Make-A-Wish Foundation® of America
3550 North Central Avenue
Suite 300
Phoenix, AZ 85012-2127
602-279-9474
fax 602-279-0855
www.wish.org

May 19, 2009

By Federal Express

Office of the Secretary of State
Corporations Division
148 W. River Street
Providence, RI 02904-2615

Re: Application for Certificate of Authority

Dear Sir or Madam:

On behalf of the Make-A-Wish Foundation of America ("MAWFA"), I have enclosed: (1) an Application for Certificate of Authority; (2) a check in the amount of $50 to cover the filing fee; and (3) certified copies of MAWFA's articles of incorporation and all amendments thereto.

To the extent you may have questions regarding the status of an entity that operated until recently under the name "Make-A-Wish Foundation of Rhode Island" (hereafter referred to as the "Former Chapter"), I have also enclosed a copy of a letter I sent to Secretary of State Mollis on April 1, 2009, shortly after a neutral arbitrator upheld the revocation of the Former Chapter's charter.

Pursuant to Section 14.2 of the Chapter Agreement between the Former Chapter and MAWFA (attached as Exhibit A to my April 1 letter), upon revocation the Former Chapter was legally required, among other things: (1) to "cease holding itself out to be a chapter or in any manner associated with [MAWFA]"; (2) to "cease to use the Marks [*i.e.*, the Make-A-Wish name and registered trademarks] in any manner whatsoever..."; (3) to "assign to [MAWFA] all of Chapter's registrations with any governmental agency, and rights to the matters registered, pertaining to use of the Marks..."; and (4) to "take all necessary steps to remove the name 'Make-A-Wish' or any reference to that name from Chapter's corporate name."

The Former Chapter has advised us that it is in the process of winding down its affairs, at which point it intends to liquidate and dissolve the corporation. In the meantime, we respectfully request that our Application for Certificate of Authority be granted so that we can ensure that children in Rhode Island who are battling life-threatening medical conditions continue to have their wishes granted by the Make-A-Wish Foundation just as they have for the past 17 years.

If you have any questions about this matter, or if additional information would be helpful, please do not hesitate to call me at 1-800-722-9474 (ext. 5102), or to e-mail me at dmulvihill@wish.org. You may also feel free to contact our counsel (and proposed registered agent), Deming Sherman, at 1-401-276-6443 or dsherman@eapdlaw.com.

Respectfully yours,

David B. Mulvihill
Vice President & General Counsel

Enclosures

cc: Deming E. Sherman, Esquire
Edwards Angell Palmer & Dodge LLP
2800 Financial Plaza
Providence, RI 02903

Make-A-Wish Foundation®
of America
3550 North Central Avenue
Suite 300
Phoenix, AZ 85012-2127
602-279-9474
fax 602-279-0855
www.wish.org

MAKE·A·WISH

April 1, 2009

By E-Mail

Honorable A. Ralph Mollis
Rhode Island Secretary of State
82 Smith Street
State House, Room 217
Providence, RI 02903

Re: Status of Make-A-Wish Foundation Chapter in Rhode Island

Dear Mr. Mollis:

I am Vice President & General Counsel of the Make-A-Wish Foundation of America ("MAWFA"), a national nonprofit organization with 65 chapters throughout the United States that grant the wishes of children with life-threatening medical conditions.

Until recently, the wishes of eligible children in Rhode Island were granted by one of our licensed chapters, the Make-A-Wish Foundation of Rhode Island ("RI Chapter"). However, for the reasons explained below, that is no longer the case.

My purpose in writing is two-fold: (1) to provide you with an update regarding a dispute between MAWFA and the RI Chapter that has been going on for the past year, which was recently resolved in MAWFA's favor; and (2) to let you and your office know – in no uncertain terms – that we at MAWFA are committed to ensuring eligible children in Rhode Island continue to have their wishes granted by our organization just as they have for the past 17 years, utilizing the funds donated by generous Rhode Island residents exclusively for that purpose.

BACKGROUND RE: DISPUTE

Following a hearing in March 2008, a MAWFA committee comprised of Make-A-Wish volunteers from across the country voted unanimously to revoke the charter of the RI Chapter for intentionally and materially violating its obligations under the Chapter Agreement between MAWFA and the Chapter, a true and correct copy of which is attached as **Exhibit A**. Specifically, the committee determined the RI Chapter had:

1. Filed with the IRS, under penalties of perjury, Form 990s that it knew were false because they did not disclose (and in some cases misrepresented as "$0") the six-figure salary paid to its president & CEO; and

2. Improperly appended to the Form 990s confidential information about minor children for whom the Chapter had granted wishes (including first and last names, and the costs of their wishes).

As was its right under the Chapter Agreement, the RI Chapter appealed the committee's decision to the Executive Committee of MAWFA's board of directors. Following a second hearing in May 2008, the Executive Committee voted unanimously to uphold the revocation decision.

Although the Chapter Agreement specifies that "the decision of the Executive Committee on appeal shall be final and unappealable" (*see* Section 17.3), the RI Chapter thereafter filed suit against MAWFA seeking the right to arbitrate the decision. Ultimately, after receiving a formal request from the Chapter, MAWFA agreed to allow the matter to proceed to arbitration.

An arbitration hearing was held in Phoenix, Arizona, before a neutral arbitrator on February 10-11, 2009. On Thursday of last week, the arbitrator ruled in MAWFA's favor, finding that the RI Chapter materially breached its obligations under the Chapter Agreement and that we had the legal right to revoke its charter. The arbitrator's decision is attached as **Exhibit B**.

MAWFA'S PLANS AND OBJECTIVES

Beginning this past Monday, and for the rest of the week, several MAWFA representatives are on-site in Rhode Island. Their objectives are: (1) to assess the situation at the Chapter; (2) to ensure the Chapter complies with its obligations under Section 14 of the Chapter Agreement ("*Revocation*"); and (3) to begin implementing a transition plan under which the Rhode Island territory will eventually be re-assigned to a neighboring Make-A-Wish chapter. In the interim, the wishes of Rhode Island children will continue to be granted by MAWFA, working in conjunction with our Massachusetts chapter.

Under Section 14.2(f) of the Chapter Agreement, one of the obligations imposed on chapters whose charter has been revoked is to "Transfer to [MAWFA] without charge such of its assets (after all liabilities and obligations of Chapter are paid or discharged or adequate provisions are made by Chapter for payment of such liabilities or obligations) as directed by [MAWFA]." As an organization that has always honored donor intent, MAWFA fully understands that such assets must thereafter be used exclusively to carry out the Foundation's charitable purpose in the territory where the funds were raised, *i.e.*, the State of Rhode Island. And we intend to make sure the transaction is consummated in accordance with the Rhode Island Nonprofit Corporation Act.

If you have any questions now or in the future, or if you would like to discuss the matter ear-to-ear, please do not hesitate to call me at 1-800-722-9474 (ext. 5102), or to e-mail me at dmulvihill@wish.org. In the meantime, I want to reiterate that the Make-A-Wish Foundation will always have a presence in Rhode Island and that Rhode Island residents can rest assured their donations will be used in a responsible manner to grant the wishes of Rhode Island children who are battling life-threatening medical conditions.

Respectfully yours,

David B. Mulvihill
Vice President & General Counsel

Attachments:

A. Chapter Agreement

B. Arbitrator's Ruling

EXHIBIT A

MAKE-A-WISH®

Make-A-Wish Foundation® of America

CHAPTER AGREEMENT

As Adopted by Chapter Council Vote on
September 11, 2004

CHAPTER AGREEMENT

This Chapter Agreement (the "Agreement") is effective as of September 11, 2004 ("Effective Date") by and between MAKE-A-WISH FOUNDATION OF AMERICA, an Arizona nonprofit corporation ("Foundation"), and MAKE-A-WISH FOUNDATION OF RHODE ISLAND, a Rhode Island nonprofit corporation ("Chapter"), and is in consideration of, the following terms and conditions.

WHEREAS, Foundation charters, promotes and assists chapters throughout the United States and its territories in granting the wishes of children with life-threatening medical conditions, which purpose is defined more fully in Foundation's articles of incorporation as amended from time to time (the "Foundation's Purpose");

WHEREAS, Foundation is the owner of all common law and statutory rights in and to a number of trademarks and service marks which the general public identifies with Foundation and Foundation's Purpose, including but not limited to: MAKE-A-WISH; MAKE-A-WISH FOUNDATION; the MAKE-A-WISH swirl-and-star logo; the MAKE-A-WISH wishbone-and-bow logo; ADOPT AN ANGEL; ADOPT-A-WISH; KIDS FOR WISH KIDS; LIGHT UP A CHILD'S LIFE; SHARE THE POWER OF A WISH; STORIES OF LIGHT; THE EYES OF A WISH; WISHMAKER; WISHNEWS; WISHWORKS; and such other new marks as may be adopted by Foundation from time to time (collectively, the "Marks");

WHEREAS, Chapter desires to be a chapter of Foundation and to obtain a license from Foundation to use the Marks in performing the Foundation's Purpose; and

WHEREAS, before granting such a license Foundation requires that all chapters strictly comply with various obligations set forth in this Agreement, Foundation's bylaws as the same may be amended from time to time ("Foundation's Bylaws") and other policies, rules, resolutions and standards that are promulgated by Foundation, whether before or after the Effective Date (the "Policies").

NOW, THEREFORE, in consideration of the mutual promises and undertakings described herein, and intending to be legally bound, Foundation and Chapter hereby agree as follows:

1. Grant of Chapter Charter. Foundation hereby grants chapter status to Chapter subject to the terms and conditions of this Agreement.

2. Term. The term of this Agreement shall commence as of the Effective Date and shall continue unless and until Chapter's status as a chapter is revoked ("Revocation") in accordance with the terms of this Agreement.

3. Territory. The territory in which Chapter shall perform the Foundation's Purpose (the "Territory") and Chapter's headquarters location (the "Headquarters") are set forth on Exhibit A attached hereto. Chapter shall perform the Foundation's Purpose in the Territory in accordance with, and subject to Chapter's obligations set forth in Foundation's Bylaws, this

Agreement and the Policies. Chapter agrees that the Headquarters, Territory and/or Chapter's name may be changed only by the "Chapter Performance Committee" (as defined in Foundation's Bylaws) at a Chapter Action Meeting. Chapter understands and agrees that Foundation may grant chapter status to other chapters ("Other Chapters") for the purpose of performing the Foundation's Purpose in territories near or adjacent to the Territory.

4. Rights and Privileges. Upon execution of this Agreement, Chapter shall be entitled to all of the rights and privileges of a chapter set forth in Foundation's Bylaws, and all other rights and privileges which Foundation may, from time to time, establish. Chapter acknowledges and agrees that certain rights and privileges of Chapter may be suspended, revoked, amended, limited or terminated pursuant to this Agreement, Foundation's Bylaws and the Policies. Chapter, by signing this Agreement subjects itself to all provisions of this Agreement, Foundation's Bylaws and the Policies.

5. Chapter's Duties, Warranties and Obligations.

5.1. Chapter warrants that it is, and shall remain, a duly formed and validly existing nonprofit corporation in good standing under the laws of the state or territory of its incorporation or formation.

5.2. Chapter agrees not to perform any function or knowingly partake in any activity other than the Foundation's Purpose, without the prior written consent of Foundation.

5.3. Chapter agrees to comply with, and be bound by, the terms of Foundation's Bylaws, this Agreement and the Policies.

5.4. Chapter shall use its best efforts in performing the Foundation's Purpose, in cooperating with Foundation and Other Chapters, and in protecting the Marks and the integrity and good reputation of Foundation.

5.5. Chapter shall comply with all federal, state, county and local laws, regulations, rules and ordinances applicable to it or relating to nonprofit corporations and charitable organizations.

5.6. Chapter agrees to pay in a timely manner all fees, assessments, dues and penalties established by Foundation from time to time.

5.7. Chapter shall permit Foundation's officers or designated representatives to inspect Chapter's books and records and to interview Chapter's directors, officers, employees and volunteers at any reasonable time and upon reasonable notice.

6. Foundation's Obligations.

6.1. Foundation shall observe all of its obligations to Chapter set forth in Foundation's Bylaws and Policies.

6.2. Foundation will provide Chapter annually with a copy of Foundation's Annual Report and audited financial statements within a reasonable time after the same are finalized.

6.3. Upon request by Chapter, Foundation will provide Chapter with its quarterly unaudited financial reports.

6.4. Within a reasonable time following final adoption by the board of directors of Foundation ("Foundation Board"), Foundation shall provide Chapter with a copy of its budget for its next fiscal year.

6.5. Foundation shall permit Chapter's designated representatives to inspect Foundation's books and records at any reasonable time and upon reasonable notice.

6.6. Foundation shall provide Chapter with notice of any fund raising events or solicitation by Foundation within the Territory to the extent reasonably practicable.

7. Tax Exempt Status.

7.1. If Chapter has already obtained tax exempt status as a charitable organization pursuant to Section 501(c)(3) of the Internal Revenue Code, Chapter agrees to take every action necessary to retain such tax exempt status. If Chapter has not yet obtained tax exempt status as a charitable organization under Section 501(c)(3) of the Internal Revenue Code, Chapter agrees to take all necessary steps to obtain such status as expeditiously as possible and, upon obtaining such tax exempt status, shall take every action necessary to retain such tax exempt status.

7.2. If Chapter has obtained foundation status as not being a private foundation under Section 509(a)(1), (2) or (3) of the Internal Revenue Code, Chapter agrees to take every action necessary to retain such status. If Chapter has not yet obtained foundation status as not being a private foundation under Section 509(a)(1), (2) or (3) of the Internal Revenue Code, Chapter agrees to take all necessary steps to obtain such status as expeditiously as possible and, upon obtaining such status, shall take every action necessary to retain such status.

8. Marks.

8.1. Foundation hereby grants Chapter the right and license to use within the Territory, and Chapter hereby undertakes to use, the Marks in performance of the Foundation's Purpose in accordance with the terms and conditions set forth in this Agreement and in accordance with the Policies ("License"). It is understood and agreed that the License is non-exclusive and Foundation shall, at all times, have the right to use the Marks for itself and to grant the use of the Marks to Other Chapters and third parties.

8.2. Chapter acknowledges and agrees that Foundation is the sole owner of all of the right, title and interest in and to the Marks and the goodwill appurtenant thereto and any other marks which hereafter may be adopted by Foundation or Chapter. Chapter recognizes that the Marks are good and valid and that Chapter has no rights therein except those rights set forth in this Agreement. Chapter agrees not to contest the ownership or validity of any rights of Foundation in the Marks, or any registration or pending registration of any mark of Foundation with the United States Commissioner of Patents and Trademarks or with any state or other governmental authority, domestic or foreign. Chapter shall afford Foundation reasonable opportunities to inspect and monitor the activities of Chapter in order to ensure Chapter's use of the Marks is in accordance with Foundation's Policies.

8.3. Chapter's use of the Marks pursuant to the License shall be limited strictly to use in direct furtherance of the Foundation's Purpose. Such use shall be subject to such standards and procedures as are established and modified from time to time by Foundation. Chapter agrees that its use of the Marks inures to the benefit of Foundation. Chapter shall be entitled to use the Marks in its corporate name, subject to Chapter's obligations regarding such corporate name upon Revocation.

8.4. Chapter agrees to execute any and all documents and agreements reasonably necessary to the registration and protection of the Marks and to confirm ownership by Foundation of all right, title and interest in the Marks. Chapter further agrees that it shall not attempt to register or otherwise gain any right in or to any service mark or trademark that is confusingly similar to any of the Marks or any mark adopted in the future by Foundation.

9. Relationship of Parties. Foundation and Chapter are not, and shall not be considered to be, joint venturers, partners, or agents of each other, and Chapter shall have no power or authority whatsoever to bind or obligate Foundation except as otherwise set forth in this Agreement, the Policies or Foundation's Bylaws. Neither Foundation nor Chapter shall suffer any liability to any person or entity incurred or arising out of any acts of the other, or any acts of the other's agents, representatives or contracts and each shall indemnify the other in accordance with Section 10 below.

10. Indemnification.

10.1. Except as provided in Section 21.3 of this Agreement, Chapter hereby agrees to indemnify and hold Foundation harmless from any and all claims, demands, suits, and liabilities, of any nature whatsoever, arising out of or in any way connected with Chapter's performance of the Foundation's Purpose, use of the Marks, or otherwise, except that any liabilities which occur as a result of specific actions taken by Chapter at the direction of Foundation or Chapter's proper and authorized use of the Marks shall not be subject to this indemnification. In the event that Foundation is or becomes a party to any litigation or proceeding arising out of Chapter's performance of the Foundation's Purpose, use of the Marks, or otherwise, or is joined as a party to any such litigation or proceeding in which Chapter is a party, Foundation shall have the right to retain its own counsel to represent it at the sole cost and expense of Chapter upon notice to Chapter. The indemnification provided herein shall remain in effect notwithstanding any Revocation.

10.2. Foundation hereby agrees to indemnify and hold Chapter harmless from any and all claims, demands, suits and liabilities, of any nature whatsoever, arising out of or in any way connected with Foundation's performance on its own behalf of the Foundation's

Purpose or as a result of Chapter's proper and authorized use of the Marks. In the event that Chapter is or becomes a party to any litigation or proceeding arising out of Foundation's performance on its own behalf of the Foundation's Purpose or as a result of Chapter's proper and authorized use of the Marks, or if Chapter is joined as a party to any such litigation or proceeding in which Foundation is a party, Chapter shall have the right to retain its own counsel to represent it at the sole cost and expense of Foundation upon notice to Foundation. The indemnification provided herein shall remain in effect notwithstanding any Revocation.

11. Chapter Discipline. If Chapter is in breach of its obligations under this Agreement, Foundation's Bylaws or the Policies (a "Breach"), the Chapter Performance Committee shall have the power to place Chapter on "Probation" as described in Section 12, "Inactive Status" as described in Section 13 or impose Revocation as described in Section 14. If Chapter is a "Provisional Chapter" (as defined in the Foundation's Bylaws) then the Chapter Performance Committee may place Chapter on Inactive Status or impose Revocation at the end of Chapter's "Provisional Period" (as defined in Foundation's Bylaws) without regard to whether there is or has been a Breach by Chapter during its Provisional Period.

12. Probation.

12.1. Probation shall be for an initial period of not longer than one year (the "Probation Period"), subject to such conditions of Probation as the Chapter Performance Committee may establish. The conditions of Probation shall automatically include a loss of Chapter's right to a "Delegate" (as defined in Foundation's Bylaws) during the Probation Period and a requirement that Chapter commit no new Breach.

12.2. If Chapter fails at any time to perform any condition of its Probation, the Chapter Performance Committee may, at a Chapter Action Meeting, extend the Probation Period, with the same or different conditions, place Chapter on Inactive Status, or impose Revocation. Probation may be extended multiple times pursuant to this procedure but no single extension shall exceed one year in length.

12.3. If the Chapter Performance Committee does not take action pursuant to Section 12.2 hereof, then at the first Chapter Performance Committee meeting following the end of the Probation Period (or at such earlier date as the Chapter Performance Committee may decide in its sole discretion), the Chapter Performance Committee shall remove Chapter from Probation and notify Chapter of the same.

13. Inactive Status.

13.1. If Chapter is placed on Inactive Status it: (i) shall cease to have any of the rights set forth in Foundation's Bylaws and this Agreement, except as the Chapter Performance Committee may, from time to time, decide are applicable to chapters on Inactive Status; (ii) shall have no rights to a Delegate; (iii) shall cease to have such obligations set forth in Foundation's Bylaws and this Agreement as the Chapter Performance Committee may, from time to time, decide are inapplicable to chapters on Inactive Status; and (iv) the Territory shall be deemed immediately and without further action to be amended to comprise no territory.

13.2. If Chapter is placed on Inactive Status, Chapter shall immediately (or at such later date as may be agreed by the Chapter Performance Committee in its sole discretion);

(a) Elect or appoint such persons to its board of directors (the "Chapter Board") as shall be designated by the Chapter Performance Committee or its designee. All members of the Chapter Board not so designated to serve as members of the Chapter Board shall immediately resign as members of such Chapter Board.

(b) Cease active operation except as is necessary to: (A) maintain its corporate existence in good standing; (B) make all reports and filings required by any governmental authority; and (C) maintain its exempt status as an organization under Section 501(c)(3) and not a private foundation pursuant to Section 509(c)(1), (2) or (3) of the Internal Revenue Code.

(c) Take action to identify and satisfy all valid claims, obligations and debts of Chapter.

(d) Deliver all of its books and records of any kind whatsoever into the custody of Foundation.

(e) Furnish to Foundation an accounting of all funds received and disbursed by it from its inception as a chapter or as otherwise designated by the Chapter Performance Committee.

(f) Transfer to Foundation, without charge, such of its assets (after all liabilities and obligations of Chapter are paid or discharged or adequate provisions are made by Chapter for payment of such liabilities or obligations) as directed by the Chapter Performance Committee. Such assets shall be utilized by Foundation for the Foundation's Purpose within the former Territory of Chapter or shall be distributed to the Other Chapter(s) subsequently assigned the former Territory (or portions thereof).

13.3. Upon approval of the Chapter Performance Committee, Chapter may be removed from Inactive Status and be deemed a Provisional Chapter. The Provisional Period shall begin on the date of such approval by the Chapter Performance Committee. Chapter shall be granted a Territory determined by the Chapter Performance Committee, provided that if any portion thereof is currently assigned to any Other Chapter, such assignment of a Territory shall be subject to Section 3.

14. <u>Revocation</u>.

14.1. Upon Revocation, all rights and privileges of Chapter shall immediately terminate.

14.2. Upon Revocation, Chapter shall immediately (or at such later date as may be agreed by the Chapter Performance Committee in its sole discretion):

(a) Cease holding itself out to be a chapter or in any manner associated with, Foundation.

(b) Cease to use the Marks in any manner whatsoever and Chapter's license to use the Marks shall immediately and fully terminate, and Chapter shall assign to Foundation, or to any qualified organization designated by Foundation, all of Chapter's registrations with any governmental agency, and rights to the matters registered, pertaining to the use of the Marks or any other marks registered by Chapter with any such governmental agency. Chapter also shall execute a written release of Chapter's rights to those registrations, and rights to the matters registered.

(c) Take all necessary steps to remove the name "Make-A-Wish" or any reference to that name from Chapter's corporate name.

(d) Deliver all of its books and records of any kind whatsoever into the custody of Foundation.

(e) Furnish to Foundation an accounting of all funds received and disbursed by it from its inception as a chapter, or as otherwise determined by the Chapter Performance Committee.

(f) Transfer to Foundation without charge such of its assets (after all liabilities and obligations of Chapter are paid or discharged or adequate provisions are made by Chapter for payment of such liabilities or obligations) as directed by the Chapter Performance Committee.

(g) Take any other action the Chapter Performance Committee deems reasonably necessary to disassociate Chapter and Foundation.

14.3. Chapter hereby irrevocably grants and appoints Foundation as its attorney-in-fact, with full power of substitution, exercisable upon Revocation to take any steps and to execute any documents as are necessary to accomplish the matters set forth in this Agreement, the Policies or Foundation's Bylaws for a chapter whose chapter status has been revoked. This power shall include, without limitation, the execution and filing of articles of amendment to Chapter's articles of incorporation, corporate charter or similar corporate or formation documents, with the appropriate governmental authority, and to remove the name "Make-A-Wish" from Chapter's name. The power granted hereunder shall be deemed to be a power coupled with an interest.

14.4. Upon Revocation, Chapter covenants and agrees that it shall not engage in the Foundation's Purpose or any purpose which involves the granting of wishes to sick children within the Territory for a period of two calendar years from the date of the Revocation. Given the unique methods, practices and knowledge imparted by Foundation to Chapter as a result of this Agreement and the possible confusion which may result in the continuation of such wishgranting activities by Chapter, Foundation and Chapter agree that the terms of this covenant not to compete are reasonable in scope both as to time and territory.

15. Chapter Action Meeting. If Chapter is the subject of an action by the Chapter Performance Committee pursuant to Sections 3, 11 or 12.2 (a "Chapter Action"), or if there is a proposed Chapter Action to change the name, headquarters or territory (other than pursuant to Section 13.1) of any Other Chapter with a territory adjacent to the Territory, then prior to a meeting of the Chapter Performance Committee to consider the Chapter Action (a "Chapter Action Meeting"), the Secretary of Foundation or his or her designee shall give written notice to Chapter setting forth: (i) the proposed Chapter Action and specifying any alleged Breach; (ii) Chapter's rights to present a written statement regarding the proposed Chapter Action; and (ii) the date, time and place of the Chapter Action Meeting which shall be at least 10 days after the notice is given to Chapter. Chapter may present a written statement regarding the proposed Chapter Action to the Secretary of Foundation not less than 3 days prior to the Chapter Action Meeting. If a written statement has been timely filed, Chapter may also appear at the Chapter Action Meeting. The Chapter Performance Committee may establish a reasonable time limit and set the procedures for Chapter's appearance. If the Chapter Performance Committee approves any Chapter Action, the Chapter Performance Committee or its designee shall promptly give written notice to Chapter.

16. Probation, Inactive Status or Revocation Without Prior Notice. The Chapter Performance Committee may place Chapter on Probation, Inactive Status or impose Revocation without any prior notice to Chapter or prior right to present its defense if the Chapter Performance Committee reasonably believes that both (i) Chapter has committed fraud, has engaged in illegal activity, or has materially violated this Agreement, Foundation's Bylaws or the Policies, and (ii) prior notice to Chapter would be impractical or could endanger or harm Foundation. If Chapter is placed on Probation or Inactive Status or Revocation is imposed pursuant to this Section, the Chapter Performance Committee or its designee shall thereafter give written notice to Chapter of such action setting forth Chapter's right to present a defense in writing to the Secretary of Foundation within 10 days of the effective date of the notice. If a written defense has been timely filed, Chapter may also appear at the Chapter Performance Committee meeting at which such defense is considered. The Chapter Performance Committee or its designee shall give Chapter at least 10 days notice of such meeting. The Chapter Performance Committee may establish a reasonable time limit and set the procedures for Chapter's appearance. The Chapter Performance Committee shall notify Chapter of any action taken.

17. Appeal.

17.1. Chapter shall have the right to appeal Probation, Inactive Status, Revocation or an involuntary change to its name, Territory or Headquarters location to the Executive Committee of Foundation ("Executive Committee") by filing a written appeal with the Secretary of Foundation. In the case of an appeal from action taken pursuant to Section 15, the appeal must be submitted on or before 30 days after written notice to Chapter of the Chapter Action. In the case of appeal from action taken pursuant to Section 16, the appeal must be submitted on or before 30 days after (i) notice to Chapter of Probation, Inactive Status or Revocation if Chapter does not exercise its right to present a written defense to the Chapter Performance Committee or (ii) notice by the Chapter Performance Committee to Chapter of action on its defense if Chapter exercises such right. This right of appeal shall be conditioned upon Chapter's full and timely compliance with all requirements of Probation, Inactive Status or

Revocation, as applicable; provided, however, that upon written request of Chapter, the Chapter Performance Committee may, in its sole discretion and upon such conditions as the Chapter Performance Committee may establish, extend the time of compliance with any or all of the requirements of Probation, Inactive Status or Revocation, as the case may be, until the decision of the Executive Committee on the appeal. The effect of a name, Territory or Headquarters location change shall be stayed pending the Executive Committee's decision on the appeal.

17.2. The Executive Committee shall consider the written appeal. In the case of Probation or an involuntary change to a name, Territory or Headquarters location, the Executive Committee shall determine in its discretion whether to decide the appeal on the written submission or whether to grant a hearing to Chapter. In the case of Inactive Status or Revocation and in other cases where the Executive Committee grants a hearing, a hearing shall be conducted within 30 days after the written notice of appeal is received. At the hearing, a representative or representatives of the Chapter Performance Committee and Chapter shall have the right to present evidence either in writing or by appearance, or both. The Executive Committee shall consider all evidence presented and may consider such other evidence and invite such other parties to present evidence as it deems appropriate. The Executive Committee, upon request of Chapter, may, in its discretion, allocate funds to Chapter for appropriate expenses of the appeal.

17.3. The decision of the Executive Committee on the appeal shall be final and unappealable.

18. Voluntary Actions. Chapter may make a written request to the Chapter Performance Committee to be placed on Inactive Status or to have Revocation imposed, and the Chapter Performance Committee may immediately take the requested action. The Chapter Performance Committee may place Chapter on Inactive Status if Chapter has requested Revocation. Chapter shall not have the right to present a written defense or to appear at the meeting at which such action is taken, nor to appeal the action taken.

19. Security Agreement.

19.1. Chapter hereby grants to Foundation a security interest in all of Chapter's rights, title and interest in and to all deposit accounts, books and records, financial records, check books, bank statements, cash, cash equivalents, securities, pledges, lists of volunteers and prospective volunteers, donor and prospective donor lists, donee and prospective donee lists, wish lists, Chapter's name, Chapter's logo (if any), furniture, office equipment, supplies, computer equipment and software, accounts receivable, contracts and the rights and benefits thereunder, including any of the foregoing now existing or hereafter acquired and the proceeds of the same (collectively the "Collateral"), which security interest shall secure Chapter's performance of all of Chapter's covenants and obligations contained in this Agreement, the Foundation's Bylaws and the Policies; provided, however, that Foundation may exercise its remedies granted to it by the Uniform Commercial Code to foreclose its lien or seize the Collateral only upon Revocation.

19.2. Chapter shall perform all acts and execute and file all documents necessary and requested by Foundation to perfect and continue the perfection of a first priority security interest in favor of Foundation in and to the Collateral. Chapter hereby irrevocably grants permission to Foundation to file financing statements describing the Collateral and appoints Foundation as its attorney-in-fact, with full power of substitution, to take any steps and to execute any documents as are necessary to perfect and keep perfected the security interest granted herein to Foundation. The power granted hereunder shall be deemed to be a power coupled with an interest.

19.3. The security interest hereunder shall be subject to any donor restrictions placed upon any portion of the Collateral by the party donating such portion of the Collateral to Chapter.

19.4. If Foundation shall, pursuant to Section 14, elect not to require Chapter to transfer to Foundation any item of Collateral following Revocation, Foundation shall release its security interest in such Collateral.

20. Governing Law. This Agreement shall be governed by, and shall be construed and interpreted in accordance with, the internal laws of the State of Arizona without the application of any principles of conflicts of law that would require or permit the application of the laws of any other jurisdiction.

21. Arbitration. Foundation and Chapter acknowledge that the Foundation's Purpose will be irreparably harmed by the negative publicity attendant to any dispute resolution in a public forum. Therefore, except as expressly provided in Section 21.3 below, neither Foundation nor Chapter will bring any action or proceeding against the other in any court, whether local, state, federal or otherwise.

21.1. Except as provided in Section 21.3, all disputes arising in connection with this Agreement or otherwise between Chapter and Foundation (which are not settled by agreement between the parties), shall be finally settled by binding arbitration. The arbitration shall be held in the same city in which the headquarters of Foundation is then located, and shall be conducted in accordance with the rules and procedures of the American Arbitration Association, but without submission to such association unless both parties so agree or fail to agree on another arbitrator. In the event the party against whom the award is entered has not fully satisfied the award within 90 days, judgment upon the award may be entered in any court having jurisdiction, or application may be made to such court for judicial acceptance of the award and order of enforcement, as the case may be.

21.2. All disputes between Foundation and Chapter regarding chapter discipline shall be governed exclusively by and within the rules established in this Agreement, Foundation's Bylaws and the Policies. Following resolution of a chapter discipline dispute in accordance with this Agreement, Foundation's Bylaws and the Policies, Foundation may, in circumstances requiring Extraordinary Relief (as defined below), enforce such result by bringing an action in state court in the state in which the headquarters of Foundation is then located, or in the United States District Court for such state and area. Foundation's right to pursue Extraordinary Relief shall specifically include any action that Foundation may determine requires the immediate enforcement of a decision to place Chapter on Probation or Inactive Status, or impose Revocation.

21.3. "Extraordinary Relief," means any dispute arising in connection with this Agreement between Chapter and Foundation, and which qualifies for issuance of a temporary restraining order or preliminary injunction in accordance with Rule 65, Federal Rules of Civil Procedure, or the equivalent state rule in the state in which the headquarters of Foundation is then located. Foundation may, in circumstances requiring Extraordinary Relief, bring an action against Chapter in state court in the state in which the headquarters of Foundation is then located, or in the United States District Court for such state and area. Foundation and Chapter agree that in any such action, the litigation shall be limited to the issue of Extraordinary Relief, and that all other disputes, including but not limited to any counterclaim that Chapter may assert, shall be resolved exclusively according to Sections 21.1 and 21.2 above. In the event the Extraordinary Relief is granted other than on an ex parte basis, Foundation shall be awarded its costs and reasonable attorney's fees in accordance with the substantive and procedural law of the state or the United States District Court in which the action is brought. In no event shall Chapter institute any action or proceeding against Foundation in any court, whether local, state or federal. Chapter and Foundation agree that exclusive jurisdiction for any dispute involving Extraordinary Relief shall be the state court for the state in which the headquarters of Foundation is then located, or in the United States District Court for the state in which the headquarters of Foundation is then located.

22. Attorneys' Fees. It is agreed that in the event either party should commence any action or proceeding including arbitration proceedings against the other to enforce any of the terms, conditions, covenants or provisions of this Agreement the party prevailing in any such action or proceeding shall be entitled to all reasonable attorneys' fees and costs by the other party.

23. Remedies. In the event of any breach or default under any of the terms, conditions, covenants or provisions of this Agreement by one of the parties, the other party shall have, in addition to a claim for damages for that breach or default, and in addition to any right or remedy available at law, in equity or as otherwise provided in this Agreement, the right to demand and have specific performance of this Agreement.

24. Substitution in Proceedings. Chapter shall cooperate with and immediately inform Foundation of any suits or proceedings in which Chapter is a party or which have been threatened in writing. In that regard Foundation may, at any time, according to Foundation's sole discretion, in its name or in the name of Chapter, be substituted for Chapter as the real party in interest in any such litigation or proceeding, and prosecute, defend, compromise, or otherwise resolve the litigation or proceeding, at Foundation's sole expense. This paragraph shall not apply to any action for Extraordinary Relief between Foundation and Chapter.

25. Third Parties. Unless otherwise specifically provided in this Agreement, nothing expressed or implied in this Agreement is intended or shall be construed to confer upon or to give any person other than the parties hereto, and their respective successors and assigns, any benefit, right or remedy under or by reason of any term, provision, condition, covenant, undertaking, warranty, representation or agreement contained in this Agreement.

26. Invalidity of Particular Provisions. If any portion of this Agreement shall be deemed to be invalid or unenforceable, then the remaining portions of this Agreement shall be fully effective, valid and enforceable.

27. Entire Agreement. Foundation and Chapter agree that this Agreement contains the entire agreement between the parties. This Agreement is intended by the parties to supersede all other agreements, including, without limitation, any prior Chapter Agreement or Affiliation Agreement, whether written or oral, that previously may have been entered into by Foundation and Chapter, or their predecessors in interest, with respect to the matters set forth in this Agreement.

28. Amendment. The Chapter's name, Territory and Headquarters can be changed or modified at a Chapter Action Meeting. Any other changes to this Agreement may only be made by a vote of the Foundation Board and the Leadership Council according to the procedure set forth in the Foundation's Bylaws. Chapter agrees to be bound by the terms and conditions of any amendment to this Agreement adopted in accordance with the Foundation's Bylaws whether or not Chapter's Delegate (if any) votes in favor of such amendment.

29. Successors and Assigns. The covenants, conditions and agreements contained in this Agreement shall bind and inure to the benefit of the parties and their successors and assigns, except Chapter shall not have the right to assign this Agreement or any of its rights or benefits hereunder, including, without limitation, its right to use the Marks.

30. Notices. Except as otherwise provided in this Agreement, whenever notice is required by law or by this Agreement to be given, such notice may be given in writing by depositing the same in the United States Postal Service first class mail, postage paid; delivered to a recognized national overnight delivery service; or sent by facsimile or e-mail transmission, in each case addressed according to the records of Foundation. Delivery of notice shall be deemed complete and effective three days after deposit in the mail, one day after delivery to the delivery services, upon facsimile transmission, or upon transmission by e-mail, as the case may be.

31. Waiver. No waiver of any provision of this Agreement shall be valid unless in writing and signed by the party against whom it is sought to be enforced. No omission or delay of either party in requiring due and punctual fulfillment by the other party of the obligations of such other party hereunder shall be deemed to constitute a waiver of its rights to require such due and punctual fulfillment of any of its other obligations.

32. Time of Essence. Time is of the essence in all terms of this Agreement.

33. Conflicts. To the extent possible, this Agreement, the Foundation's Bylaws and the Policies shall be read and interpreted in such manner as shall result in no conflict amongst the same. In the case of an irreconcilable conflict between this Agreement and either or both of the Foundation's Bylaws or the Policies, this Agreement shall govern. In the case of a conflict between the Foundation's Bylaws and the Policies, the Foundation's Bylaws shall govern.

34. Headings. The subject headings of this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any provisions of this Agreement.

MAKE-A-WISH FOUNDATION
OF AMERICA, an Arizona nonprofit corporation

By: Paul Welle

Its: ACTING PRESIDENT & CEO

MAKE-A-WISH FOUNDATION OF
RHODE ISLAND, a Rhode Island nonprofit corporation

By: Steven S. Minicucci 11/17/04

Its: Chairman of The Board of Directors

A. J. Hanbury
Pres and CEO 11-17-04

9/11/04