

## TEMPLATE

# Operating Principles of the *STATE* Corporate Wetlands Restoration Partnership

*[NOTE: This document is a template for use by state CWRP chapters in developing/updating their state-specific operating principles. Normal text is standard (required), while text in brackets indicates where the document may be tailored. More detail may be added (for example, project selection criteria, if desired). Finally, the word STATE should be replaced throughout with the state name or two letter abbreviation (e.g., Massachusetts or MA).]*

*THIS IS TO BE SIGNED (at p.8) AS APPROVED BY THE CHAIR (AND ANY CO-CHAIRS) OF THE STATE-CWRP, AND ALSO BY THE CHAIR OF THE PROGRAM MANAGEMENT SUBCOMMITTEE (PMS) OF THE CAF-CWRP STANDING COMMITTEE (CWRPSC)*

### **§1. Name**

The name of this group shall be the *STATE* -Corporate Wetlands Restoration Partnership (*STATE*-CWRP). The *STATE*-CWRP operates as a subcommittee of the Coastal America Foundation (CAF)'s Corporate Wetlands Restoration Partnership Standing Committee (CWRPSC), as specified by the CAF Corporate Bylaws (attached). As such, the *STATE*-CWRP operates as part of CAF, a nonprofit entity incorporated under the Massachusetts Charitable Corporations Law and recognized by the IRS as an I.R.C. §501(c)(3) tax exempt nonprofit charitable organization. For convenience, the state subcommittees of the CAF CWRP Standing Committee may be referred to as "state chapters" and their managing bodies as "state boards."

### **§2. Purpose and Authority**

The purpose of the *STATE*-CWRP is to promote and implement the CWRP program – a voluntary public-private initiative in which companies, state and federal agencies, non-profit organizations, and others work together to restore, preserve, and enhance wetlands and aquatic habitats in *STATE* and surrounding areas. As provided under the CAF Corporate Bylaws and subject to the direction of the Program Management Subcommittee (PMS) of the CWRP Standing Committee (CWRPSC) and the CAF Board of Directors, the *STATE*-CWRP will be responsible for the general direction and administration of the *STATE*-CWRP, and for the solicitation of funds and in-kind goods or services from companies and other organizations as donations to CAF (for dedication to CAF's overall I.R.C. Sec. 501(c)(3) purposes, and use in projects in *STATE* and surrounding areas). The *STATE*-CWRP shall establish priorities for and authorize disbursement of those state chapter-designated donations to projects endorsed by "Coastal America" (CA), the federal intergovernmental organization that is the public partner in this initiative. *[A state chapter may require that projects be*

*endorsed by specific state governmental agencies, as well, and those agencies should be named here.]*

In accordance with the Internal Revenue Code and related I.R.S. regulations, no substantial part of the activities of CWRP (being part of CAF), including this state chapter, may consist of lobbying (defined as carrying on of “propaganda” or otherwise attempting to influence legislation; any “electioneering” or campaign activities are flatly prohibited). The penalty for disregard of this rule by CAF is severe: revocation of the federal tax-exempt status of CAF. Any lobbying activities and related expenses of this state chapter must be strictly limited (and documented) to a maximum of one percent of the state chapter’s expenditures, to ensure that any lobbying remains far less than a substantial part of overall operations of the state chapter in both dollar and percentage terms.

### **§3. Composition**

The *STATE*-CWRP membership may include companies, governmental agencies, non-profit organizations and academic institutions. Companies are expected to make cash contributions or donate in-kind goods and services to CAF (preferably annually) in support of CAF’s I.R.C. Sec. 501(c)(3) purposes and use in projects in *STATE* and surrounding areas as approved by *STATE-CWRP*. Non-corporate members are not required to make donations, but may choose to do so. Members contributing cash and/or in-kind goods or services shall complete and sign a *STATE-CWRP* Contribution Form (or convey this information by letter). Membership is voluntary and the amount of contributions kept confidential to encourage all levels of support.

Under the CAF Corporate Bylaws, all contributors to CAF automatically are members of the CAF nonprofit charitable corporation.

Each member shall be authorized to participate in all *STATE-CWRP* meetings and activities, but shall have no voting rights within CAF, including the *STATE-CWRP* Board.

### **§4. Management**

The CAF Corporate Bylaws and applicable Massachusetts law govern the management and operation of *STATE-CWRP*, as a corporate subcommittee of CAF’s CWRP Standing Committee (CWRPSC). As such, *STATE-CWRP* also is subject to the management oversight of the Program Management Subcommittee (PMS) of the CWRPSC, which is the primary subcommittee of the CWRPSC and responsible for overall direction of the CWRP program of CAF (and also for overall management of all other CWRPSC subcommittees).

The CAF will supply the annual Independent Public Audit statement and IRS Form 990 at the request of the *STATE-CWRP* Chair (or Co-Chairs).

The *STATE-CWRP* shall be managed by a board, the Chair of that board to be selected from among representatives of member companies. The Chair shall have all powers ordinarily exercised by the chairman of a subcommittee, and serves as an Officer of the Coastal America Foundation (CAF) nonprofit charitable corporation.

Under the CAF Corporate Bylaws, the state chapter Chair and any co-chairs also function as Officers of the nonprofit charitable corporation CAF, in the capacity of "Second Vice-Presidents" of CAF. The other state board members with voting rights also serve as Officers of CAF, in the capacity of "Third Vice-Presidents" of CAF.

The *STATE-CWRP* shall maintain an accurate list of all voting Board members and assure that the list on file with the CAF President accurately reflects the names of the state chapter Board voting members serving as Second Vice-Presidents and Third Vice-Presidents of CAF who will be covered by the CAF Directors and Officers (D&O) Insurance.

As Officers of CAF, the above-noted Second Vice-Presidents and Third Vice-Presidents shall faithfully act in accordance with the fiduciary duties applicable to Directors and Officers of CAF under Sec. 6C of the Massachusetts Charitable Corporations Law (summarized below) under which CAF is incorporated as a nonprofit charitable corporation.

As Officers of CAF, the above-noted Second Vice-Presidents and Third Vice-Presidents are protected by applicable liability immunities under Sec. 6C of the Massachusetts Charitable Corporations Law under which CAF is incorporated, and also shall be indemnified by CAF from liability as specified under the CAF Corporation Bylaws, and further as provided by CAF Directors and Officers (D&O) Errors and Omissions (E&O) insurance.

Pursuant to the CAF Corporate Bylaws, the *STATE-CWRP* Board members with voting rights (functioning as CAF Second and Third Vice-Presidents as above noted) shall be indemnified by the CAF against any liability and also reasonable expenses arising out of, or incurred in connection with, any action, suit, or proceeding to which he/she has been made a party as a result of his/her status as an Officer of CAF. The foregoing right of indemnification does not apply in any action, suit, or proceeding in which the above-stated persons are found liable for gross negligence or willful misconduct in the performance of his/her duties.

In accordance with Sec. 6C of the Massachusetts Charitable Corporations Law, the state chapter voting members, as Second and Third Vice-Presidents of CAF, shall perform their duties as voting members of the *STATE-CWRP* Board in good faith, and in a manner he or she reasonably believes to be in the best interests of CAF and the

*STATE-CWRP*, and with ordinary business judgment with such degree of care as a reasonably prudent person in a like position would use under similar circumstances.

The *STATE-CWRP* Board shall represent the diverse interests of the members in their capacity as stewards of the wetlands, aquatic habitat and wildlife of *STATE*. Thus, the state board shall consist of representatives from member companies, academic institutions, non-profit organizations, and government agencies. Governmental members shall serve *ex-officio* and shall not vote on the dispersal of funds or other issues. The Board members are selected by the voting members of the Board (initially the Second Vice President(s)).

*[The number of state board members and the voting rights of the members must be decided upon when first setting up the state chapter (although governmental agencies shall be non-voting in all cases). An example of a suitable mix for a state board of a large chapter would be: 8 companies, 8 governmental agencies (5 federal – from Coastal America agencies; 3 state – preferably those with state oversight, inland or coastal waterway and fish or wildlife responsibilities), 3 non-profit/conservation organizations and 1 academic/scientific organization. A subset of these board members may be deemed voting, based on criteria such as those who make donations. A smaller chapter might have 3 companies, 3 governmental agencies and 1 non-profit organization. Term limits and how the chapter will deal with vacancies and removals should also be addressed.]*

State chapter board members shall receive no compensation for their services or expenses incurred in executing their duties. The board shall not authorize support for any project, unless such project has received the recommendation of Coastal America *[and any specific state governmental agencies required by the state chapter]*.

The assignment of any goods or services to eligible projects by the state chapter board shall be with the written consent of the company providing such goods or services.

The state board is responsible for ensuring that annual plans for the chapter are developed and for monitoring performance against those plans. The Chair of the *STATE-CWRP* (or his/her delegate) shall report program status (plans, accomplishments, participants, performance metrics, etc.) quarterly to the Chair of the Program Management Subcommittee (PMS) of the CWRP Standing Committee of the CAF (with a copy to the “Coastal America” CWRP program director). Additionally, the *STATE-CWRP* Board shall be aware of and ensure compliance with any applicable *STATE* laws and regulations governing nonprofit public charity activities.

## **§5. Operations**

The *STATE-CWRP* Board shall have the authority to establish committees to help achieve the purpose of the *STATE-CWRP*. Committees may be constituted on an

*ad hoc* basis or as Standing Committees, as deemed appropriate by the board, and shall consist of two or more persons. Committee roles may include, but are not limited to: chapter management (operating principles, board membership, *STATE* filing requirements, etc.), events and publicity, project evaluation and donor solicitation. Committees shall be subject at all times to the direction and control of the board and must receive approval from the board before taking action or making decisions on behalf of the *STATE*-CWRP.

Furthermore, a state chapter may choose to utilize a *STATE*-CWRP Manager to facilitate chapter activities and conduct certain tasks (schedule meetings, develop status reports, etc.), by either hiring a consultant (with the approval of the Program Management Subcommittee of the CWRP Standing Committee) or by appointing an unpaid volunteer to fill this role. The manager works under the supervision of the board, which will evaluate his/her performance annually and make retention and compensation, if applicable, decisions. (Refer to the State CWRP Manager Contract Template for details.)

## **§6. Meetings**

The *STATE*-CWRP Board shall meet regularly and may convene at such times and places as they deem appropriate. The Chair of the board (or his/her delegate) shall provide notice of upcoming meetings, as well as an agenda. Board members may attend meetings by telephone conference. The board shall establish a schedule of any general state chapter membership meetings, which will take place at such places as the board deems appropriate. The Chair of the state board (or his/her delegate) shall provide the membership, the Chair of the CWRP Program Management Subcommittee (PMS) of the CWRPSC of CAF, and the “Coastal America” CWRP program director with a copy of the minutes from each meeting.

Each voting board member holds one vote and a [*two-thirds*] majority of those voters shall constitute a quorum. Voting may be done in writing (including by email), in person or via teleconference. Decisions shall be made by a simple majority, except for board elections and amendments to the Operating Principles, which shall require a two-thirds majority. Additionally, amendments to Operating Principles must be approved by the Program Management Subcommittee (PMS) of the CWRP Standing Committee (CWRPSC) of CAF.

## **§7. Parliamentary Procedures**

The *STATE*-CWRP Board meetings shall operate under reasonable parliamentary procedures acceptable to the *STATE*-CWRP Board.

## **§8. Contributions & CAF Cash Accounts**

Contributions may be in the form of cash or in-kind donations of services or goods (materials, equipment, etc.) to Coastal America Foundation, Inc. (CAF) as the stated recipient donee. Both cash and in-kind-donations may be used to qualify for federal government grants.

All cash contributions to CAF (for dedication to CAF's overall I.R.C. Sec. 501(c)(3) purposes, and use in projects in *STATE* and surrounding areas) will be maintained in a CAF-administered interest-bearing account dedicated as noted above. CAF does not charge a fee for managing the state chapter-earmarked accounts, but may use account interest to pay for an annual independent financial audit (by a CPA according to GAAP protocols) or other administrative costs of CAF.

Up to ten percent of cash contributions to the state chapter may be used to cover general administrative costs (operational expenses such as copying, postage, consulting services, etc.) of the CAF CWRP Program. A contributor of cash may also specifically designate cash contributions for administrative purposes. Finally, a state chapter may require payments from corporate members explicitly to support chapter administration.

In-kind goods and services made available with approval by *STATE* - CWRP for eligible projects are administered and overseen by the lead governmental agency(ies) or other qualified entities for those projects. The lead governmental agency(ies) are responsible for valuing in-kind-donations for the purpose of federal grant qualification.

The *STATE* - CWRP Chair or Co-Chairs do not sign a donor's Form 8283 unless the donor's appraiser is certified, not barred from practicing before the IRS, and has experience appraising related services and in-kind or other non-cash contributions. Otherwise, the *STATE*-CWRP Chair or Co-Chairs may acknowledge that the in-kind donation was utilized, when they personally know that to be the case, without attesting to its value.

The state chapter will document the estimated value of the in-kind donations pledged and disbursed, so as to be able to estimate the total contributions of their chapter participants. The Chair (or his/her delegate) will provide this information quarterly, along with cash pledged and disbursed, to the Chair of the CWRP Program Management Subcommittee of the CAF CWRPSC so that an estimate of total program contributions can also be made.

## **§9. Donor Confidentiality**

Companies making contributions of cash or in-kind goods or services may request that their contributions be kept confidential to the extent permitted by the laws of the Commonwealth of Massachusetts governing nonprofit charitable corporations and

by the Internal Revenue Code and IRS regulations. The company's authorized representative may request confidentiality by checking the confidentiality request box on the contribution form(s) and placing his/her initials next to that line. The contribution form(s) must be signed by the company's authorized representative.

**§10. Compliance of Voting Members of State Chapter Board, also Functioning as Corporate Officers of CAF (as Second and Third Vice-Presidents of CAF), with Fiduciary Duties of Loyalty and Good Faith to CAF, and to Avoid Improper Personal Benefit: Actual or Potential Conflicts of Interest, Involving Members of State Chapter and/or Voting Members of State Chapter Board**

No organization ("Interested Party") employing or otherwise using the services of any member of the *STATE* –CWRP, and no member ("Interested Party") of the *STATE*-CWRP, shall be precluded from receiving compensation in connection with the implementation of any project supported by contributions by the Interested Party to CAF and dedicated to projects supported and approved by the *STATE* -CWRP.

If any Interested Party seeks to receive compensation for a *STATE* –CWRP supported and approved project, the chapter member affiliated with that Interested Party (or the chapter member who is the Interested Party) shall disclose his connection to the Interested Party (or the chapter member's connection to the project), and shall not participate in any vote of the state chapter board relating to potential work by the Interested Party or by that chapter member in the project. The member associated with, or who is, an Interested Party shall also take steps to ensure that the Interested Party also discloses to any potential contracting party that the member is a *STATE*-CWRP participant, or state chapter board member.

No transaction or agreement involving or between the *STATE*-CWRP (as a CAF CWRPSC subcommittee) and one or more of its members, or involving or between the *STATE*-CWRP and a corporation or other business entity to which the *STATE*-CWRP member or entity belongs or in which the corporation or entity has a substantial financial interest, shall be conducted without full disclosure to the *STATE*-CWRP Board of the financial relationship and review by the *STATE*-CWRP Board. If the member's interest is disclosed in good faith and is made known to the *STATE*-CWRP Board, and consequently the Board (without the voting participation of the member), together with the Program Management Subcommittee of the CAF, approve the transaction or agreement in writing, the transaction or agreement may continue, with the following exceptions:

1. Any transaction involving the sale, exchange, or leasing of property.
2. Any transaction allowing for the lending of money or other extensions of credit.
3. Any payment of unreasonable compensation or expenses
4. Any payment to government officials other than required by law.

Approvals: (Please Sign and also Print Name)

Date:

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Chair (and any Co-Chairs) of *STATE*-CWRP

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Chair of PMS of CWRP Standing Committee

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