

# **FIFTH AMENDED AND RESTATED BYLAWS OF JIKOJI**

A California Nonprofit Public Benefit Corporation

## **ARTICLE 1. OFFICES**

### **Section 1. PRINCIPAL OFFICE**

The principal office of the corporation for the transaction of its business is 12100 Skyline Blvd., Santa Cruz County, California.

### **Section 2. CHANGE OF ADDRESS**

The county of the corporation's principal office can be changed only by amendment of these Bylaws. The Board of Directors may change the principal office from one location to another within the named county by noting the changed address and effective date and such changes of address shall be deemed an amendment of these Bylaws.

### **Section 3. OTHER OFFICES**

The corporation may also have offices at such other places, within or without the State of California, where it is qualified to do business, as its business may require and as the Board of Directors may, from time to time, designate.

## **ARTICLE 2. PURPOSES AND BASIC ASSUMPTIONS**

### **Section 1. PURPOSES**

The primary objectives and purposes of this corporation, as originally inspired by Kobun Chino Otagawa, Roshi, Jikoji's spiritual I founder, shall be to provide:

- (a) space for instruction in and practice of meditation for all interested people as taught and practiced by Kobun Chino Otagawa, Roshi;
- (b) spiritual insight and educational activities and practices which arise therefrom, including, but not limited to retreats, classes, and seminars in the arts and sciences;
- (c) for publishing related materials arising out of these activities; and,
- (d) a place where people from many different backgrounds can come together in a peaceful atmosphere of learning and renewal, with the idea of no fixed hierarchy.

### **Section 2. BASIC ASSUMPTIONS**

The basic assumptions underlying the organization of Jikoji are:

(a) Sangha membership is open for those who authentically embrace Jikoji's objectives and purposes as inspired by its founder, Kobun Chino Otagawa, Roshi; and

(b) Directors, Officers, Manager(s), Guiding Teacher(s) and Resident Practitioners, serve and support Jikoji's founder's purposes, the practice of meditation and its sangha.

### **ARTICLE 3. MEMBERS**

This corporation shall make no provisions for members, however, pursuant to Section 5310 (b) of the Nonprofit Public Benefit Corporation Law of the State of California, any action which would otherwise, under law or the provision of the Articles of Incorporation or Bylaws of this corporation, require approval by a majority of all members or approval by the members, (as may be required under the Nonprofit Public Benefit Corporation Law of the State of California), shall only require the approval of the Board of Directors.

### **ARTICLE 4. DIRECTORS**

#### **Section 1. NUMBER**

The corporation shall have not less than three (3) nor more than eleven (11) Directors, with the exact number to be fixed within these limits by approval of the Board of Directors from time to time. Provided however, upon the retirement, resignation or removal of a board member, the size of the Board of Directors shall be deemed reduced in number upon the effective date of such retirement, resignation or removal until such time as the Board of Directors shall fill the vacancy created thereby. The number of Directors most recently established by the Board, reduced in size by any vacancies that have not been filled by the Board, shall constitute the "Board of Directors" for purposes of these Bylaws, including, without limitation, determining the presence or absence of a quorum.

#### **Section 2. POWERS**

The Board of Directors exists to serve the best interests of the Sangha. Subject to the provisions of the California Nonprofit Public Benefit Corporation Law and any limitations in the Articles of Incorporation and Bylaws relating to action required or permitted to be taken or approved by the members, if any, of this corporation, the activities and affairs of this corporations shall be conducted and all corporate powers shall be exercised by or under the direction of the Board of Directors.

#### **Section 3. DUTIES**

It shall be the duty of the Directors to:

(a) Perform any and all duties imposed on them collectively or individually by law, by the Articles of Incorporation of this corporation or by these Bylaws.

(b) Appoint and remove, employ and discharge, and, except as otherwise provided in these Bylaws, prescribe and supervise the duties and fix the compensation, if any, of all officers, agents and employees of the corporation, and the Guiding Teacher(s).

(c) Meet at such times and places as provided in these Bylaws.

(d) Register their current physical and email addresses and telephone numbers with the Secretary of the corporation. Notices of meetings mailed or emailed to them at such physical and or email addresses shall be valid notice thereof.

(e) Comply with the following decision-making rule: All decision making shall be based on the principle of majority-vote decision-making (i.e. "Consensus") among the Directors present at a meeting of the Board of Directors.

(f) Not engage in personal attacks on other Board or Sangha members. Any and all such attacks shall be grounds for removal of a Director.

#### **Section 4. TERMS OF OFFICE**

Each Director shall serve for a term of four (4) years and for no more than two (2) terms in succession, provided, after a period of two (2) years a Director who had previously served two (2) terms in succession, may again be elected to the Board of Directors. As shall be determined by the Board of Directors the terms of Directors may be staggered in which event current terms of one or more Directors may be for a shorter or longer term than four (4) years. The term of any current Director serving their initial or extended term shall be increased to four (4) years as the Board shall determine consistent with achieving staggered terms.

#### **Section 5. COMPENSATION**

Directors shall serve without compensation.

#### **Section 6. RESTRICTION REGARDING INTERESTED DIRECTORS**

Notwithstanding any other provision of these Bylaws, not more than forty-nine percent (49%) of the persons serving on the Board may be interested persons. For purposes of this Section, "interested persons" means either:

(a) any person currently being compensated by the corporation for services rendered it within the previous twelve (12) months, whether as a full- or part-time officer or other employee, independent contractor; or

(b) any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, daughter-in-law, mother-in-law, or father-in-law of any such person.

#### **Section 7. PLACE OF MEETINGS**

(a) Meetings shall be held at the principal office of the corporation unless otherwise provided by the Board or at such place within or without the State of California which has been designated from time to time by resolution of the Board of Directors.

(b) In the absence of such designation, any meeting not held at the principal office of the corporation shall be valid only if held on the written consent of all Directors given either before or after the meeting and filed with the Secretary of the corporation or after all Directors have been given written notice of the meeting as hereinafter provided for special meetings of the Board.

(c) Directors may attend meetings of the Board of Directors in person or by means of commonly available electronic meeting platforms now available or as may become available in the future provided any and all such platforms must be approved by Resolution of the Board of Directors.

#### **Section 8. REGULAR AND ANNUAL MEETINGS**

(a) The Board shall hold two (2) regular meetings each year, (each a "Regular Meeting") unless the Board determines that one or more additional Regular Meeting(s) is required. The first Regular Meeting each fiscal year is herein referred to as the "Annual Meeting."

(b) The Annual Meeting shall be on the first Sunday in June each year. The second Regular Meeting of the Board shall be on a Sunday in January each year as determined by the Board. Each Regular meeting shall begin at 2:00 pm or at such other time as may be established by the Board of Directors during the preceding Regular Meeting or by notice from the Board of Directors in the manner hereinafter prescribed.

(c) At the Annual regular meeting new Directors shall be elected by the Electors (as defined in Section 19, below). Cumulative voting for the election of Directors shall not be permitted. The candidates receiving the highest number of votes, up to the number of vacancies, shall be elected. Each Elector shall cast up to one vote per vacancy, with voting being by secret ballot only.

(d) At any Regular Meeting of the Board of Directors the following agenda items, in addition to such other items as the Board deems necessary, shall be considered:

- (1) Call to order and introduction;
- (2) Minutes approval;

- (3) Reports (e.g., Treasurer, (as to the financial condition of Jikoji) Guiding Teacher(s) (as to matters related to practice) and Committees (as to each Committee's area of responsibility);
- (4) Discussion items;
- (5) Consent items;
- (6) Action items;

Upon the adoption of a governance document by Resolution of the Board, the provisions of this subsection (d) shall be null and void and the provisions of said governance document alone shall determine the agenda format for Regular Meetings.

### **Section 9. SPECIAL MEETINGS**

Special meetings of the Board of Directors may be called by the Treasurer, the Secretary, by any two Directors, or a Guiding Teacher (each a "Special Meeting"). All Special Meetings shall be held at the principal office of the corporation or at such other place, including online meetings, as shall be permitted under these Bylaws and as determined by the Board.

### **Section 10. OPEN MEETINGS**

Regular Meetings shall be open to all interested persons, except when the Board of Directors shall determine by consensus to meet in executive session during a Regular Meeting. All Special meetings, unless otherwise determined by the Board of Directors, shall not be open to any person other than the Directors, the Treasurer, the Guiding Teacher(s) and such other persons whose participation is determined by two or more Directors, the Guiding Teacher(s) or the Treasurer to be necessary for the conduct of such Special Meeting.

### **Section 11. NOTICE OF MEETINGS**

Regular Meetings of the Board shall be scheduled during a previous Regular meeting or by resolution of the Board. Special Meetings of the Board shall be held upon forty-eight (48) hours' prior notice, provided such notice is given to each Director as follows: (i) Delivered personally; (ii) By telephone; or (iii) By electronic mail. If notice is given by telephone, it shall be sufficient to leave a message on a Director's phone message system provided in addition to such message, an email notice must also be sent that day to such Director. If Notice is given by electronic mail, such notice shall be deemed delivered upon its transmission. All notices shall be addressed to each Director at their phone or electronic mail address as shown on the books of the corporation. Notice of the time and place of holding such Regular or Special Meeting shall be included in the notice.

### **Section 12. CONTENTS OF NOTICE**

Notice of meetings not herein dispensed with shall specify the place, day and hour of the meeting. The purpose of any Board meeting shall be specified in the notice.

### **Section 13. WAIVER OF NOTICE & CONSENT TO HOLDING MEETINGS**

The transactions of any meeting of the Board, however called and noticed or wherever held, are as valid as though the meeting had been duly held after proper call and notice, provided a quorum, as hereinafter defined, is present and provided that either before or after the meeting each Director not present signs a waiver of notice, a consent to holding the meeting, or an approval of the minutes thereof. All such waivers, consents, or approvals, shall be filed with the corporate records or made a part of the minutes of the meeting.

### **Section 14. QUORUM FOR MEETINGS**

(a) A quorum shall consist of a majority of the Board of Directors.

(b) Except as otherwise provided in these Bylaws or in the Articles of Incorporation of this corporation, or by law, no business shall be considered by the Board at any meeting at which a quorum, as hereinafter defined, is not present, and the only motion that shall be entertained at such meeting shall be a motion to adjourn. However, a majority of the Directors present at such meeting may adjourn from time to time until the time fixed for the next Regular Meeting of the Board.

(c) When a meeting is adjourned for lack of a quorum, it shall not be necessary to give any notice of the time and place for the resumption of the adjourned meeting or of the business to be transacted at such meeting, other than by announcement at the meeting at which the adjournment is taken, except as provided in Section 13 of this Article.

(d) The Directors present at a duly called and held meeting at which a quorum is initially present may continue to do business notwithstanding the loss of a quorum at the meeting due to a withdrawal of Director(s) from the meeting, provided that any action thereafter taken must be approved by at least a majority of the required quorum for such meeting or such greater percentage as may be required by law, or the Articles of Incorporation or Bylaws of this corporation.

### **Section 15. BOARD ACTION**

The Board of Directors shall decide issues by Consensus, as certified by the Secretary. However, in the event the matter being decided is removal of a Director, the vote of the Director subject to removal shall not be considered in determining Consensus.

### **Section 16. CONDUCT OF MEETINGS**

A Facilitator for purposes of conducting any meeting may be chosen by the Board of Directors. Meetings shall be governed by a spirit of cooperation in the interests of the Sangha as a whole.

### **Section 17. ACTION BY UNANIMOUS CONSENT WITHOUT MEETING**

Any action required or permitted to be taken by the Board of Directors under any provision of law may be taken without a meeting, if all members of the Board shall individually or collectively consent in writing, including by email, to such action. For the purposes of this section only, "all members of the Board" shall not include any "interested Director" as defined in Section 5233 of the California Nonprofit Public Benefit Corporation Law. Such written consent or consents shall be filed with the minutes of the proceedings of the Board. Such action by written consent shall have the same force and effect as the unanimous in-person vote of the Directors. Any certificate or other document filed under any provision of law which relates to action so taken shall state that the action was taken by unanimous written consent of the Board of Directors without a meeting and that the Bylaws of this corporation authorize the Directors to so act, and such statement shall be prima facie evidence of such authority.

### **Section 18. VACANCIES**

(a) Vacancies on the Board of Directors shall exist (1) upon the death, resignation, removal or expiration of term of any Director, or (2) whenever the number of authorized Directors is increased.

(b) Any Director may resign effective upon giving written notice to the Secretary or the Board of Directors unless the notice specifies a later time for the effectiveness of such resignation. No Director may resign if the corporation would then be left without duly elected Directors in charge of its affairs, except upon notice to the Attorney General.

(c) Vacancies of the Board of Directors may be filled by remaining Directors for the remaining term.

(d) A Director can be removed by consensus of all remaining members of the Board of Directors.

### **Section 19. ELECTORS**

The Board of Directors shall be elected by members of the Sangha described in subparts (a), (b) and (c), below, who are herein referred to as the "Electors". Only those Electors who are present at the meeting at which the election occurs and who have been active in the affairs of Jikoji in the preceding year shall be eligible to vote in such election. The term "active" is self-defined by each member of the Sangha who considers themselves to have maintained a Buddhist practice at Jikoji during the preceding year, provided that, if by Consensus of the Board, an Elector is deemed not to have maintained a Buddhist practice at Jikoji during the preceding year, in which case such person shall not be eligible to vote in said election. An Elector is any one of the following Sangha members who meets the preceding eligibility requirements:

(a) Current Board Members and ex-Board members including any Resident Practitioners (formerly referred to as "Caretakers") who have served as Board Members;

(b) Any person who serves as a Long-Term Retreatant on or after the date of adoption of these Fifth Amended Bylaws and in that capacity completes at least two years of service and,

(c) Any Sangha member who has received ordination in Kobun's lineage or the lineage of his brother, Hojosama Keibun Otokawa, including both lay ordination and ordination as a priest.

## **Section 20: BOARD ELIGIBILITY**

Anyone is eligible to be elected to the board, provided they have served for at least one year on a standing committee and maintained a level of practice at Jikoji which in the judgment of such person is appropriate to qualify them to be a director of this Zen spiritual community.

## **ARTICLE 5. THE GUIDING TEACHER(S)**

### **Section 1. DEFINITION**

Any Guiding Teacher shall be a transmitted teacher in Kobun Chino Ootogawa's lineage of the Soto Zen Buddhist tradition.

### **Section 2. APPOINTMENTS**

The Guiding Teacher(s) may appoint, on such temporary basis as the Guiding Teacher(s) shall determine, one or more persons to administer the affairs of Jikoji that are specifically delegated to the Guiding Teacher(s) under these Bylaws and the scope of such person's authority shall be determined by the Guiding Teacher(s). The Guiding Teacher(s) shall appoint the practice officers for each practice period and retreat.

### **Section 3. ORGANIZATIONAL DUTIES**

The Guiding Teacher(s) shall have authority to administer all of Jikoji's spiritual and religious affairs and the scope of said authority shall extend to all matters not specifically reserved to the Board of Directors either by law or these Bylaws. The Guiding Teacher(s) shall act in an advisory capacity to the Board of Directors, any Executive Committee and to the Sangha as a whole.

### **Section 4. APPOINTMENT AND SUCCESSOR(S)**

(a) Appointment and Term of the Guiding Teacher(s): The Guiding Teacher(s) shall be appointed by the Board of Directors for a term to be agreed upon between the Guiding Teacher and the Board which shall not exceed five (5) years. At the end of the term, the Board of Directors may extend the Guiding Teacher(s)' term for an additional term to be agreed upon between the Board and the Guiding Teacher(s) provided it shall not exceed five (5) years. The Guiding Teacher(s)' term may be renewed for as many successive five (5) year or shorter terms, as the Board shall determine.



(b) Jikoji Elders' Council: The "Jikoji Elders' Council" shall act in an advisory capacity to the Board on matters of practice and teaching at Jikoji, including the appointment of a Guiding Teacher. The Guiding Teacher(s) or a majority of the Elders' Council may designate as members of the Jikoji Elders' Council specific persons who have practiced extensively and have historical engagement in Jikoji's Sangha life. Potential specific persons are mainly those who hold Dharma transmission in the lineages of Kobun Chino Otagawa Roshi or Keibun Otokawa Roshi, but also may include persons who are otherwise ordained in these lineages and have a long-term and sustained commitment to the support of practice at Jikoji. Upon acceptance of this designation each such person shall be a member of the Jikoji Elders' Council. Additionally, the Guiding Teacher(s) or a majority of the Council may designate, by written notice, the ineligibility of any person who shall not thereafter continue as or be eligible to become a member of the Jikoji Elders' Council.

c) Guiding Teacher Succession: A Guiding Teacher may be nominated by the Jikoji Elder's Council or nominated by a Board member but must be approved by both a majority of the Jikoji Elders' Council and a majority of the Board. At any time Jikoji may have as few as one Guiding Teacher and as many as the Board shall determine. From time to time and for such period as the Board shall determine, there may be no Guiding Teacher.

## **Section 5. AUTHORITY**

The Guiding Teacher(s) may issue verbal or written statements in the name of Jikoji on matters of practice, teachings and Jikoji's spiritual affairs. The Guiding Teacher(s), in consultation with the Jikoji Elders' Council, may invite other teachers to teach and guide practice at Jikoji.

## **ARTICLE 6. OFFICERS AND COMMITTEES**

### **Section 1. NUMBER OF OFFICERS**

The officers of this corporation shall be Secretary, Treasurer, Chairperson, Manager and such other officers or agents as the Board deems desirable, appointed by the Board of Directors. The Board of Directors shall retain the power to remove any or all officers when they deem it necessary.

### **Section 2. DUTIES OF THE SECRETARY**

The Secretary shall:

- (a) Keep an updated copy of the Bylaws of the corporation at corporate headquarters;
- (b) Keep minutes of all meetings and post a copy of all minutes;
- (c) See that all notices are duly given in accordance with these Bylaws, or as required by law;

(d) Keep custody of the Jikoji records and seal, and see to it that the seal is affixed to all documents executed by Jikoji as authorized in accordance with these Bylaws;

(e) Maintain correspondence for Jikoji; including government filings;

(f) Maintain and certify all Resolutions adopted by the Board;

(g) And in general, perform all duties incident to the office of Secretary.

### **Section 3. DUTIES OF THE TREASURER**

The Treasurer shall:

(a) Have charge and custody of and be responsible for all funds and securities of Jikoji;

(b) Pay and receive all funds as directed by the Board of Directors and maintain records adequate to account for all such transactions; however the Treasurer shall in no case authorize any payment nor shall they make any payment in excess of one thousand dollars (\$1000) except with the express consent of the Board of Directors, which shall be deemed to have been given with respect to payments, regardless of the amount paid, if such payment is permitted in the annual budget approved by the Board;

(c) Deposit funds in such banks, trust companies, or other depositories as shall be selected in accordance with these Bylaws;

(d) Record all donations by name of donor and amount;

(e) Post a quarterly financial report;

(f) Prepare an annual financial report;

(g) In general, perform all duties incident to the office of Treasurer, including filing of all tax returns.

(h) Any of these duties may be delegated to a bookkeeper upon the recommendation of the Treasurer and approval of the Board of Directors. Said duties shall be supervised by the Treasurer, who will retain all responsibility for the duties.

(i) The Board may delegate to one or more of the Standing Committees described in these bylaws, responsibility to have charge and custody of and be responsible for such class of funds as the Board shall deem appropriate for such Committee to manage and upon such delegation of responsibility, the Treasurer shall receive and rely on the accounts of such Committee as to all transactions occurring in connection with such fund and shall have no independent duty to review actual receipts and expenditures, provided the chairperson of such Committee shall obtain and preserve for a period of not less than three (3) years from the date of each

transaction, proper receipts for all such transactions, which receipts shall be made available for inspection by the Treasurer if the Treasurer has reason to believe there has been malfeasance with respect to the management of any such fund; and,

(j) The Board has delegated to the Finance Committee the authority and discretion to authorize expenditures not provided for in the annual budget that do not exceed one thousand dollars (\$1,000) in amount with respect to any single expenditure.

(k) Acknowledge to a donor, donations received by Jikoji in excess of one hundred dollars (\$100.00), including the tax identification number of Jikoji, or convey all pertinent information regarding such donations to the person designated by the Board to acknowledge donations.

#### **Section 4. DUTIES OF THE CHAIRPERSON**

The Chairperson shall:

(a) Sign any and all documents, papers and writings that are required by any federal, state or local governmental agency or body to be signed on Jikoji's behalf by its Chairperson, provided such signing has been authorized by the Board of Directors; and,

(b) Carry out such other duties and tasks as shall be authorized from time to time by the Board of Directors.

#### **Section 5. DUTIES OF THE MANAGER**

The Manager:

(a) Shall exercise such decision-making authority over the affairs of Jikoji that relate to its management as the Board of Directors shall delegate to the Manager as permitted by the Bylaws and California law;

(b) Shall, at each Regular Meeting, report to the Board of Directors on activities and major decisions concerning the management of Jikoji since the time of the Manager's last report to the Board;

(c) May be entitled to compensation for work done in their capacity as the Jikoji Manager as the Board shall approve from time to time; and,

(d) Shall meet the requirements of a "Long-Term Retreatant" as that term shall be defined by the Board.

#### **ARTICLE 7. COMMITTEES**

The Board of Directors, any Executive Committee of the Board and/or the Guiding Teacher(s), from time to time, may establish and dissolve such ad hoc committees as either the Board, any Executive Committee or the Guiding Teacher(s) shall deem appropriate and necessary to serve the needs of Jikoji.

The Board of Directors has established the following Standing Committees:

- (a) The Finance Committee, one member of which shall be the Treasurer;
- (b) The Publications Committee;
- (c) The Facilities Committee;

All of the Standing Committees are to assist the Guiding Teacher(s), the Board of Directors and any Executive Committee of the Board in carrying out their duties and responsibilities as described in these Bylaws. Accordingly, the Board of Directors and/or any Executive Committee of the Board may direct the activities of each Standing Committee. The appointment and removal of members of a Standing Committees shall be made by the Board of Directors or any Executive Committee of the Board.

The Board of Directors shall have the right to establish an Executive Committee as it shall deem necessary and appropriate. Such Committee shall consist entirely of one or more members of the Board of Directors. The Board shall delegate to the Executive Committee such decision-making authority as the Board shall deem appropriate.

## **ARTICLE 8. FINANCE**

### **Section 1. FISCAL YEAR OF THE CORPORATION**

The fiscal year of the corporation shall begin on the first day of May and end on the last day of April.

### **Section 2. BUDGET**

The Treasurer shall submit a preliminary budget for the upcoming fiscal year fifteen (15) days prior to the annual meeting. At the same time the Treasurer shall provide a report on the status of the previous year's budget. The Board of Directors shall take action on the budget at the annual meeting.

## **ARTICLE 9. AMENDING ARTICLES AND BYLAWS**

### **Section 1. ALTERATIONS**

These Articles and Bylaws may be altered, amended, or repealed, and new ones may with prior notice be adopted by a proposal adopted at a meeting of the Board of Directors, provided said adopted proposal is communicated to all Directors, and subsequently ratified and approved at a subsequent meeting of the Board of Directors.

## **Section 2. CERTAIN AMENDMENTS**

Notwithstanding the above Sections of this Article, this corporation shall not amend its Articles of Incorporation to alter any statement which appears in the original Articles of Incorporation and of the names and addresses of the first Directors of this corporation nor the name and address of its initial agent, except to correct an error in such statement or to delete either statement after the corporation has filed a "Statement by a Domestic Non-Profit Corporation" pursuant to Section 6210 of the California Nonprofit Corporation Law.

## **ARTICLE 10. PROHIBITION AGAINST SHARING CORPORATE PROFITS AND ASSETS**

No member, Director, officer, employee or other person connected with this corporation, or any private individual, shall receive at any time any of the net earnings or pecuniary profit from the operation of the corporation, provided, however, that this provision shall not prevent payment to any such person of reasonable compensation for services performed for the corporation in effecting any of its public or charitable purposes, provided that such compensation is otherwise permitted by these Bylaws, and is fixed by resolution of the Board of Directors; and no such person or persons shall be entitled to share in the distribution of, and shall not receive, any of the corporate assets on dissolution of the corporation. Jikoji has adopted a Conflict of Interest and Compensation Policy that requires each Board Member to sign annually a Conflict-of-Interest Disclosure Statement.

## **CERTIFICATION**

This is to certify that the foregoing is a true and correct copy of the Fifth Amended and Restated Bylaws of the corporation named in the title thereto and that such Bylaws were first duly adopted by the Board of Directors of said corporation on May 23, 2022 and were subsequently ratified and approved by the Board on June 5, 2022.

Secretary to the Board

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