Corporation to whom such power may from time to time be delegated by the Board of Directors.

ARTICLE IX

INDEMNIFICATION OF DIRECTORS AND OFFICERS

Section 9.1 Indemnification by Corporation.

(a) For the purposes of this Section 9.1, "agent" means any person who is or was a director, officer, employee or other agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise, or was a director, officer, employee or agent of a foreign or domestic corporation which was a predecessor corporation of the Corporation or of another enterprise at the request of such predecessor corporation; "proceeding" means any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative; and "expenses" includes without limitation attorneys' fees and any expenses of establishing a right to indemnification under Paragraph (d) or Paragraph (e)(2) of this Section 9.1.

(b) The Corporation shall, to the fullest extent permitted by law, indemnify any person who was or is a party or is threatened to be made a party to any proceeding by reason of the fact that such person is or was an agent of the Corporation, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding.

(c) In the event entitlement to indemnification is required by law to be based upon a determination by the Board of Directors that the agent has met the standards of conduct prescribed by law, such body shall meet and shall reach a determination on the issue within a reasonable period of time after request for such body to meet is received by the Corporation from the agent.

(d) To the extent that an agent of the Corporation has been successful on the merits in defense of any proceeding referred to in Paragraphs (b) or (c) above, or in defense of any claim, issue or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection therewith.

(e) Except as provided in Paragraph (d) above, any indemnification under this Section 9.1 shall be made by the Corporation only if authorized in the specific case, upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in Paragraph (b) or (c) above, by:

(i) A majority vote of a quorum consisting of Directors who are not parties to such proceeding; or

(ii) The court in which such proceeding is or was pending upon application made by the Corporation or the agent or the attorney or other person rendering services in connection with the defense, whether or not such application by the agent, attorney or other person is opposed by the Corporation.

(f) No indemnification or advance shall be made under this Section 9.1, except as provided in Paragraph (d) or Paragraph (e)(2) above, in any circumstance where it appears:

(i) That it would be inconsistent with a provision of the Articles of Incorporation, the Bylaws, or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or

(ii) That it would be inconsistent with any condition expressly imposed by a court in approving a settlement.

Section 9.2 Insurance. The Corporation shall have power to purchase and maintain insurance on behalf of any agent of the Corporation against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such whether or not the Corporation would have the power to indemnify the agent against such liability under the provisions of this section; provided, however, that the Corporation shall have no power to purchase and maintain such insurance to indemnify any agent of the Corporation for a violation of Section 5233 of the Nonprofit Corporation Law (relating to self-dealing transactions).

Section 9.3 Other Rights To Indemnification. The provisions of this Article IX are in addition to and not in limitation of any other rights to indemnification to which the agent might be entitled.

ARTICLE X

INVESTMENTS

Section 10.1 Standards, Retention of Property.

(a) In investing, reinvesting, purchasing, acquiring, exchanging, selling and managing the Corporation's investments other than assets held for use or used directly in carrying out a public or charitable program of the Corporation, the Board of Directors shall avoid speculation, looking instead to the permanent disposition of the funds, considering the probable income, as well as the probable safety of the Corporation's capital.

(b) Unless limited by the Articles, the Corporation may continue to hold property properly acquired or contributed to it if and as long as the Board of Directors, in the exercise of good faith and of reasonable prudence, discretion and intelligence, may consider that retention is in the best interests of the Corporation. No retention of donated assets violates this Section 10.1, where such retention was required by the donor in the instrument under which the assets were received by the Corporation, except that no such requirement may be effective more than ten (10) years after the death of the donor.

(c) No investment violates this Section 10.1 by virtue of the investment's speculative character, where the investment conforms to provisions authorizing such investment contained in the instrument or agreement under which the assets were contributed to the Corporation.

Section 10.2 Endowment Fund.

(a) The Corporation may receive donations earmarked for an endowment fund from any source in cash or in other property acceptable to the Board of Directors, provided the terms and conditions, if any, are consistent with the purposes and powers of the Corporation as set forth in the Articles and/or the Bylaws of the Corporation. All donations so received together with the income therefrom, herein referred to as the "Fund," shall be held, managed, administered and paid out in accordance with any terms and conditions with respect thereto. Unless otherwise specifically required, the Corporation may mingle such restricted donations with other assets of the Fund. The Corporation may reject any donation carrying restrictions deemed by the Board of Directors to be incompatible with the purpose of the Fund and/or the Corporation.

(b) The Corporation shall keep a complete record of the source of all gifts made to the Fund and shall take such steps as the Board of Directors deems appropriate to recognize and commemorate each such gift, to the end that the memory of the gift and of the donor shall be appropriately preserved.

(c) The Corporation shall disburse the Fund or the income therefrom at such time and in such a manner and in such amounts as the Board of Directors may in its discretion determine for the Corporation or its related activities.

ARTICLE XI

DISTRIBUTION OF INCOME AND PROHIBITED ACTIVITIES

In the event that the Corporation shall at any time be a private foundation within the meaning of section 509 of the United States Internal Revenue Code of 1986, as amended (hereinafter referred to as the "Code"), the Corporation, so long as it shall be such a private foundation, shall distribute its income for each taxable year at such time and in such manner as not to subject it to the tax on undistributed income imposed by section 4942 of the Code, and the Corporation shall not (i) engage in any act of self-dealing as defined in section 4941(d) of the Code; (ii) retain any excess business holdings as defined in section 4943(c) of the Code; (iii) make any investments in such manner as to subject the Corporation to any tax under section 4944 of the Code; or (iv) make any taxable expenditures as defined in section 4945(d) of the Code. (All references to the Code contained herein are deemed to include corresponding provisions of any future United States Internal Revenue Law.)

ARTICLE XII

SEAL AND FISCAL YEAR

Section 12.1 Seal. The Board of Directors may adopt a corporate seal which shall be in the form of a circle and shall bear the full name of the Corporation and the year and state of its incorporation.

Section 12.2 Fiscal Year. The fiscal year of the Corporation shall be determined, and may be changed, by resolution of the Board of Directors.

ARTICLE XIII

AMENDMENTS

Section 13.1 Except as provided in this Section 13.1, or as otherwise provided by law or by the Articles of Incorporation, new Bylaws may be adopted or these Bylaws may be amended or repealed only by the affirmative vote of a majority of the Board of Directors, or by the written consent thereof.

CERTIFICATE OF SECRETARY

I, Mary Murillo, hereby certify:

That I am the duly elected and acting Secretary of The Canary Fund, a California nonprofit corporation; and

That the foregoing Bylaws comprising thirteen (13) pages, constitute the original Bylaws of said corporation as duly adopted pursuant to the Action of Written Consent of the Incorporator of said Corporation, which action was taken in accordance with section 5134 of the Nonprofit Corporation Law of the State of California, dated as of July 8, 2004.

IN WITNESS WHEREOF, I have hereunder subscribed my name this _____ day of _____.

Mary Murillo, Secretary