

**BYLAWS OF THE  
PLYMOUTH-CANTON CRUISERS SWIM CLUB**

**ARTICLE I – Introduction**

**Section 1.1** This nonprofit corporation shall be named Plymouth-Canton Cruisers Swim Club, hereafter referred to as “Club” or “PCC”.

**Section 1.2** The PCC is an organization recognized by Plymouth Canton Community Education for the purpose of providing group competition in the area of aquatics. It is governed by a Board of Directors consisting of parent volunteers. No parent serving in an advisory capacity with the PCC Board of Directors shall receive compensation for his/her services unless agreed to by a majority vote of the general membership of the Club as set forth in these bylaws. The Club’s objectives are to:

- Teach sportsmanship
- Stress team goals
- Build physically and emotionally sound athletes
- Encourage self-achievement based on personal best effort, and
- Develop self confidence through a supportive and nurturing program

The PCC is a club member of United States Swimming, Inc.

**Section 1.3** The Corporate Offices shall be located at the law firm of Tomkiw Dalton, plc, 321 Williams Street, Royal Oak, and Mi. 49067. The mailing address for the non profit corporation shall be P.O. Box 700045 Plymouth, Michigan 48170.

**Section 1.4** The exclusive purpose of the club is to provide a program of aquatics development for those individuals interested in aquatic training and Amateur competitive swimming. The program offered by the Club will be in accordance and approved by Michigan Swimming, Inc. and United States Swimming, Inc.

**Section 1.5** The Club is organized exclusively for the purpose set forth in Section 501 (c) (3) of the Internal Revenue Code of 1986. The Club will not carry on any activities not permitted to be carried on by an organization exempt for federal income taxation pursuant to Section 501 (c) (3) of the Internal Revenue Code or equivalent provisions of future amendments thereof.

**ARTICLE II - Membership**

**Section 2.1 Members/Qualifications.** The members of the Corporation shall be the head swim coach, the assistant coaches and the parents of the children swimming with the Plymouth Canton Cruisers. Members understand and agree that the membership is at will and may be revoked by a two thirds vote of the Board of Directors when either the swimmer’s or the member’s conduct is deemed not to be in the best interest of the Corporation. A member is qualified to be a part of the PCC when he/she is in good

standing, have an active swimmer on the PCC in the previous six (6) months and not be more than six (6) months overdue on all fees.

**Section 2.1.1 Authority of Members.** Members of the Corporation shall have authority to vote for the election of Directors, to vote on any proposal or merger, compensation of Officer, modification of Bylaws, consolidation or dissolution, and to vote on the sale of major assets of the Corporation. A member is defined as a family of a swimmer(s). Each member is entitled to one vote. Only those members who are current in all of their fiscal or other obligations are entitled to a vote.

**Section 2.2 Annual Meetings.** The annual meeting of members to elect Directors and to transact such other business as may properly come before the meeting shall be held each year in the month of January at such date, time, and place as may be fixed by the Board of Directors or such other date, time, and place as may be fixed by the Board of Directors. The record date for establishing members entitled to vote shall be the last day of the month February preceding the month in which the meeting is to be held.

**Section 2.3 Special Meetings.** Special meetings of the members may be called by the President, Board Chair, or by two (2) Directors and shall be called by the Board Chair, upon the written request of the members having not less than three (3) votes entitled to be cast at the meeting. The record date for establishing members entitled to vote shall be the last day of the month in which the meeting is to be held.

**Section 2.4 Notice and Waiver of Meeting.** Written notice of each meeting of members, stating the place, day and hour of the meeting and the purpose of purposes for which the meeting is called, shall be electronically mailed (hereinafter referred to as "emailed") at least seven (7) days but no more than thirty (30) days prior to such meeting to each member of the Corporation at his or her address as the same appears on the lists of members of the Corporation.

**Section 2.5 Certification of Voting List.** As soon after the record date as is feasible, the Secretary shall prepare and certify a list of members of the Corporation, in accordance with the criteria for members specified in Section 2.1 of these Bylaws. Members so certified shall receive notice of and shall have the sole privilege of voting on matters submitted to them at annual and special meetings of Corporation and shall be regularly maintained and kept on file and available for inspection by any member at the annual meeting and at the principal office of the Corporation for at least seven (7) days prior to each annual or special meeting.

**Section 2.7 Voting.** Each member, as defined in section 2.1.1, shall be entitled to one (1) vote in person, on all matters properly submitted to the membership. Except as otherwise provided by law, by the Articles of Incorporation or by these Bylaws, all action shall be decided by a majority vote of the members present in person.

**Section 2.8 Action without a Meeting.** Any action required or permitted to be taken at a meeting of members may be taken without a meeting if a consent in writing,

setting forth the action so taken or to be taken, is signed by all of the members entitled to vote upon such action at a meeting or by their duly authorized attorney-in-fact and shall be filed with the Secretary. Such consent may be signed in counterparts, shall be filed with the records of the Corporation, and shall have the same force and effect as a unanimous vote of the members.

**Section 2.9 Termination, Expulsion or Suspension of Members.** The Board of Directors, may, at its sole discretion, expel, suspend, and revoke membership or memberships in the Corporation when deemed to be in the best interest of the Corporation. A member who has been terminated, expelled, or suspended shall be liable to the Organization for dues, assessments, or fees as a result of obligations incurred or commitments made prior to termination, expulsion, or suspension. Any proceeding challenging a termination, expulsion, or suspension, including a proceeding in which defective notice is alleged, must be commenced within five (5) days after the effective date of the termination, expulsion, or suspension.

### **ARTICLE III – Board of Directors**

**Section 3.1 General Powers.** The business and affairs of the Corporation shall be conducted under the direction of, and the control and disposal of, the Corporation's properties and funds shall be vested in its Board of Directors, except as otherwise provided in the nonprofit Corporation law of the State of Michigan, the Corporation's Articles of Incorporation or these Bylaws.

**Section 3.2 Number, Election, Term, Qualifications & Removal.** The Board of Directors shall consist of not less than five (5). The initial Board of Directors shall be seven. The number of Directors shall be set from time to time by resolution of the Directors. The head swim coach of the Plymouth Canton Cruisers shall be a member of the Board of Directors. The remaining members of the Board of Directors shall be chosen at the annual meeting of the Board. The Directors shall hold their position for two (2) years commencing on the date of election, and each Director shall hold office until his or her successor is elected and qualified, or until his or her earlier death, resignation, or removal. At each subsequent annual meeting of members, the successor of those Directors whose term then expires shall be elected to serve a term until their successors are elected and qualified or until their earlier death, resignation, or removal. A board member is qualified to serve on the Board of Directors so long as he/she meets the criteria of membership defined in section 2.1 - when he/she is in good standing, have an active swimmer on the PCC in the previous six (6) months and not be more than six (6) months overdue on all fees. Any Director may be removed by a majority vote of the general membership, with or without cause, whenever in its judgment the best interests of the PCC will be served thereby.

**Section 3.3 Board Member Attendance.** If a Director fails to attend a minimum of three (3) meetings per year, the Director will be deemed to have resigned and his or her position shall be deemed to have become vacant for the remainder of his or her term or until the vacancy is filled pursuant to Section 3.5 of these Bylaws. At the

discretion of the Board Chair, imposition of this rule may be waived and absences excused due to extenuating circumstances.

**Section 3.4 Nomination of Directors.** Recommendations for Director Nominees may be submitted by any member of the Club to the Nominating Committee. The Nominating Committee shall, after giving due consideration to such recommendations and such other persons as it may wish to consider, present its slate of Director-nominees to the general membership for election. The nominating committee of the Board shall use its best efforts to select representative Board members from each swimming session and shall not exclude any member for consideration who submits his or her name for Board membership consideration.

**Section 3.5 Vacancies.** Any Director may resign at any time by giving written notice to the Board Chair, President, or the Secretary of the Corporation. Such resignation shall take effect at the time specified therein, and, if not specified therein, it shall take effect upon receipt and the acceptance of such resignation shall not be necessary to make it effective. Any vacancy occurring in the board of Directors for any reason may be filled by the affirmative vote of a majority of the remaining Directors then in office, even if less than a quorum. A Director elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor to and until his or her successor is elected and qualified or until his or her earlier death, resignation, or removal.

**Section 3.6 Regular Meetings.** A regular meeting of the Board of Directors shall be held immediately after the annual meeting of the members, at the time and place determined by the Board for the purpose of electing Officers and for the transaction of such other business as may properly come before the meeting. All Board meeting shall be open to the general membership. The Board, however, may move into closed session to discuss matters involving litigation, negotiations regarding the purchase of real estate and personnel matters. There shall be no less than one (1) regular meeting, including any annual meeting, of the Board of Directors in each calendar year, and the Board of Directors shall provide by resolution the time and place for the holding of such additional regular meetings.

**Section 3.7 Special Meetings.** The Board Chair may call a special meeting of the Board of Directors whenever he or she deems it necessary, and shall call a special meeting whenever requested to do so by three (3) or more Directors or by the President. The Board Chair shall fix the place and time for holding any special meeting of the Board of Directors. Notice of each special meeting stating the purpose, place, day and hour of the meeting shall be given to each Director at his or her last known email address at least seven (7) days prior thereto by the emailing, or at least two (2) days prior thereto by personal delivery of email written notice or by telephonic or telegraphic notice or other electronic means of notice. If emailed, such notice shall be deemed to be given when sent and an acknowledgement of transmission is successfully executed.

**Section 3.8 Presumption of Assent.** A Director of the Corporation who is present at a meeting of the Board of Directors at which action on a corporate matter is

taken shall be presumed to have assented to the action taken unless his or her dissent shall be entered in the minutes of the meeting, or unless he or she shall file his or her written dissent to such action with the person acting as the Secretary of the meeting before the adjournment there of or shall forward such dissent by registered mail to the Secretary of the Corporation immediately after adjournment of the meeting or if dissent is not noted when the minutes are circulated or approved, the dissenting Director(s) may direct its inclusion. Such right to dissent shall not apply to a Director who voted in favor of such action.

**Section 3.9 Quorum and Voting.** A majority of the Directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors. Each Director shall be entitled to one (1) vote and the vote of a majority of the Directors present in person at a meeting at which a quorum is present shall be the act of the Board of Directors unless a greater number is specifically required by these Bylaws, by the Corporation's Articles of Incorporation or by state law. If less than a quorum is present at a meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice other than announcement at the meeting, until a quorum shall be present. A Director may not vote or act by proxy at any meetings of Directors.

**Section 3.10 Compensation.** Excluding the head swim coach, the Directors shall not receive compensation for his or her services as a Board Member, unless a majority of the members, at a general membership meeting, vote to approve reasonable compensation for services rendered to or for the benefit of the Corporation.

**Section 3.11 Meeting by telephone or teleconference.** Members of the Board of Directors or any Committee may participate in a meeting of the Board or Committee by means of conference telephone or similar communications equipment by which all persons participating in the meeting can hear each other at the same time. Such participation shall constitute presence in person at the meeting.

**Section 3.12 Action without a Meeting.** Any action required or permitted to be taken at a meeting of the Directors and any Committee thereof may be taken without a meeting if consent in writing, setting forth the action so taken or to be taken is signed by all of the Directors or Committee members entitled to vote upon such action at a meeting. Such consent, which may be signed in counterparts, shall have the same force and effect as a unanimous vote of the Directors or Committee members.

**Section 3.13 Board Chair.** At its annual organizational meeting, the Board of Directors shall elect, from among those who are, or are to be, Directors of the Corporation, a Board Chair who shall, when present, preside at all regular and special meetings of the Board of Directors and of the members of the Corporation, shall present at the annual meeting of the corporation a report on the activities of the Corporation during the preceding year, and shall generally perform all other duties incident to the office, required by the Bylaws or from time to time assigned to him or her by the Board of Directors.

**3.13.1 Chair of the Board.** If one or more shall be elected by the Board of Directors from among those who are, or are to be, Directors of the Corporation, the Vice Chair(s) of the Board shall assist the Board Chair, as requested, in the performance of his or her duties and shall have such other functions as these Bylaws may provide or as the board of Directors or Board Chair may assign from time to time. In addition to the foregoing, the Vice Chair shall possess the powers and perform the duties incumbent upon the Board Chair during his or her absence or disability. In the event there is more than one Vice Chair, the Board of Directors shall designate one to possess the powers and perform the duties incumbent upon the Board Chair during his or her absence or disability.

**Section 3.14 Coaches.** The Board of Directors will be solely responsible for hiring, evaluating, and/or terminating the Head Coach and assistant coaches. All swim coaches must be USA Swimming, CPR & Life-Saving certified. Members of the Board of Directors or any other PCC member shall be prohibited from assuming any coaching responsibilities unless expressly requested to do so by a majority vote of the Board of Directors. Likewise, all parent members are prohibited from any type of on-deck coaching of any swimmer during regularly scheduled practices and meets. Failure to comply with this regulation could result in membership suspension or termination by a majority vote of the Board of Directors.

#### **ARTICLE IV – Officers and Agents**

**Section 4.1 Number and Qualifications.** The Officers of the Corporation shall consist of President, one or more Vice Presidents, a Secretary, a Treasurer, and such other Officers, Assistant Officer and Agents, Assistant Secretaries and Assistant Treasurers, as may be deemed necessary or desirable by the Corporation's Directors or state law. One person may hold more than one office at a time, except that no person may simultaneously hold the offices of President and Secretary. The president shall be a member of the Board of Directors. An Officer is qualified to serve in his or her position so long as he/she meets the criteria of membership defined in section 2.1 - when he/she is in good standing, have an active swimmer on the PCC in the previous six (6) months and not be more than six (6) months overdue on all fees.

**Section 4.2 Election and term of Office.** The officers of the Corporation shall be elected by the general membership, for a term commencing on election by the Corporation's Directors at the annual meeting of the Board of Directors. Each Officer shall hold office for term of two (2) years or until his or her successor shall have been duly elected and shall have qualified, or until his or her earlier death, resignation, or removal.

**Section 4.3 Compensation.** The compensation of the officers shall be fixed and determined from time to time by majority vote of the general membership. No Officer shall be prevented from receiving a salary by reason of the fact that he or she is also a Director of the Corporation.

**Section 4.4 Removal.** Any Officer or Agent may be removed by the Board of Directors, or Committee appointed by the Board for such purpose, with or without cause, whenever in its judgment the best interests of the Corporation will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an Officer or Agent shall not in itself create contract rights.

**Section 4.5 Vacancies.** Any Officer may resign at any time, subject to any rights or obligation under any existing contracts between the Officer and the Corporation, by giving written notice to the Board Chair or the President or the Secretary. An Officer's resignation shall take effect at the time specified in such notice, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. A vacancy in any office, however occurring, may be filled for the unexpired term by action of the Board of Directors if the vacant position is one held by a Director or by the President; or by the President, with the advice and counsel of the Board Chair, if the vacant office is a staff position.

**Section 4.6 Authority and Duties of Officers.** The Officers of the Corporation shall have the authority and shall exercise the powers and perform the duties specified by the President, the Board of Directors, or these Bylaws; except that in any event each Officer shall exercise such powers and performs such duties as may be required by law.

**4.6.1 President.** The general membership shall elect a President who, as Chief Officer under its supervision and direction, shall carry on the general affairs of the Corporation, including hiring and firing personnel with Board approval. The President shall be a voting member of all Committees except the Nominating, Compensation, and Audit Committees. It shall be his or her duty to approve the expenditure of the monies appropriated by the Board of Directors in accordance with budget approved by the Board of Directors. The President shall make an annual report and periodic reports to the Board of Directors concerning the programs of the Corporation. He or she shall comply with all orders from the Board of Directors. All Officers, Agents, and employees shall report and be responsible to the President. He shall provide an annual review of the head coach based on the "PCC Head Coaches Review Process" per the attached process (S. Kemp 12-12-08). He or she shall perform such other duties as may be determined from time to time by the Board of Directors.

**4.6.2 Vice President(s).** The general membership shall elect one or more Vice Presidents who shall assist the President in carrying out the programs of the Corporation. In the event of the prolonged absence or disability of the President, the Board shall appoint one Vice President as acting President and, as such, the acting President shall have all authority and duties vested in the President. The Vice President will be a voting member of all committees except the nominating, compensation and audit committees.

**4.6.3 Secretary.** The general membership shall elect a Secretary who shall attend the meetings of the members and of the Directors, and, to the extent feasible, of all Committees of the Board, and shall record the proceedings of the Corporation and of the Board of Directors and of all Committees of the Board, at their respective meetings. He or she shall provide for notification of the members and Directors of the Corporation of their respective meetings in accordance with these Bylaws, shall be the custodian of the corporate records and seal, establishing and following a Document Retention Policy approved by the Board, shall furnish certifications of Board actions, Bylaws, and organizational documents, collect and submit all of the USS required documents, and shall perform such other duties as may be required by these Bylaws or as may be assigned by the Board of Directors or the President. In the absence of the Secretary, the Chair shall appoint a person to act as Secretary of a particular meeting. The Secretary will be a voting member of all committees except the nominating, compensation and audit committees.

**4.6.3.1 Assistant Secretary.** If one or more shall be elected, the Assistant Secretary (ies), in the absence of the Secretary, shall have all the authority and duties vested in the Secretary. He or she shall perform such duties as may be assigned to him or her by the Secretary, the board of Directors, or the President.

**4.6.4 Treasurer.** The general membership shall elect a Treasurer who shall be the financial Officer of the Corporation and shall receive and deposit in a bank or banks to be approved by the Board of Directors all the monies of the Corporation and keep and accurate account thereof. The Corporation shall secure a bond for the Treasurer. He or she may maintain prudent investment accounts for the Corporation that is deemed in the best interest of the corporation. The Board of Directors shall authorize the disbursements of the investment accounts, which, the President and Treasurer have the authority to commence. The Treasurer shall make disbursements subject to such regulations as may be determined from time to time by the Board of Directors, and shall make reports of the finances of the Corporation annually and whenever requested by the Board of Directors or the President. He or she shall perform such other duties as may be required by these Bylaws or as may be assigned by the Board of Directors or the President. At the end of his or her term of office, the Treasurer shall deliver to his or her successor all books, monies and other property of the Corporation then in his or her possession. The Board of Directors may require the Treasurer to give such security as it may direct for the faithful performance of his or her duties. The Treasurer will be a voting member of all committees except the nominating, compensation and audit committees.

**4.6.4.1 Assistant Treasurer.** If one or more shall be elected, the Assistant Treasurer, in the absence of the Treasurer, shall have all the authority and duties vested in the Treasurer. He or she shall perform such duties as may be assigned to him or her by the Treasurer, the Board of Directors, or the President.

## **ARTICLE V - Committees of the Board**

**Section 5.1 Designation of Committees.** The Board of Directors may designate one or more standing or special Committees., whose members shall include at least one Board members and may include general members, to direct one particular aspect of the business of the Corporation. Each such Committee may exercise the authority granted to it by the Board's enabling resolution. The Committee shall issue a report and recommendation to the Board, which, the Board may adopt at its meeting if it deems the recommendation to be in the best interest of the Club.

**Section 5.2 Limitations of Committee Powers.** No Committee shall have the authority of the Board of Directors to amend, alter, or repeal these Bylaws; to elect, appoint or remove any member of any member of any such Committee or any Officer or Director of the Corporation (except as specifically provided below in this section 5.2) to amend the Articles of Incorporation of the Corporation; to restate the Corporation's Articles of Incorporation; to adopt a plan of merger or adopt a plan of consolidation with another Corporation; to authorize the sale, lease, exchange, or mortgage of all or substantially all of the property and assets of the Corporation; to authorize the voluntary dissolution of the Corporation or to revoke proceedings therefore; to adopt a plan for the distribution of the assets of the Corporation; or as otherwise may be prohibited by law. Rules governing procedures for meetings of any Committee of the Board shall be as established by the Board of Directors or, in the absence thereof, by the Committee itself. If no rules are established, then the rules that govern the Directors govern the Committee. All Committees are to report promptly to the Board and only take such action(s) as is (are) specifically designated in these Bylaws or in the resolution establishing the Committee or setting forth its duties and responsibilities. Each Committee may consist of a Director and such other persons as the Board may designate, who need not be members of the Board of Directors. The Board may designate one or more persons as alternate members of any Committee, and such alternates may replace any absent or disqualified member of the Committee at any meeting of the Committee. In the absence or disqualification of a member of the Committee, and the alternate or alternates, if any, designated for such Committee member, the member or members of the Committee present at any meeting are entitled to vote, whether or not they constitute a quorum, may unanimously appoint another person to act at the meeting in the place of any such absent or disqualified member of the Committee or alternate. Members of a Committee shall serve until the next annual meeting of the Corporation or until their successors are appointed.

**Section 5.3 Committee Chair.** The Board Chair, with the approval of the Board of Directors, shall appoint all Committee Chairs for the ensuing year at or within a reasonable time after the annual meeting of the Board of Directors. Committee Chairs shall be members of the Corporation's Board of Directors. If the Board of Directors establishes a new Committee by resolution at a meeting other than the annual meeting of the Board of Directors, the Board Chair, with the approval of the Board of Directors, shall similarly appoint its Chair at the time the Committee is established or within a reasonable time after the establishment of the Committee.

**Section 5.4 Committee Meetings.** Meetings of Committees of the Board of Directors may be called by the respective Chairs thereof or by any three (3) members of the Committee. At all meetings of any Committee, a majority of the members of the Committee shall constitute a quorum for the transaction of business, and the act of a majority of the members of the Committee present at any meeting thereof at which there is a quorum shall be the act of the Committee, except as may be otherwise specifically provided for by these Bylaws.

**Section 5.5 Executive Committee.** Each year, at its annual meeting, the Board of Directors shall elect from among those who are, or are to be, Directors of the Corporation upon election, and Executive Committee consisting of at least three (3) Directors.

**Section 5.5.1 Composition.** The Executive Committee so elected shall include the Board Chair(s), all Vice Chair(s) of the Board, and other members of the Board. Vacancies in the Executive Committee shall be filled by the Board of Directors. The President shall, if a member of the Board serves as a member of the Executive Committee.

**Section 5.5.2 Power and Functions.** During the intervals between meetings of the Board of Directors, the Executive Committee shall, subject to section 5.2 hereof, possess and may exercise all the powers and functions of the Board of Directors in the management and direction of the affairs of the Corporation in all cases in which specific direction shall not have been given by the Board of Directors.

**Section 5.5.3 Reports to Board Required.** All actions of the Executive Committee shall be reported to the Board of Directors at its next meeting succeeding such action. Regular minutes of the proceedings of the Executive Committee shall be kept. A majority of the members of the Executive Committee in office at the time shall be necessary to constitute a quorum and in every case an affirmative vote of a majority of the members of the Committee present at a meeting shall be necessary for the taking of any action.

**Section 5.5.4 Rules of Procedure.** The Executive Committee shall fix and establish its own rules of procedure and shall meet as provided by such rules and shall also meet at the call of its Chair or of any other two (2) members of the Committee.

**Section 5.6 Nominating Committee.** The Board of Directors shall designate, at or within a reasonable time after the annual meeting of the Board of Directors, a Nominating Committee, composed of independent directors, that shall be responsible for proposing persons for election as Directors at the next annual meeting of the Corporation, or in the event of Director vacancies between annual meetings of the members of the Corporation, may propose replacement Directors for election by the Board of Directors, and shall also recommend persons for consideration as Officers to be elected at the next annual meeting of the Board of Directors.

**Section 5.7 Audit Committee.** The Board of Directors shall annually designate, at or within a reasonable time after the annual meeting of the Board of Directors, an Audit Committee composed of Independent Directors, which shall:

**Section 5.7.1 Recommend independent auditor.** Recommend a firm to be employed as the Corporation's independent auditor, and review and approve the discharge of any such firm. The Committee shall also review and approve the independent auditor's compensation, the terms of its engagement by the Corporation, and the independence of such auditor.

**Section 5.7.2 Review independent audit.** Review, in consultation with the independent auditor, the result of each independent audit of the Corporation, the report of the auditor, any related management letter, and management's responses to recommendations made by the independent auditor in connection with the audit.

**Section 5.7.3 Review annual financial statements.** Review, in consultation with the independent auditor and management, the Corporation's annual financial statements; any report or opinion rendered by the independent auditor in connection with those financial statements; and any dispute between management and the independent auditor those arose in connection with the preparation of those financial statements. The Committee shall review and report to the Board with respect to the financial statements.

**Section 5.7.4 Review financial statements.** Review, before or after publication, the Corporation's quarterly financial statements.

**Section 5.7.5 Plan external audits.** Consider, in consultation with the independent auditor and the chief internal auditor, if any, the adequacy of the Corporation's internal accounting controls.

**Section 5.7.6 Evaluate internal accounting controls.** Consider, in consultation with the independent auditor and the chief internal auditor, if any, the adequacy of the Corporation's internal accounting controls.

**Section 5.7.7 Evaluate accounting principles and practices.** Consider, when presented by the independent auditor or otherwise, material questions of choice with respect to the choice of the appropriate accounting principles and practices to be used in the preparation of the Corporation's financial statements.

**Section 5.7.8 Compliance with conflict of interest and code of ethics.** Review the expense accounts and perquisites of Officers and senior staff and the Corporation's compliance with its conflict of interest policy and code of ethical conduct.

**Section 5.7.9 Consider other financial matters.** Have power to inquire into any financial matters in addition to those set forth in sections 5.7.1 through 5.7.8

**Section 5.7.10 Perform other assignments.** Perform such other functions as may be assigned to it by law, the Corporation's Bylaws, or the Board of directors.

**Section 5.8 Compensation Committee.** The Board of Directors shall designate, at or within a reasonable time after the annual meetings of the Board of Directors, a Compensation Committee, composed of independent directors that shall review and evaluate the performance and recommend to the Board or determine the annual salary and other benefits, direct or indirect, of the employees of the Organization.

#### **ARTICLE VI - Directors-Emeritus**

Upon recommendation by the Nominating Committee, the Board may elect one or more Director(s)-Emeritus with the right to attend all regular and special meetings thereof, but with no power to make motions or to vote and who shall not be counted in determining a quorum and with no right to receive notices of meetings.

#### **ARTICLE VII - Advisory Council**

**Section 7.1 Composition and Purpose.** The Board Chair may appoint, with the approval of the Board, an Advisory Council to promote the objectives of the Corporation, further its purposes, and advise the Board of Directors concerning the general policies applicable to, and the progress of the work of, the Corporation.

**Section 7.2 Advisory Counsel Chair.** The Chair of the Corporation may appoint the Chair of the Advisory Council, with the approval of the Board.

#### **ARTICLE VIII - Indemnification**

**Section 8.1. Non-derivative Actions.** Subject to all of the other provisions of this article, the Corporation shall indemnify any officer or director of the Corporation, who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding. This includes any civil, criminal, administrative, or investigative proceeding, whether formal or informal (other than an action by or in the right of the corporation). Such indemnification shall apply only to a person who was or is a director or officer of the corporation, or who was or is serving at the request of the corporation as a director, officer, or assistant officer. The person shall be indemnified and held harmless against expenses (including attorney fees), judgments, penalties, fines, and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding, if the person acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the corporation or its shareholders. With respect to any criminal action or proceeding, the person must have had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or on a plea of nolo contendere or its equivalent, shall not by itself create a presumption that (a) the person did not act in good faith and in a manner that the person

reasonably believed to be in or not opposed to the best interests of the corporation or its shareholders or (b) with respect to any criminal action or proceeding, the person had reasonable cause to believe that his or her conduct was unlawful.

**Section 8.2. Derivative Actions.** Subject to all of the provisions of this article, the corporation shall indemnify any person who was or is a party to, or is threatened to be made a party to, any threatened, pending, or completed action or suit by or in the right of the corporation to procure a judgment in its favor because (a) the person was or is a director or officer of the corporation or (b) the person was or is serving at the request of the corporation as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, or other enterprise, whether or not for profit. The person shall be indemnified and held harmless against expenses (including actual and reasonable attorney fees) and amounts paid in settlement incurred by the person in connection with such action or suit if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation or its shareholders. However, indemnification shall not be made for any claim, issue, or matter in which such person has been found liable to the corporation unless and only to the extent that the court in which such action or suit was brought has determined on application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification for the expenses which the court considers proper.

**Section 8.3. Expenses of Successful Defense.** To the extent that a person has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in this article, or in defense of any claim, issue, or matter in the action, suit, or proceeding, the person shall be indemnified against expenses (including actual and reasonable attorney fees) incurred in connection with the action and in any proceeding brought to enforce the mandatory indemnification provided by this article.

**Section 8.4. Contract Right, Limitation on Indemnity.** The right to indemnification conferred in this article shall be a contract right and shall apply to services of a director or officer as an employee or agent of the corporation as well as in such person's capacity as a director or officer. Except as provided in this article, the corporation shall have no obligations under this article to indemnify any person in connection with any proceeding, or part thereof, initiated by such person without authorization by the Board of Directors.

**Section 8.5. Determination That Indemnification Is Proper.** Any indemnification under this article (unless ordered by a court) shall be made by the Board of Directors, only, as authorized in the specific case. The Board of Directors must determine that indemnification of the person is proper in the circumstances because the person has met the applicable standard of conduct set forth in this article, whichever is applicable.

**Section 8.6. Proportionate Indemnity.** If a Director or Officer is entitled to indemnification this article for a portion of expenses, including attorney fees, judgments,

penalties, fines, and amounts paid in settlement, but not for the total amount, the corporation shall indemnify the person for the portion of the expenses, judgments, penalties, fines, or amounts paid in settlement for which the person is entitled to be indemnified.

**Section 8.7. Expense Advance.** Expenses incurred in defending a civil or criminal action, suit, or proceeding described in this article may be paid by the Corporation in advance of the final disposition of the action, suit, or proceeding on receipt of an undertaking by or on behalf of the person involved to repay the expenses, if it is ultimately determined by the Board of Directors that the person is not entitled to be indemnified by the Corporation. The undertaking shall be an unlimited general obligation of the person on whose behalf advances are made but need not be secured.

**Section 8.8 Nonexclusively of Rights.** The indemnification or advancement of expenses provided under this article is not exclusive of other rights to which a person seeking indemnification or advancement of expenses may be entitled under a contractual arrangement with the corporation. However, the total amount of expenses advanced or indemnified from all sources combined shall not exceed the amount of actual expenses incurred by the person seeking indemnification or advancement of expenses.

**Section 8.9. Indemnification of Employees and Agents of the Corporation.** The corporation may, to the extent authorized from time to time by the Board of Directors, provide indemnification for a person who has ceased to be a Director or Officer and shall inure to the benefit of the heirs, executors, and administrators of that person.

**Section 8.10 Insurance.** The corporation may purchase and maintain insurance on behalf of any person who (a) was or is a director, officer, employee, or agent of the corporation or (b) was or is serving at the request of the corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise. Such insurance may protect against any liability asserted against the person and incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the corporation would have power to indemnify against such liability under this article or the laws of the state of Michigan.

**Section 8.11 Changes in Michigan Law.** If there are any changes in the Michigan statutory provisions applicable to the corporation and relating to the subject matter of this article, then the indemnification to which any person shall be entitled shall be determined by such changed provisions, but only to the extent that any such change permits the corporation to provide broader indemnification rights than such provisions permitted the corporation to provide before any such change.

**Section 8.12 Validity of Other Indemnification Provisions, Miscellaneous Provisions.** Any right of indemnification provided in this article shall be in addition to, and not exclusive of, any and all other rights to which a director or officer may be entitled by law, under any contractual agreement, by vote of shareholders or directors, or

otherwise. However, the total amount of expenses advanced or indemnified from all sources combined shall not exceed the amount of actual expenses incurred by the person seeking indemnification or advancement of expenses. Nothing contained in the provisions of this article shall affect any rights to indemnification to which persons other than directors and officers may be entitled by contract or otherwise by law. The indemnification provided in this article continues as to a person who has ceased to be a director or officer and shall inure to the benefit of the heirs, personal representatives, executors and administrators of such person. For purposes of the indemnification provided in this article, "corporation" includes all subsidiary corporations and all constituent corporations absorbed in a consolidation or merger and the resulting or surviving corporation, so that a person who is or was a director or officer of the subsidiary or constituent corporation or is or was serving at the request of the subsidiary or constituent corporation as a director, officer, partner or trustee of another foreign or domestic corporation, partnership, joint venture, trust, or other enterprise, whether for profit or not, shall stand in the same position under the provision of this article with respect to the parent, resulting or surviving corporation as the person would if he or she had served the parent, resulting or surviving corporation in the same capacity.

#### **ARTICLE IX - Conflict of Interest**

**Section 9.1 Conflict Defined.** A conflict of interest may exist when the interests or activities of any Director, Officer, or staff member may be seen as competing with the interests or activities of the Corporation, or the Director, Officer, or staff member derives a financial or other material gain as a result of a direct or indirect relationship.

**Section 9.2 Disclosure Required.** Any possible conflict of interest shall be disclosed to the Board of Directors by the person concerned, if that person is a Director, Officer or staff member of the Corporation, or to the President, or to such person or persons as he or she may designate, if the person is not a Director or Officer of the Corporation.

**Section 9.2.1 Abstinance from Vote.** When any conflict of interest relates to any matter requiring action by the Board of Directors, the interested person shall call it to the attention of the Board of Directors or its appropriate Committee and such person shall not vote on the matter; provided however, that any Director disclosing a conflict of interest may be counted in determining the presence of a quorum at a meeting of the Board of Directors or a Committee thereof.

**Section 9.2.2 Absence from Discussion.** Unless requested to remain present during the meeting, the person having the conflict shall retire from the room in which the Board of its Committee is meeting and shall not participate in the final deliberation or decision regarding the matter under consideration. However, that person shall provide the Board or Committee with any and all relevant information.

**Section 9.2.3 Minutes.** The minutes of the meeting of the Board or Committee shall reflect that the conflict of interest was disclosed and that the interested person was not present during the final discussion or vote and did not vote. When there is doubt as to whether a conflict of interest exists, the matter shall be resolved by a vote of the Board of Directors or its Committee, excluding the person concerning whose situation the doubt has arisen.

**Section 9.3 Annual Reviews.** A copy of this conflict of interest Bylaw shall be furnished to each Director, Officer, and senior staff member who is presently serving the Corporation, or who may hereafter become associated with the Corporation. This policy shall be reviewed annually for the information and guidance of Directors, Officers, and staff members. Any new Director, Officer, and staff member shall be advised of this policy upon undertaking the duties of such office.

**Section 9.4 Duty of Good Faith.** The Directors, Officers and staff members of the Corporations shall exercise the utmost good faith in all transactions touching upon their duties to the Corporation and its property. In their dealings with and on behalf of the Corporation, they shall be held to a strict rule of honest and fair dealing between themselves and the Corporation. They shall not use their positions, or knowledge gained there from, in such a way that a conflict might arise between their own interest and that of the Corporation.

**Section 9.5 Other Conflict of Interest Policies.** The Board of Directors may and shall adopt any further conflict of interest policies as are deemed necessary or advisable to protect the interests of the Corporation and its charitable tax exempt status under 501(c)(3) of the Internal Revenue Code.

#### **ARTICLE X - Miscellaneous**

**Section 10.1 Books and Minutes.** The Corporation shall keep correct and complete books and records of account and financial statements and shall also keep minutes of the proceedings of its Board of Directors and Committees. All books and records of the Corporation may be inspected by any Director or his or her accredited agent or attorney, for any proper purpose at any reasonable time, and by such members who may have voting rights. Upon request, the minutes of Board meetings shall be made available to the members of the PCC as defined in section 2.1.

**Section 10.2 Fiscal Year and Audit.** The fiscal year of the Corporation shall begin on July 1 through June 30 inclusive. After the close of each fiscal year of the Corporation, financial transactions of the accounts, as directed by the Board of Director's, and a report of the review shall be made to the Board of Directors within ninety (90) days after the close of the fiscal year.

**Section 10.3 Conveyances and Encumbrances.** Property of the Corporation may be assigned, conveyed or encumbered by such Officers of the Corporation as may be authorized to do so by the Board of Directors, and such authorized persons shall have

power to execute and deliver any and all instruments of assignment, conveyance and encumbrance; however, the sale, exchange, lease, or other disposition of all or substantially all of the property and assets of the Corporation shall be authorized only in the manner prescribed by the applicable law.

**Section 10.4 Designated Contributions.** The officers of the Corporation may accept on its behalf, in accordance with policies and procedures set by the Board of Directors, any designated contribution, grant, bequest, or devise consistent with its general tax-exempt purposes, as set forth in the Corporation's Articles of Incorporation. As so limited, donor designated contributions will be accepted for special funds, purposes, or uses. Further, the corporation shall retain sufficient control over all donated funds (including designated contributions) to assure that such funds will be used in a manner consistent with the restrictions contained in the grant and the Corporation's exempt purposes.

**Section 10.5 Loans to Directors, Officers and Staff Prohibited.** No loans or advances, other than customary travel advances, shall be made by the Corporation to any of its Directors, Officers or staff members.

**Section 10.6 No Private Inurement.** The Corporation is not organized for profit and is to be operated exclusively for one or more of the purposes specified in Section 501(s)(3) of the Internal Revenue Code, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, and in the promotion of social welfare in accordance with the purposes stated in the Corporation's Articles of Incorporation. The net earnings of the Corporation shall be devoted exclusively to charitable and educational purposes and shall not inure to the benefit of any private individual. No Director or person from whom the Corporation may receive any property or funds shall receive or shall be entitled to receive any pecuniary profit from the operation thereof, and in no event shall any part of the funds or assets of the Corporation be paid as salary or compensation to, or distributed to, or inure to the benefit of any member of the Board of Directors; provided, however, that (a) reasonable compensation may be paid to any Director while acting services rendered in affecting one or more of the purposes of the Organization; and (b) any Director may, from time to time, be reimbursed for his or her actual and reasonable expenses incurred in connection with the administration of the affairs of the Organization. Notwithstanding any other provision of the Articles of Incorporation of these Bylaws, the corporation shall not engage in any activities that are not permitted (a) by a nonprofit corporation exempt from federal corporate tax under Section 501 (c) (3) of the Internal Revenue Code, or (b) by a nonprofit Corporation contributions to which are tax deductible under Section 170 (c)(2) of the Internal Revenue Code.

**Section 10.7 References to Internal Revenue Code.** All references in these Bylaws to provisions of the Internal Revenue Code are to the provisions of the Internal Revenue Code of 1986, as amended, and shall include the corresponding provisions of any subsequent federal tax laws.

**Section 10.8 Amendments.** These Bylaws may be amended, repealed, or modified, and new Bylaws adopted, by the affirmative vote of a two third majority of the General Membership. Any notice of a meeting at which these Bylaws are to be amended, repealed, or modified shall include notice of such proposed action.

**Section 10.9 Dissolution.** On dissolution of the Corporation, all of its net assets shall be paid over or transferred to one or more exempt organizations of the kind described in Internal Revenue Code Section 501(c)(3). The organization to receive such property shall be designated by the Board of Directors. Any assets not so disposed of shall be disposed of by the County Court in and for the County exclusively for one or more exempt purposes within the meaning of Internal Revenue Code Section 501(c)(3), or to such organization or organizations as such court shall determine, which are organized and operated exclusively for such purposes.

**Section 10.10 Severability.** The invalidity of any provision of these Bylaws shall not affect the other provisions hereof, and in such event, these Bylaws shall be construed in all respects as if such invalid provisions were omitted.

**Section 10.11. Dispute Resolution.** Any disputes arising out of the membership and bylaws shall be governed by Michigan law and litigated through arbitration proceedings within the American Arbitration Association. The arbitrators award shall be enforceable in Wayne County Michigan.

#### **Bylaws Certificate**

The undersigned certifies that [s]he is the Secretary of Plymouth-Canton Cruisers Swim Club, a Michigan nonprofit Corporation, and that, as such [s]he is authorized to execute this certificate on behalf of said Corporation, and further certifies that the foregoing Bylaws, consisting of 17 pages, including this page, constitute the Bylaws of the Corporation as of this date, duly adopted by the members of the Corporation at their January \_\_, 2005 regular meeting, as amended from time to time prior to the date hereof.

*Plymouth Canton Cruisers.*

Dated: March 22 2005

Drafted by:

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### PCC Head Coaches Review Process

- The head coaches review will be given by the president every August. It can be given more frequently if needed.
- The president must gather, review data and bonus evidence during July. This data can come from his/her own information, officers/BOD, parents, other coaches, swimmers or from the coach directly.
- The president assembles the review, the next year's bonus objectives and results of the prior year's bonus in early August. He/she must propose a salary increase (please review/compare to the budgeted amount) or no change and whether a bonus was achieved or not achieved.
- The president's proposed review and compensation proposal should be distributed to the voting members (officers and BOD) by mid-August. Within one week, voting member's feedback should be sent back to the president. Feedback should also include agreement (yes) or disagreement (no) with the compensation proposal. The majority proposal will be taken forward. If there is a tie, a meeting will be held to discuss and finalize the amounts. Majority in attendance and those who provide prior (to the meeting) input will have a vote.
- Upon voting member agreement, the review will be given to the head coach by the President. This should be done before the end of August.
- Upon signing the review (president and head coach), the president must give a copy to the secretary and alert the treasurer to make any pay changes and issue any bonus check if it is earned.
- The head coach should have input into the future goals. If he/she has input, this should be complete by the end of September. Final goals should be provided from the president to the secretary.

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Revision 1, S. Kemp 12-10-08